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STATE OF ARIZONA

OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of: **JOHN HANCOCK ACADEMY, INC.** (an Arizona non-profit corporation), Applicant	No. 13F-AP-001-BCS **ARIZONA STATE BOARD FOR CHARTER SCHOOLS' RESPONSE IN OPPOSITION TO APPLICANT'S MOTION TO EXCLUDE/SUPPRESS EVIDENCE UNDER ARS 41-1092.07.D RULES OF THE ARIZONA SUPREME COURT** (Honorable Judge Sondra J. Vanella)

In response to Applicant's Motion to Exclude/Suppress Evidence under ARS 41-1092.06.D Rules of the Arizona Supreme Court, the Arizona State Board for Charter Schools ("Board") objects on the basis that the Motion is premature and has no basis in law.

While the statements contained in Applicant's Motion seem more appropriate for closing argument, the Motion seeks an Order that Board counsel "not . . . mention, refer to or attempt to elict (sic) in any manner any evidence of Reed Gaddie operating any charter school previously mentioned

herein . . . includ[ing] witnesses in the Hearing in the presence of Judge Sondra J. Vanella" (*See* Motion at page 2:lines 18-21) and that Board counsel "not mention or allude or present, discuss, question any witness or make any statements involving the applicant Reed Gaddie operating the school mentioned herein" (*See* Motion at page 3:lines1-4).[1]

In the Board's consideration of an application to establish a charter school, state law provides that the Board "may approve the application if the application meets the requirements of this article and may approve the charter if the proposed sponsor determines, within its sole discretion, that the applicant is sufficiently qualified to operate a charter school." A.R.S. § 15-183(C)(2). In Rule 7-5-101 of Arizona Administrative Code, the Board defines "sufficiently qualified" to mean:

> The Board's determination that an applicant's or charter holder's experience, qualifications, current and prior charter compliance and creditworthiness indicate an ability to implement a charter or operate a charter school."

In this matter, the "applicant" is John Hancock Academy, Inc., an Arizona nonprofit corporation consisting of two principals, Delite Gaddie and Reed Gaddie, who serve as its Board of Directors and Authorized Representatives. The consideration of Reed Gaddie's prior operation of a charter school whose charter was revoked by its sponsor for failure to comply with the provisions of its charter and state law is relevant, probative of his qualifications to operate a charter school, and is authorized by state law and Board Rule. The Board must be provided the opportunity to present evidence and argument on all relevant issues. A.R.S. § 41-1092.07(D).

Applicant provides no basis for its argument that the probative value of the Board's proposed evidence is "greatly outweighed by danger of unfair prejudice and will subject the applicant to severe

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[1] Many of the Board's arguments in this Response mirror the arguments made in its Response in Opposition to Applicant's Motion in Limine Under Rule 403 of the Rules of the Arizona Supreme Court, where Applicant seeks the same relief at page 2:line 19 to page 3:line 1.

harassment and undue embarrassment." (See Motion at page 1:lines16-18). Applicant has the opportunity at the time of the upcoming hearing to object to Board counsel's evidence.

For the foregoing reasons, the Board respectfully requests that Applicant's Motion to Exclude/Suppress Evidence under ARS 41-1092.06.D Rules of the Arizona Supreme Court be denied.

DATED this 3rd day of May, 2013.

THOMAS C. HORNE
Attorney General

Kim S. Anderson
Assistant Attorney General

COPY of the Response filed this 3rd day of May, 2013 with:

Office of Administrative Hearings
1400 West Washington Street
Phoenix, Arizona 85007

COPY of the foregoing Response emailed and mailed by regular mail this 3rd day of May, 2013 to:

John Hancock Academy, Inc.
Delite Gaddie, Statutory Agent and Authorized Representative
Reed Gaddie, Authorized Representative
152 West Tenth Drive
Mesa, Arizona 85210
Email: rgad@cox.net

COPY of the foregoing Response emailed this 3rd day of May, 2013 to:

DeAnna Rowe
Executive Director

Arizona State Board for Charter Schools
Email: Deanna.Rowe@asbcs.az.gov

By _____

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