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BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF ARIZONA

In the Matter of: KIN DAH LICHI'I OLTA', Inc. a non-, profit corporation, operating KIN DAH LICHI'I OLTA', a charter school	No. 14F-FSRV-003-BCS **AFFIDAVIT OF LINDA SAMELS REGARDING LACK OF SERVICE OF ORDER SETTING PRE-HEARING CONFERENCE AND OF ARIZONA STATE BOARD FOR CHARTER SCHOOL'S PRE-HEARING CONFERENCE STATEMENT**

Linda A. Samels, Esq. of the law firm of Hufford, Horstman, Mongini, Parnell & Tucker P.C., being first duly sworn upon her oath, states as follows:

1. Our firm represents Kin Dah Lichi'I Olta', Inc. ("KDLO") in the above referenced matter.

2. I am an Associate Attorney of this law firm assigned to this matter.

HUFFORD, HORSTMAN, MONGINI, PARNELL TUCKER, P.C.
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3. On February 13, 2014, at approximately 4:00 p.m., I received the email attached as *Exhibit A* from the Office of Administrative Hearings ("OAH"). The email address in the email is identified as oah@azoah.com.

4. Upon review of the February 13, 2014 email, I noted that it referenced a motion filed on February 13, 2014 and that a telephonic pre-hearing conference had been set for February 20, 2014. There were no additional details in the email regarding the time set for the pre-hearing conference and there was no motion attached to the email.

5. On February 14, 2014, at approximately 11:35 a.m. I contacted Assistant Attorney General Kim S. Anderson, legal counsel for the Arizona State Board for Charter Schools ("Arizona State Board") to follow-up on the February 13, 2014 email. As Ms. Anderson was not available, I left her a voicemail regarding the same.

6. On February 14, 2014, at approximately 11:52 a.m. Ms. Anderson returned my call. I asked Ms. Anderson if she was aware of the time the pre-hearing conference was scheduled for, and whether she was aware of the motion referenced in the February 13, 2014 email.

7. Ms. Anderson referred me to a pre-hearing conference order setting the date and time. I informed Ms. Anderson that I was not received nor was I aware of a pre-hearing conference order and that I had not received any other pleadings or email notices other than the February 13, 2014 email. Ms. Anderson then asked if I had received a copy of her client's pre-hearing conference statement which she indicated was emailed on February 13, 2014 as well to which I replied I had not.

8. While on the telephone with Ms. Anderson I double checked my emails and confirmed that I had not received any other emails or pleadings in reference to the pre-hearing conference other than the February 13, 2014 email nor a pre-hearing conference statement.

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9. While still on the phone, Ms. Anderson forwarded to me via email a copy of the Arizona State Board for Charter Schools' Pre-Hearing Conference Statement and List of Witnesses and Exhibits. See February 14, 2014 email from Kim Anderson transmitting an electronic copy of the motion attached as *Exhibit B*.

10. While still on the phone, Ms. Anderson forwarded to me via email a copy of the Order Setting Pre-Conference Hearing in this matter. See February 14, 2014 email from Kim Anderson attached as *Exhibit C*.

11. After concluding my call with Ms. Anderson on February 14, 2014, I reviewed my email again as well as the spam and junk mail files and confirmed that I had not previously received either of the documents sent to me by Ms. Anderson on February 14, 2014.

12. The Order Setting Pre-Conference Hearing indicates that it was served via mail, email and fax to each of the attorneys who have entered an appearance in this matter, however, a search conducted on February 14, 2014 of our firms' email accounts of each of these attorneys, and fax queue as well as an inventory of the U.S. mail received by our office revealed that neither the Order Setting Pre-Conference Hearing nor the Arizona State Board for Charter Schools' Pre-Hearing Conference Statement and List of Witnesses and Exhibits had been received previously.

13. In spite of the foregoing, counsel for KDLO will participate in the February 20, 2014 pre-hearing conference set for 2:00 p.m. and will make every attempt to file a pre-hearing conference statement as soon as is possible prior to the pre-hearing conference.

DATED this 14th day of February, 2014.

HUFFORD, HORSTMAN, MONGINI,
PARNELL & TUCKER P.C.

Linda A. Samels

SUBSCRIBED AND SWORN TO before me this 14th day of February, 2014, by Linda A. Samels.

Notary Public

CAROLINE C. MARKS
Notary Public - State of Arizona
COCONINO COUNTY
My Commission Expires
November 30, 2016

Original of the foregoing delivered via U.S. Mail and copy delivered via facsimile for filing this 14th day of February, 2014, to:

Office of Administrative Hearings
1400 West Washington St.
Phoenix, AZ 85007
Fax: (602) 542-9827

Copy of the foregoing delivered via email this 14th day of February, 2014, to:

Deanna Rowe, Executive Director
AZ State Board for Charter Schools
1616 West Adams, Suite 170
Phoenix, AZ 85007
deanna.rowe@asbcs.az.gov

Kim S. Anderson, Assistant Attorney General
Civil Division/Education and Health Section
1275 West Washington St.
Phoenix, AZ 85007
kim.anderson@azag.gov

By: _____

HUFFORD, HORSTMAN, MONGINI, PARNELL TUCKER, P.C.
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Exhibit A

Linda Samels

From: OAH Electronic Motion Submission System <oah@azoah.com>
Sent: Thursday, February 13, 2014 4:00 PM
To: Linda Samels
Subject: Electronic motion submitted in re: 14F-FSRV-003-BCS

This is a message from the Arizona Office of Administrative Hearings to inform you that a motion has been submitted for **14F-FSRV-003-BCS**. The details are as follows:

Docket number: **14F-FSRV-003-BCS**
Hearing date: **February 20, 2014**
Filed by: **Kim S. Anderson (kim.anderson@azag.gov) ((602) 364-0402)**
Filed on: **2/13/2014**
Sent to: **Administrative Law Judge**
Copies e-mailed to: **gt@h2m2law.com sbk@h2m2law.com linda@h2m2law.com deanna.rowe@asbcs.az.gov**
Filing party will also notify:
(none specified)

Response to Administrative Law Judge's request for telephone contact information for telephonic pre-hearing conference set February 20, 2014. Counsel for the Arizona State Board for Charter Schools can be reached at (602) 364-0402.

The following file was submitted with the motion: **NONE**.

If a file was submitted with the motion, it should be attached to this e-mail. In the event that a file seems to be missing, please contact the Office of Administrative Hearings.

Thank you for using the OAH Electronic Motion Submission System.

Exhibit B

Linda Samels

From: Linda Samels
Sent: Friday, February 14, 2014 12:12 PM
To: Debra Allamong; Caroline Marks
Subject: FW: Electronic motion submitted in re: 14F-FSRV-003-BCS
Attachments: 15724-Kin Dah Lichi'i Olta' - 2014.02.13 - Pre-Hearing Conf Stmt and LWE.pdf

This was supposed to be sent yesterday from the State.

Linda Samels
Hufford Horstman Mongini Parnell & Tucker, P. C.
120 North Beaver Street
Flagstaff, Arizona 86001
928-556-2601 (direct line)
928-226-0000 (office line)
928-779-3621 (facsimile)
linda@h2m2law.com

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From: Anderson, Kim [mailto:Kim.Anderson@azag.gov]
Sent: Friday, February 14, 2014 11:58 AM
To: Linda Samels
Subject: FW: Electronic motion submitted in re: 14F-FSRV-003-BCS

Kim S. Anderson
Assistant Attorney General
Arizona Attorney General's Office
Education and Health Section
1275 West Washington
Phoenix, Arizona 85007
Office: (602) 364-0402
Fax: (602) 364-0700
kim.anderson@azag.gov

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From: OAH Electronic Motion Submission System [mailto:oah@azoah.com]
Sent: Thursday, February 13, 2014 4:21 PM
To: Anderson, Kim
Subject: Electronic motion submitted in re: 14F-FSRV-003-BCS

This is a message from the Arizona Office of Administrative Hearings to inform you that a motion has been submitted for **14F-FSRV-003-BCS**. The details are as follows:

Docket number: **14F-FSRV-003-BCS**
Hearing date: **February 20, 2014**
Filed by: **Kim S. Anderson (kim.anderson@azag.gov) ((602) 364-0402)**
Filed on: **2/13/2014**
Sent to: **Administrative Law Judge**
Copies e-mailed to: **gt@h2m2law.com sbk@h2m2law.com linda@h2m2law.com deanna.rowe@asbcs.az.gov**
Filing party will also notify:
(none specified)

Arizona State Board for Charter Schools' Pre-hearing Conference Statement and List of Witnesses and Exhibits (document attached)

The following file was submitted with the motion: **Kin Dah Lichi'i Olta' - 2014.02.13 - Pre-Hearing Conf Stmt and LWE.pdf**.

If a file was submitted with the motion, it should be attached to this e-mail. In the event that a file seems to be missing, please contact the Office of Administrative Hearings.

Thank you for using the OAH Electronic Motion Submission System.

Exhibit C

Linda Samels

From: Caroline Marks
Sent: Friday, February 14, 2014 12:58 PM
To: Linda Samels
Cc: Caroline Marks
Subject: FW: KDLO - 2014.01.13 - Order Setting PreHrg Conf.doc

---

From: Sandra Cruz
Sent: Friday, February 14, 2014 12:55 PM
To: Caroline Marks
Subject: RE: KDLO - 2014.01.13 - Order Setting PreHrg Conf.doc

Caroline...

I searched those dates for you and did not find a fax regarding that matter that was received.

From: Caroline Marks
Sent: Friday, February 14, 2014 12:27 PM
To: Sandra Cruz
Cc: Caroline Marks
Subject: FW: KDLO - 2014.01.13 - Order Setting PreHrg Conf.doc

Sandra,
Please search our fax queue for the attached document. It is dated January 13, 2014. Please look through January 13, 2014 through January 31, 2014.
Thanks,
CM

From: Linda Samels
Sent: Friday, February 14, 2014 12:12 PM
To: Debra Allamong; Caroline Marks
Subject: FW: KDLO - 2014.01.13 - Order Setting PreHrg Conf.doc

This was just sent from State – I have no record of it.

Linda Samels
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linda@h2m2law.com

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From: Anderson, Kim [mailto:Kim.Anderson@azag.gov]
Sent: Friday, February 14, 2014 11:59 AM
To: Linda Samels
Subject: KDLO - 2014.01.13 - Order Setting PreHrg Conf.doc