

20243

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Palmetto Youth Academy Charter School,)
)
Respondent,)

Appellate Case No. 2012-212001

vs.)

RECORD ON APPEAL

Florence County School District 1 Board of)
Trustees,)
)
Appellant.)

RECEIVED
JUN 15 2012
SC Court of Appeals

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~~SC Court of Appeals~~

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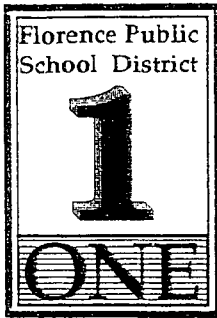
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Florence Public School District One

319 South Dargan Street • Florence, South Carolina 29506-2589

Telephone: (843) 669-4141 • FAX: (843) 673-1108

www.fsd1.org

June 1, 2010

Palmetto Youth Academy Charter School
c/o Yvonne Brown-Burgess, Executive Director
1209 North Douglas Street
Florence, SC 29501-0600

Dear Ms. Brown-Burgess:

This letter will confirm the action taken on Thursday, May 20, 2010, by the Florence School District One Board of Trustees. The Board, by majority vote, upheld the decision of the Administration for revocation of the Charter of Palmetto Youth Academy.

The Board action is based on PYA's failure to maintain the appropriate financial records that would allow an audit report to render a statement that it has met generally accepted standards of fiscal management. The failure of PYA in this regard has prevented Florence District One from receiving a clean audit report from its auditors, resulting in an overall "qualified" audit report, which is unacceptable to District One, and is reason for Charter termination.

If you have questions or concerns regarding the decision of the Board, please contact Mr. D. Laurence McIntosh, Attorney, at 843-662-4328.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Jackson".

Larry L. Jackson
Superintendent

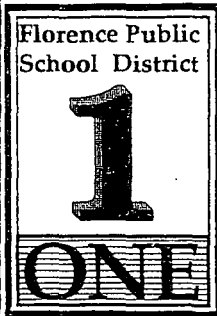
LL:cst

cc: Board of Trustees

D. Laurence McIntosh, Attorney ✓

Palmetto Youth Academy Board Members

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Florence Public School District One

319 South Dargan Street • Florence, South Carolina 29506-2589

Telephone: (843) 669-4141 • FAX: (843) 673-1108

www.fsd1.org

March 18, 2010

Palmetto Youth Academy Charter School
c/o Yvonne Brown-Burgess, Executive Director
1209 North Douglas Street
Florence, SC 29501-0600

Dear Ms. Brown-Burgess:

The Florence Public School District One Board of Trustees has authorized me to inform you that it is revoking your status as a charter school sponsored by this district effective at the end of the current school year on June 30, 2010.

The reason for this action is that you have failed to meet generally accepted standards of fiscal management. You have committed material violation of conditions, standards and procedures in the management of your finances and the operation of your school.

On the issues involving your fiscal management, I have attached a copy of the letter to you dated January 26, 2010 from Timothy A. Grow, CPA.

As your school is a component of Florence School District One, your failure to provide us with audited financial statements affects our financial statements. I am enclosing a copy of a letter from our auditors, Baird & Company, dated February 16, 2010, which shows how your accounting failures have adversely affected our financial statements.

The governing body of your school may request, in writing, a hearing before the Florence District One School Board within fourteen (14) days of receiving this notice of nonrenewal or revocation of your charter school status. Failure by your school's governing body to make a written request for a hearing within fourteen (14) days must be treated as acquiescence to this termination of your charter. Upon receiving a timely written request for a hearing, we will give you a reasonable notice of when the Board of Trustees of this district will hold a hearing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Larry L. Jackson'.

Larry L. Jackson
Superintendent

LLJ:cst

cc: Board of Trustees

Mr. D. Laurence McIntosh, Attorney At Law

Enclosures (2)

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January 26, 2010

Palmetto Youth Academy Charter School
C/O Yvonne Brown-Burgess, Executive Director
1209 North Douglas Street
Florence, South Carolina 29501-0600

Florence Public School District One
C/O Luther Rabon, Chief Financial Officer
319 South Dargan Street
Florence, South Carolina 29506-2589

Effective January 25, 2010, we have terminated our professional relationship with Palmetto Youth Academy Charter School and will cease to serve as Palmetto Youth Academy Charter School's auditors. We have reached this decision reluctantly and after substantial deliberation. In our letter to you dated July 8, 2009 we indicated that in order for us to render an opinion on your financial statements, we needed sufficient, competent evidential matter which supports the financial statements. To date we do not feel that support has been provided, specifically:

1. The records are not in the condition necessary to obtain the type of evidential matter required to form an opinion on the financial statements
2. We would impair our independence and be unable to opine in any fashion if we performed the record keeping necessary to get Palmetto Youth Academy Charter School's books and records to a sufficient condition
3. The funds of the charter school appear to have been comingled with another entity
4. Activity of the school for the periods prior to the year under audit appear to be unrecorded

Our work to this point has consisted primarily of information gathering. We have not and will not issue any report on Palmetto Youth Academy Charter School.

Our working paper files are the property of our firm, and will be maintained by us in accordance with our firm's record retention policy.

We are sending all of the records provided to us from Kelley-Moser Consulting for Palmetto Youth Academy Charter School to Yvonne Brown-Burgess. These include the following:

1. Duplicate copies of checks
2. ADP payroll records
3. Bank Statements
4. Disbursement voucher support

Kind Regards,

A handwritten signature in black ink, appearing to read 'Timothy A. Grow'.

Timothy A. Grow, CPA

Shareholder

RS

Baird & Company CPAs, LLC

CERTIFIED PUBLIC ACCOUNTANTS & FINANCIAL ADVISORS

John P. Gillion, Jr., CPA, PFS, CFS, CVA, CFP®
J.T. Cosnahan, CPA, CFE, CFF, FCPA, DABFA
Rep E. Whiddon, CPA, CVA.
Brenda F. Carroll, CPA, CFE, CIA, CICA, FCPA, CSEP

February 16, 2010

Dr. Larry Jackson
Florence School District One
319 South Dargan Street
Florence, SC 29506-2589

Dear Dr. Jackson:

Generally accepted accounting principals require that your financial statements include the financial information of all of your component units. Palmetto Youth Academy is a component unit of District One. Palmetto Youth Academy did not provide us with audited financial statements to be included in your financial statements.

Generally accepted accounting principals require that the component unit have the same level of attestation services as the reporting government unit, which is audited financial statements.

Since we are not able to audit the Palmetto Youth Academy financial statements for the year ended June 30, 2009, we are faced with a scope limitation.

Since we do not have audited financial statements for the year ended June 30, 2009 for Palmetto Youth Academy, you are not able to make the required financial disclosures on the financial statements of Florence School District One for the year ended June 30, 2009.

Because of the above, we will alter our opinion on the financial statements of Florence School District One for the year ended June 30, 2009.

Please note that this possibility has been discussed with management over the past year and a resolution was not forthcoming from Palmetto Youth Academy.

Your staff has been very diligent and patient in seeking a solution to this problem but has met with limited success for the past two years.

Thank you so much for allowing our firm to help meet your independent auditing requirements.

Baird & Company, CPAs, LLC

BAIRD & COMPANY, CPAS, LLC
Certified Public Accountants

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Palmetto Youth Academy

“Eagles Exceeding Expectations”

Telephone: (843)679-7070
1209 N. Douglas Street Florence, SC 29501

Fax: (843)679-7046
Email: Palmettovouth@yahoo.com

March 18, 2009

Larry Jackson, Superintendent
Florence School District One
319 S. Dargan Street
Florence, SC 29501

Dear Mr. Jackson:

On behalf of Palmetto Youth Academy, PYA, it is with great concern and sincere obligation that we seek answers and ultimately, a logical resolution to this recent dilemma regarding the 2008 audit. As our mission is to provide an opportunity for all students, regardless of income or ability, to reach his/her full potential (academically, socially and behaviorally), it is also our responsibility, as parents and educators, to ensure that ALL students are treated fairly and equally.

After reading the newspaper article, this morning, and receiving numerous telephone calls about the district's response and report of false allegations against PYA, we were passionately moved to write the questions from parents, students, staff, and community members that we could not answer. These questions can only be answered by the district's board, superintendent, and other representatives of Florence School District One.

Over the past 4 of our 5 year charter with FSD1, we have worked diligently with different representatives and personnel to maintain a positive relationship with the district. Understanding that the whole charter school concept, was and still is, fairly new to South Carolina and we expected our mission, as well as, our motives to be questioned initially. However, after 4 years of operation,

- PYA was 1 of only 3 schools in the district to make AYP, not only once, but 2 consecutive years
- We have 100 percent parent participation (every year)
- Our students have won numerous state level writing contests
- Our fine arts department has traveled and performed locally and out of state each year
- Our staff works around the clock as a team to plan, prepare, and implement effective lessons

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- Our community supports our mission, volunteers regularly, and play key roles in our events

None of which, has ever been reported in the newspaper, or even acknowledged by district personnel. When staff asks about access to intranet, or district email, we just tell them, "in time". When students ask why they never get recognized by the district, we just tell them, "in time". When parents ask if the district provides transportation, we just say, maybe, "in time". Until today, our parents, students, and staff have been working and waiting, patiently, "in time". However, after today's news and the allegations reported, PYA (Parents, students, staff, and supporters) decided that, "now is the time".

In an effort to ensure that every PYA parent, student, staff, supporter, and local taxpayer has a clear understanding of the district's role, interest, and involvement with PYA, as a charter school with students who live in the same district as students who attend other elementary schools in FSD1, we would like to ask the school board, superintendent, and/or other district representative to answer the following questions.

1. Is Palmetto Youth Academy required to have a "single audit" as defined by state and federal guidelines? If not, what type of audit is required and was this audit required last year, or any of the years prior to this year?
2. If there are concerns about management of funds, has the district offered to assist or to pay for an audit?
3. When PYA was notified that the financial information submitted was not in the correct format, was the district's auditor willing to provide assistance or make the needed corrections? Why or why not?
4. If PYA was quoted a price of \$13,000 to conduct an audit and the financial statements submitted clearly showed 100 percent of the monthly revenue received was spent on monthly operational expenses, why is the only solution to this problem, legal action or recommendation to stop funding? Would this solve the problem? And based on the tremendous academic progress of approximately 65 students in grades 3-6, is the problem worth solving?

Again, it is with great concern that we seek answers to these questions. We believe that our district supports the education of ALL students and any information reported to the public should reflect the district mission or at least the truth with facts and written documentation to support it. We appreciate your assistance in this matter and we look forward to hearing from you soon.

Yvonne Brown-Burgess
Executive Director
Palmetto Youth Academy

RB

TRANSCRIPT

Of

PALMETTO YOUTH ACADEMY
APPEAL HEARING

AS HEARD BY

FLORENCE PUBLIC SCHOOL DISTRICT
ONE BOARD OF TRUSTEES

THURSDAY, MAY 20, 2010
John T. Sullivan Board Room
319 S. Dargan Street
Florence, SC

7:00 P.M.

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1 **PYA Hearing Appeal Transcript**
2 **May 20, 2010 – 7:00 PM**
3 **Florence School District One**
4 **319 S. Dargan Street**
5 **Florence, SC 29506**

6
7 Mr. Porter Stewart (PS) (Chairman, Florence District One Board of Trustees):
8 Good evening. I'd like to welcome everyone here tonight. I'd like to call the
9 meeting to order. I assume the notices have been given that are required by
10 law, so we are now in order. I understand the purpose of our meeting tonight is
11 to, uh, hear an appeal, um, concerning the Palmetto Youth Academy, and so Mr.
12 Jackson, I will be happy to have you start the process at this time.

13
14 Mr. Larry Jackson (LJ) (Superintendent, Florence School District One): Thank you,
15 Mr. Chairman, I'm going to defer to Mr. McIntosh, the District's attorney.

16
17 Mr. D. Laurence McIntosh (DLM) (Attorney for Florence School District One):
18 This issue involves an audit of Palmetto Youth Academy. You are under certain
19 audit requirements as a school district. Mr. Luther Rabon is your chief financial
20 officer and he deals with audit type problems and financial problems and we
21 plan to call him and let him tell you the nature of the problem that you are
22 having. We also have your auditors here, Mr. Butch Whiddon will testify and
23 special auditor, Mr. Tim Grow, is here and was called in to do some examination
24 of financial records for Palmetto Youth Academy. So, that's the type witnesses
25 we are getting ready to present. So, we can call Mr. Rabon first.

26
27 PS: And also, as we get started, Ms. Brown-Burgess, if you would like to come
28 forward. I believe you have counsel with you tonight as well. Ok. You are
29 welcome to come forward and may sit here at the table also, if you care to. Mr.
30 Rabon, if you'll have a seat there, please sir. And the nature of the process we'll
31 follow, of course, is the administration will present its information to us and Mr.
32 McIntosh, if you have questions you need to ask during that process, you
33 certainly may do so. And then counsel if you have questions thereafter you may
34 certainly ask your questions as well. Mr. McIntosh.

35
36 DLM: Just as an introductory, the administration has realized that there is a
37 problem here, so they are presenting to you the nature of the problem so that
38 you may decide what the proper course of action is. Mr. Rabon, tell us how long
39 you have been chief financial officer and what your qualifications are.

40
41 Mr. Luther Rabon (LR) (Chief Financial Officer, Florence School District One): I've
42 been with the district going on a little over six years and I am the chief financial
43 officer and I have twenty plus years experience in this field.

44

45 DLM: What is your involvement about the knowledge of the Palmetto Youth
46 Academy and its place within the school district?
47
48 LR: Florence School District One is the sponsoring district for Palmetto Youth
49 Academy, therefore we have requirements in that relationship.
50
51 DLM: You have requirements as a school district with State laws concerning
52 audits you have to do?
53
54 LR: Yes, that is true. The State Department of Education requires that we submit
55 an audit to them by December 1st of each year and, within that audit, if we have
56 a charter school within our district, that charter school's audit has to be a part of
57 our audit and it has to be included in our audit.
58
59 DLM: That is a requirement?
60
61 LR: That is a requirement by the State Department of Education.
62
63 DLM: In dealing with that requirement, how have you been able to get the
64 information and the status of Palmetto Youth Academy?
65
66 LR: We've not been able to get an audit, a certified audit, from PYA, Palmetto
67 Youth Academy.
68
69 DLM: And how has that affected the audit for the school district?
70
71 LR: Well, it has required our auditor to give us a qualified opinion for our audit
72 for the last two years.
73
74 DLM: And can you refer, do you have one of those audits there?
75
76 LR: Yes.
77
78 DLM: Tell me what part of the audit report is a concern.
79
80 LR: Well, as I just said, when our auditor comes in to do our books, GASB 34 now
81 requires that if we have a charter school, they are considered a component of
82 our financial reports. Therefore, they have to be part of our financial reports as
83 a component unit. And then their financial revenues and expenditures are then a
84 part of our financial reports as a component unit.
85
86 DLM: So, attached to your....
87
88 LR: It is part of it, yes it is.

R//

89
90 DLM: And what did your auditors say about Palmetto Youth Academy and this
91 audit?
92
93 LR: Well, they wrote us up for not being in compliance and then, therefore, by
94 not having a qualified audit report from them so they could include it in our
95 audit, they gave us a qualified opinion.
96
97 DLM: Alright, otherwise you would have gotten an opinion without
98 qualifications?
99
100 LR: We would have gotten an unqualified opinion.
101
102 DLM: And what affect does that have on the district by having a qualified
103 opinion?
104
105 LR: Well, when you, well for examples, it is unfavorable to have a qualified
106 opinion. When you go out to sell bonds, it hurts you in the ratings, or has a
107 deficiency in your ratings when you have a qualified opinion. You are not looked
108 on as a favorable district – as a risk factor when you have a qualified opinion.
109
110 DLM: What, uh, the fact that you have a qualified opinion...what affect does that
111 have on the State regulatory, State Department of Education.
112
113 LR: Well, we are not in compliance – this audit report by December 1st and we
114 don't have that component in there, we are not in compliance with the State
115 Department of Education, which is a State law, by the way.
116
117 DLM: Would you publish to us this sentence, in your audit report that references
118 Palmetto Youth Academy?
119
120 LR: Page one?
121
122 DLM: Page one, yeah.
123
124 LR: The district declined to present the financial statement of Palmetto Youth
125 Academy (PYA) as a component unit of the district. In our opinion, the disclosure
126 of that information is required to conform with the accounting principles
127 generally accepted in the United State of America. That's on page one of the
128 audit.
129
130 DLM: Now, where it says you declined...you made an effort to get that
131 information through the audit process, did you not?
132

133 LR: Yes, sir. We also hired, we tried for them to pursue an external auditor
134 themselves. That failed. Uh, then we worked with them by employing a
135 company, or firm out of Columbia to actually sit down and do the books for them
136 and then we actually engaged a company, or firm out of Myrtle Beach to actually
137 do the audit for them. We wanted someone separate from our regular auditors
138 to do this so they would be completely independent of the school district.
139
140 DLM: What is the name of that firm in Myrtle Beach?
141
142 LR: Elliott Davis.
143
144 DLM: And this firm is here?
145
146 LR: Yes, he was the auditor
147
148 DLM: And he can speak to that....
149
150 LR: Yes, sir, that is correct.
151
152 DLM: Did you pay for whatever the work was that Mr. Davis did?
153
154 LR: Yes, sir, that is correct.
155
156 DLM: But, whatever he did was not able to satisfy this problem.
157
158 LR: It is my understanding he was not able to receive the information, enough
159 information to compile the report. That is my understanding.
160
161 DLM: The deficiencies that exist then when this audit report was issued on
162 December 1 of last year continues to this day?
163
164 LR: That is correct.
165
166 DLM: That's all the questions I have. Do you have any questions?
167
168 Mr. Samuel Mokeba, (SM) Attorney Representing Palmetto Youth Academy:
169 Yes, sir. Just for the record, my name is Samuel Mokeba. I am with the law firm
170 of Baker Ravenel and Bender in Columbia. Mr. Rabon, how long have you been
171 doing this again?
172
173 LR: I've been in Florence One for six years.
174
175 SM: And tell me, how long has Palmetto Youth Academy been open?
176

177 LR: I think this is probably about their fifth year...is that correct?
178
179 SM: And, when did this issue of the audit first come up?
180
181 LR: Probably three years ago is when we started working with them as a
182 component unit.
183
184 SM: Let me ask you this. In the first year of their existence, of the school's
185 existence, did you get, what kind of review did you get from your auditors?
186
187 LR: We got a qualified opinion, I mean an unqualified opinion.
188
189 SM: Ok. Tell me, in the second year of their existence, what kind of review did
190 you get from your auditors?
191
192 LR: We got an unqualified the second year.
193
194 SM: Ok. The third year, what review did you get?
195
196 LR: The third year, I believe, we began to get a qualified opinion? The last two
197 years, the last two year we had a qualified.
198
199 SM: So, the first two years....
200
201 LR: Third year, third year and fourth year we got a qualified opinion.
202
203 SM: So, the first two years, the first two years, did they submit any documents to
204 you?
205
206 LR: They did submit a compilation of information.
207
208 SM: And, did you use that as part of the documents you sent to your auditors?
209
210 LR: I inserted that with our audit because uh, it was not part of our component
211 unit at the time, I just added that. I had talked with the State Department of
212 Education and they let me just insert that in our audit, which I did.
213
214 SM: Ok. What do you mean by at that time they were not a component unit of
215 your school?
216
217 LR: What I'm saying is, they, it was not considered part of our books at the time.
218
219 SM: Why not?
220

221 LR: They didn't put it in our books. Just like right now, it is not a component, it is
222 not being added to our books.
223
224 SM: Ok.
225
226 LR: It should be, but it's not.
227
228 SM: Ok. Let me back up here. In two thousand and five, you submitted
229 documents from them, the two thousand and five, two thousand and six year,
230 you submitted documents from them that was part of your audit, you inserted
231 that, is that correct?
232
233 LR: I accepted that, yes.
234
235 SM: Ok, and then you...
236
237 LR: But that is all I had.
238
239 SM: And you got a favorable review from your auditors, right?
240
241 LR: Yes.
242
243 SM: Ok.
244
245 LR: The first two years.
246
247 SM: And, using the information that they have given you, right?
248
249 LR: Yes.
250
251 SM: And, did you submit that information to your auditors?
252
253 LR: I don't think, no, Butch never saw that.
254
255 SM: Alright, so ...
256
257 LR: Because I received it after he was through with our audit.
258
259 SM: Alright. The first two years, you guys didn't have any problem with what
260 they submitted to you, did you?
261
262 LR: We actually did have a problem with it, though. But we received what was
263 given to us.
264

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265 SM: Did you send them a note at that time saying that the documents you
266 received were inadequate?
267
268 LR: I feel sure we did. I'll have to look back in the records.
269
270 SM: I have looked at your audits. I got them from the State Department and the
271 two years prior you inserted the information that the school had given to you
272 into your audits, is that correct?
273
274 LR: Yes, that is correct.
275
276 SM: Ok. And in those two years, you got favorable reviews, right?
277
278 LR: That is correct.
279
280 SM: In the last two years that you didn't get favorable reviews, you did not insert
281 that information, did you?
282
283 LR: That is right. It was not accepted.
284
285 SM: Ok. You didn't accept it, or you didn't insert it?
286
287 LR: We didn't receive the information.
288
289 SM: Did they not give them to you?
290
291 LR: Last year, we never received any information from them. They tried to pull
292 an audit out of North Carolina and I don't think that worked out and then we
293 proceeded to employ an auditor ourselves, which was Elliott Davis.
294
295 SM: What changed between the first two years and the third year?
296
297 LR: The requirements.
298
299 SM: Alright, what requirements?
300
301 LR: To make sure it is a component unit of our audit report.
302
303 SM: Alright, why was it not a component unit of your report before?
304
305 LR: It is my understanding, and I've got two auditors here and they can probably
306 answer that question better than I could, but the law has probably been on the
307 books for ten years, but it hadn't really been enforced until the last few years.
308

309 SM: Alright, who didn't enforce the laws, the district, or the State Department?
310
311 LR: Probably the State Department of Education.
312
313 SM: Do you have any record of that?
314
315 LR: No. Because the reason I'm saying that is, they accepted her report, her
316 compilation report for two years.
317
318 SM: Ok.
319
320 LR: Although it wasn't an audit report.
321
322 SM: They accepted it.
323
324 LR: They just accepted it as such. For the last two years, now, we received a
325 qualified opinion and that is not satisfactory.
326
327 SM: In reviewing the audits at the State Department, the last two years you
328 didn't have the reports that they had given you the first two years, which you
329 inserted as part of your audit. You didn't insert that in two thousand and eight,
330 did you?
331
332 LR: We didn't have a report to insert, to my knowledge. Did you give?
333
334 Response from unnamed female (Ms. Brown-Burgess?): Yes.
335
336 LR: Ok. That's because it was supposed to be an audit report and this was not an
337 audit report from her. May I read something right here?
338
339 SM: Yes, sir.
340
341 LR: This is off the State Department of Education website. Ok? Section 59-40-
342 50B3 of the South Carolina Code of Law – 1976 stipulates that a charter school
343 must adhere to the same financial audits and audit procedures and audit
344 requirements as is applied to a public school offering in the same school district.
345 A certified or licensed public accountant selected by the charter school shall
346 make an annual audit of all financial records in accordance with the SDE audit
347 guide. Financial information on the charter school must be reported in the
348 sponsoring district's financial statement as a component unit in accordance with
349 the guidelines specified by the governing county standard – board statement
350 number fourteen. That says it all right there. Regardless if the State Department
351 of Education accepted it or not, they shouldn't have taken it because it says here
352 that it is required by a certified auditor or accountant for an audit on their books.

353
354 SM: Alright, you indicated that that law was passed what year again?
355
356 LR: 1976.
357
358 SM: And in two thousand and six, you submitted an insert, which I have, and that
359 was fine, by the State Department.
360
361 LR: You know what I just said while ago? It was not really being enforced and it's
362 probably been there for ten years? That's basically what I just said, it's not really
363 been enforced. But now, it is being enforced.
364
365 SM: And, just so I'm clear here, did you have any letter that was forwarded to
366 the school telling them before two thousand and eight that they had to do an
367 outside audit?
368
369 LR: Yes.
370
371 SM: You do?
372
373 LR: I feel sure we have cause we have been in communication with her the last
374 couple of years. That's why we got a qualified opinion.
375
376 SM: Well, I'm talking about two thousand and six, did you send a letter to them?
377
378 LR: You said two thousand eight.
379
380 SM: Well, in two thousand and six, did you send them a letter saying that what
381 they submitted was not enough?
382
383 LR: I said two thousand six, you said two thousand eight, though.
384
385 SM: Let me ask you this. In two thousand and six, did you send them a letter
386 saying that what was submitted to you was not sufficient enough?
387
388 LR: No. I accepted it.
389
390 SM: Alright, in two thousand and seven did you send them a letter?
391
392 LR: No. I don't think so.
393
394 SM: Are you aware that the charter school law requires you to, the district that
395 is, since you are a representative of the district, to do an accounting and audit
396 of the school each year?

397
398 LR: Us do an audit?
399
400 SM: Just general, not only of its finances, but of its programs, both academic and
401 financial and otherwise. Are you aware of that?
402
403 LR: I know we're supposed to review academically but we accept basically their
404 report card...their report card has been satisfactory so that has not been an
405 issue. What we are questioning is their financial status.
406
407 SM: What made you question their financial status?
408
409 LR: The fact that we couldn't get an audit report from them. A certified audit
410 report for the last two years.
411
412 SM: You indicated that you retained Elliott Davis, is that correct?
413
414 LR: That's correct.
415
416 SM: And you, did the district pay for it?
417
418 LR: Yes. We did.
419
420 SM: Did they take the money out of the allocation that was....
421
422 LR: Yes, yes we did.
423
424 SM: So you took the funds that was allocated to the school and you had an audit
425 done for them.
426
427 LR: That is correct.
428
429 SM: Did they get an input in selecting who the auditor would be?
430
431 LR: No, they employed an auditor out of North Carolina and I think she worked a
432 couple weeks and then she resigned as the auditor for PYA.
433
434 SM: Do you have any evidence of that?
435
436 LR: Excuse me?
437
438 SM: Do you have any evidence of that – that she worked for a couple of weeks
439 and then resigned.
440

441 LR: Ah, yes, Ms. Burgess....
442
443 SM: I'm asking you, if you have any evidence of that?
444
445 LR: No, because I didn't engage the person. Only by word of mouth did we have
446 this conversation.
447
448 SM: In two thousand and six, two thousand and six year and two thousand and
449 seven year when you had an insert as part of your audit, did you get a letter from
450 the State Department saying that that was not sufficient?
451
452 LR: (RESPONSE, IF ANY, WAS NOT AUDIBLE)
453
454 SM: Knowing that, why didn't you include an insert in the two thousand and
455 eight financial audit you sent to the State Department?
456
457 LR: Because they wouldn't accept it.
458
459 SM: Did they send you a letter stating that would not accept it?
460
461 LR: Uh, they sent the Superintendent, I'm pretty sure, one.
462 SM: You're sure that they sent him one, or you're just guessing that they sent
463 him one?
464
465 LR: Let me just ask him.
466
467 SM: Do you know around what period that letter was sent to the
468 Superintendent?
469
470 LR: I started working with Palmetto Youth Academy like in April trying to acquire,
471 talking about getting their audit from them, between April and May, from the
472 prior year. And, I worked with them all during the fall and was not able to get
473 their audit report and then that's when we started talking about getting
474 someone to actually sit down and do their books for them and then we talked
475 about uh, actually engaging an outside auditor from another firm say from the
476 beach to actually audit the books that they compiled the books. That's kind of
477 the way it went. And it's my understanding they didn't have any funds to pay for
478 an auditor.
479
480 SM: My question to you again was about what time do you think that the letter
481 was sent from the State Department indicating that what you submitted in the
482 past was not acceptable.
483

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484 LR: I don't recall that right off hand, but I mean I can go back and look at the
485 records and I'll be glad to provide that for you.
486
487 SM: Thank you.
488
489 LR: Now, she also received a letter from the State Department of Education, too,
490 stating the requirements, too and I just read the requirements as well. They had
491 to have mailed her a letter too, stating the requirements.
492
493 SM: In your opinion, do you think this is a problem that could be fixed?
494
495 LR: I think anything can be fixed, if there is willingness there for assistance. I
496 think there is a letter in your packet where I stated that I would actually go over
497 there and sit down and help them set up their set of books. I think that letter is
498 in there, that I would show them how to do their books the way it should be
499 kept.
500
501 SM: Just bear with me, I'm trying to look for the letter, sorry. I just can't find it,
502 but, I'm looking casually, so I can't say you didn't send one, but I just can't find
503 one. If you can, just let me know but I'll go ahead and ask you a question but
504 give me some time to look at it.
505
506 LR: It's not in here.
507
508 SM: Ok. To date, tell me any impact that this qualified opinion has had on the
509 district.
510
511 LR: Well, anytime you sell bonds for ... (not audible, coughing into the
512 microphone prevented statement determination)...the first thing they want to
513 know is if you have a qualified or unqualified opinion and that has an adverse
514 effect on your ratings. It's just that it is unfavorable.
515
516 SM: My question is, to date, do you have any indication that this has affected
517 the district any?
518
519 LR: Well, it doesn't prohibit you from selling bonds because you get a qualified
520 opinion. You can still go out and do the same thing. It just causes the interest
521 rate to cost you more.
522
523 SM: Since this qualified opinion, have you tried to sell bonds that have cost the
524 district more?
525
526 LR: Well, you won't know that because you would have had to have had an
527 unqualified opinion at the same time you had a qualified opinion to tell the

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528 difference. But right now, we have an unqualified, a qualified opinion so we
529 can't compare.
530
531 SM: Is it only that, do you, uh, based on what you are saying, the reasons for the
532 unqualified, for the qualified opinion, sorry, are you criticizing Palmetto Youth
533 Academy as being the sole reason for an unqualified opinion?
534
535 LR: That is correct.
536
537 SM: And I'm looking at the two thousand and nine audit, if you can look at the
538 last page... the last two pages, eight-six and eighty-seven, they give uh, the
539 auditors give three things that they found problems with and Palmetto Youth
540 Academy was just one of them, is that correct?
541
542 LR: That is correct.
543
544 SM: So, Palmetto Youth Academy was not the sole reason for an unqualified
545 opinion, is that correct?
546
547 LR: Yes it was.
548
549 SM: Is that your opinion?
550
551 LR: No, yeah it is the reason.
552
553 SM: So the other reasons listed here just don't matter?
554
555 LR: There are findings, but they won't qualify you to have a qualified opinion.
556
557 SM: Do you know what qualify....
558
559 LR: This, this is a major, uh, exception to the audit report. You cannot, I've been
560 doing this business a long time, you cannot have an audit report where the
561 auditor is not going to find some exceptions, ok? They're gonna find a few
562 exceptions, but having a component even missing is not acceptable if you want
563 an unqualified opinion. And, I think we just stated a while ago in reading the law
564 of 1976 that I just read to you.
565
566 SM: So, in your opinion, cash not properly reflected in the financial statements.
567
568 LR: No, it's immaterial, it's an immaterial amount.
569
570 SM: What is your definition of an immaterial amount?
571

572 LR: It's not a significant amount of money.
573
574 SM: How much money are we talking about here, in this case?
575
576 LR: Probably five thousand dollars.
577
578 SM: What would you consider a significant amount of money?
579
580 LR: Well, it's more than five thousand dollars. I mean you have a one hundred
581 and six million dollar budget.
582
583 SR: So, five thousand is the threshold and not significant?
584
585 LR: Well it's not a significant amount to warrant a qualified opinion. If you're
586 talking about my own, it's a lot of money, but for a one hundred and six million
587 dollar budget, it's not.
588
589 SR: And, again, just so I am clear, the threshold for a significant amount is five
590 thousand dollars?
591
592 LR: No.
593
594 SM: What is the threshold?
595
596 LR: You'd have to ask the auditors.
597
598 SM: Ok. Did you ever attempt to submit the two thousand and eight documents
599 that you got from PYA with your audit to the State Department?
600
601 LR: We called them about it and they said they would not accept it and they
602 were in communication with PYA.
603
604 SM: Did you send them, or do you have any note or evidence of that
605 communication?
606
607 LR: Other than the fact that it was talked over the telephone.
608
609 SM: Alright. Then that's all the questions I have for you at this time. Thank you.
610 DLM: When you as the financial officer get an audit report, the district gets it, do
611 you look first to see if it is a qualified or unqualified report?
612
613 LR: Yes sir, that's the first thing you look for.
614
615 DLM: And that would be what you would call a clean letter...

616
617 LR: Yes, sir, that's the way it is often described when you get an unqualified
618 opinion, that you have a clean audit.
619
620 DLM: So, that's the first thing you look for?
621
622 LR: Yes, sir. It is first and foremost.
623
624 DLM: Then, when you've got this sentence in this one that you just read to us,
625 then this is a qualified report. That keeps you from having an unqualified report,
626 right?
627
628 LR: It's qualified and also undesirable. There's eighty-five school districts in South
629 Carolina and probably only a handful of them have a qualified opinion, at most.
630
631 DLM: Alright.
632
633 PS: Thank you, sir.
634
635 DLM: Butch Whiddon, please. I believe the Board knows, but for the record,
636 please state your name, position, and involvement with Florence School District
637 One.
638
639 Mr. Butch Whiddon, (BW) Baird & Company, CPAs, LLC) – I'm Butch Whiddon.
640 I'm the audit partner with Baird & Company. We're in Augusta, Georgia and
641 we've done the audit for Florence School District One for the past five years.
642
643 DLM: In doing the audit, what did you find out about Palmetto Youth Academy
644 as a component of the school district?
645
646 BW: We, uh, determined by inquiry and, uh, from information received from the
647 State Department of Education that it qualifies as a component unit of the
648 district and should be included in the financial statement.
649
650 DLM: So as a component, you are required to disclose whether its finances are
651 what they should be.
652
653 BW: Yes, sir. That's basically what it is.
654
655 DLM: _____ all the standards are the same among districts, right?
656 BW: By generally accepted accounting principles and State statutes they are
657 required to suffer through the same audit procedures on the same level as the
658 _____ (inaudible).
659

660 DLM: Let me get you to read the letter you wrote tell us about that sentence in
661 there that carries it over from being a clean report to a qualified one.

662

663 BW: It's the third and fourth paragraph on page one and basically we state that
664 the district

665 _____ the specific financial statements of Palmetto Youth Academy,
666 which is a component unit and that because this information was not presented
667 in the financial statements, they can an except for opinion and the difference,
668 there are three or four levels of opinion. The unqualified opinion, which is a
669 clean opinion means that the statements are fairly stated according to generally
670 accepted principles of the United States. The qualified opinion would be an
671 except for opinion stating that they are fairly stated except for, and in this case,
672 it would be Palmetto Youth Academy. And then you also have an adverse
673 opinion, which would mean the financial statements did not conform to the
674 generally accepted principles. Then you would have a disclaimer opinion which
675 would be you are unable to form an opinion. So this is a qualified opinion.

676

677 DLM: In the business world, a qualified opinion presents problems.

678

679 BW: It can cause problems , yes sir.

680

681 PS: Ok.

682

683 SM: Thank you, sir. Could you please tell us when you arrived at the decision
684 that PYA was a component unit?

685

686 BW: Uh, it was through information received from Mr. Rabon and from the State
687 Department of Education.

688

689 SM: Ok. When did you receive that information?

690

691 BW: Three years ago. Two or three years ago.

692

693 SM: Alright. I am looking at your two thousand and seven report. First of all,
694 what is a component unit, legally, what's a component unit?

695

696 BW: A component unit is a legally separate organization for which the elected
697 officials of the primary government are financially accountable. In addition, it
698 can be other organizations for which the nature and significance of the
699 relationship of the primary government are such that exclusion can cause the
700 reporting entity's financial statements to be misleading or incomplete.

701

702 SM: And you are reading what, what are you reading?

703

R25

704 BW: You asked me what defined them as a component...
705
706 SM: Yes, you are reading from a document. I'm trying to find out what
707 document you are reading from.
708
709 BW: This is _____, it comes right from GASB14, paragraph 20.
710
711 SM: Ok. Thank you. What's a blended component unit?
712
713 BW: A blended component unit is one that would be considered...a good
714 example would be a department like component unit or department like
715 function within the government vs. a separate entity.
716
717 SM: In, in two thousand and seven report that I'm looking at, your report, you
718 define the component unit to be a legally separate organization for which the
719 district is financially accountable. The district is financially accountable for an
720 organization if the district appoints a voting majority of the organization's
721 governing board. Alright? And then, and that's the first thing the district appoints
722 members or the organization voting board. And then you give, you list two other
723 elements. The district is able to significantly influence the programs and services
724 performed and/or provided by the organization. In this case do you know if the
725 district appoints the Board of Directors of PYA?
726
727 BW: I, I don't know.
728
729 SM: Ok. If they don't, would that take them out of the realm of being a
730 component unit?
731
732 BW: No.
733
734 SM: Why not, since you....I'm using your definition?
735
736 BW: Would you like for me to read it again?
737
738 SM: Well, are you saying that the one, the one you wrote previously, the report
739 previously was wrong?
740
741 BW: No.
742
743 SM: Ok. So based on the definition which is on the audit which you provided,
744 based on your definition, does PYA meet the definition of a component unit?
745
746 BW: Those are the financial statements of, those footnotes were written by
747 _____, and are the responsibility of the district and not me, so any departure

748 there, and I don't think it would be material, uh, those are their statements, I,
749 the only thing we have in the financial statements are our letters, so I can't take
750 responsibility, or at least I can't take complete responsibility for the wording of
751 those footnotes. We felt like those footnotes were materially correct and uh, as
752 to whether that suits you or not, I don't know, but I know the definition of a
753 component unit. Part of it is financial accountability and that is what makes
754 them, a part of what makes them a component unit and also the legal
755 responsibility as a component unit.

756

757 SM: Let me make sure I understand you correctly, sir. Are you saying that
758 portions of this your audit that you submitted with your name in front of it really
759 don't belong to you? Is that what you're telling us?

760

761 BW: Financial statements are the responsibility of, or if you'll read page, or the
762 first paragraph I think it explains it. The first paragraph on page one. In regards
763 to the financial statement that was audited. But the financial statements are in
764 our _____ letters bring that out, are the responsibility of management, as a
765 matter of fact, it's the last sentence in the first paragraph, these financial
766 statements are the responsibility of Florence School District One's management.
767 Our responsibility is to express an opinion on the financial statements

768 _____

769

770 SM: Ok. So, just so I understand you correctly, that definition actually came from
771 the district, not you? Is that what you're saying?

772

773 BW: That's correct. It came from the district, but we do express the opinion on
774 those financial statements that we consider to be fairly stated in relation to the
775 financial statements.

776

777 SM: The reason I'm harping on this is because the issue of component units
778 makes a big difference in this case, right? You agree with me, right?

779

780 BW: Well, it's about the component unit and I thought I was pretty clear in my
781 definition of a component unit as it relates to PYA academy.

782

783 SM: One of the two definitions must be wrong. Either the one you are giving me
784 in the book or the one in this audit because they are not identical..

785

786 BW: Well, they may not be identical, but they're, they are, this is a copy of the
787 GASB definition of a component unit right there.

788

789 SM: I can't look at GASB, but I sure do have an audit from you, signed by you and
790 your company and it defines it differently from what you are telling me tonight.

791

792 BW: I'm sorry.
793
794 SM: Now, did you ever receive from the district any of the inserts that was titled
795 two thousand and six, two thousand and seven audits that were sent to the
796 State Department, from PYA that is.
797
798 BW: We received some information, and I can't remember what year it was that
799 we discussed at length... the issue the year before from two thousand eight, the
800 only copies which we saw any information from.
801
802 SM: So you didn't see one in two thousand and six? Alright, you don't know if it's
803 inserted in fact in the audits that were sent to the State Department, you don't
804 know that. Do you know who inserted it? Would you have made a difference if
805 you saw it?
806
807 BW: Uh, I don't know.
808
809 SM: Have you ever seen any financial reports from PYA?
810
811 BW: I have.
812
813 SM: Alright, which one have you seen?
814
815 BW: It was not this past....not two thousand nine, but two thousand eight, I'm
816 pretty, I, I think that's correct.
817
818 SM: Without not seeing any documents from PYA for two thousand and six, you
819 still gave the school district a favorable opinion, is that correct? Is that a yes?
820
821 BW: Yes.
822
823 SM: Ok. And, if you have not seen any report from PYA from two thousand and
824 seven you still gave the district a favorable report.
825
826 BW: I did.
827
828 SM: And, in two thousand and eight, you still didn't see any report from PYA
829 based on your testimony and this time, you decided to give them an unqualified
830 opinion. Why?
831
832 BW: Based on the information we had, we felt like the opinion was justified.
833
834 SM: Well for year one, you say you have no information, year two, two thousand
835 and seven, you have no information, two thousand and eight, you have no

836 information, yet, year one your opinion was favorable, year two your opinion
837 was favorable and year three, your opinion was qualified. What has changed?
838
839 BW: We became aware that they were indeed a component unit of the financial
840 district and that they should have been displaying their financial statements with
841 the district.
842
843 SM: And again, you became aware because you said the district told you that, is
844 that what you said?
845
846 BW: The district as well as the State Board of Education.
847
848 SM: Did you have any letter from them telling you that?
849
850 BW: No. This was a phone call. Or, it was basically the school told us and then I
851 got in touch with the Department of Education to clear up some information.
852
853 SM: When you got that information, did you tell the State Department that
854 based on the definition you have here, that that don't fit the component unit?
855
856 BW: No, they told me they did fit the definition.
857
858 SM: No, I'm talking about based on the definition you have in your audits they
859 don't qualify as a component unit.
860
861 BW: That's your opinion.
862
863 SM: I didn't prepare the audit, sir, you did.
864
865 BW: I don't know how you're interpreting it. I'm telling you it's a component
866 unit.
867
868 SM: You want me to show you?
869
870 BW: No, I....
871
872 SM: Hmm, ok. Thank you sir, that's all the questions I have.
873
874 DLM: Mr. Whiddon, what is your understanding of how Palmetto Youth
875 Academy gets funding?
876
877 BW: Through the school district.
878
879 DLM: And in turn comes from the State of South Carolina?

880
881 BW: Yes, sir.
882
883 DLM: And, uh, the school district amounts to a pass through for funding for its
884 operations?
885
886 BW: Uh, not all, property taxes and some other funding.
887
888 DLM: Well, the school district is the conduit of these funds and that affects it as a
889 component of the school district.
890
891 BW: Yes, sir.
892
893 DLM: So the school district gets money for all its programs apart from Palmetto
894 Youth Academy and they have to account for those monies.
895
896 BW: Yes, sir.
897
898 DLM: And there's money that goes that way that also has to be accounted for.
899
900 BW: Yes, sir.
901
902 SM: Just a quick follow up. You must have realized in two thousand six that
903 money was passing through the school district to go to Palmetto Youth
904 Academy, didn't you?
905
906 BW: In two thousand six, I don't think I did.
907
908 SM: You didn't? How about two thousand and seven?
909
910 BW: I think two thousand and seven was when some of the information came in
911 and it was specific _____. (Inaudible)
912
913 SM: And when the money went through to the charter school and you didn't
914 inquire as to how the money was done or if an audit had been done and give
915 them an unqualified opinion?
916
917 BW: The expenditures were recorded and the expenditures to the school were
918 recorded on the books of the district. The uh omission was uh, if it was an
919 omission, was that uh the expenditures of the Youth Academy were not
920 explained.
921

R30

922 SM: And, so that gave you, that didn't bother you any? You were not aware
923 though that your audit, there was an insert again from Palmetto Youth
924 Academy?
925
926 BW: (response inaudible)
927
928 SM: Thank you, sir.
929
930 DLM: Mr. Grow, please. Mr. Grow, you are with Elliott Davis auditors? Could
931 you tell us about your organization?
932
933 Mr. Tim Grow (TG), CPA with Elliott Davis Auditors, Myrtle Beach, S.C. – I am an
934 auditor with Elliott Davis. I've been with the company for thirteen years and
935 have spent most of that time auditing schools and over the last several years,
936 charter schools.
937
938 DLM: Were you engaged for services by the school district for Palmetto Youth
939 Academy?
940
941 TG: Yes, I was.
942 DLM: Can you tell us about that engagement?
943
944 TG: I was engaged by both the school district and the charter school to audit the
945 books and records, financial statements of the charter school and I began the
946 process. The information in the gathering stage made the determination that the
947 procedures I was going to have to employ would require me to violate some
948 independent standards, in other words, I was going to have to employ some
949 procedures that would violate my professional standards and that's when I
950 decided that I needed to resign from the case and I was precluded from doing
951 additional work.
952
953 DLM: Did you find deficiencies in how their records were kept?
954
955 TG: Well, like I said, I was still in the information gathering stage, but one of the
956 things that clearly made it difficult for us to go through was the fact that the
957 activities of the Charter School and I believe Palmetto Services were being run
958 out of the same cash account. That was certainly one of the biggest things and
959 we were engaged over the June 30, 2008 year- end financial statements and
960 when you employ procedures such as this you've got to get comfortable with the
961 beginning of the year balances. We were hoping that, I guess the volume of the
962 transactions that occurred as it related to Palmetto Youth services wouldn't be
963 significant, but the more information that became available to us, it was clear
964 that that would not be the case, you know, we were not going to be able to get
965 comfortable with the opening balances and it was going to require us to do

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966 procedures that were beyond the scope of what we were engaged to do to get
967 comfortable, or to be able to unravel the two entities.
968
969 DLM: So the two entities were being operated together?
970
971 TG: Out of the same cash account, correct.
972
973 DLM: Palmetto Youth Services, do you know the nature of that entity?
974
975 TG: Uh, I really don't.
976
977 DLM: It is not a charter school?
978
979 TG: It is not. Not to my knowledge.
980
981 DLM: It is something else other than a charter school.
982
983 TG: That's correct.
984
985 DLM: And your problem was you are familiar with charter schools and this is
986 something else?
987
988 TG: Yes, sir, that's correct.
989
990 DLM: And you, uh, related all of this in the letter of January 26, 2010?
991
992 TG: That's correct.
993
994 DLM: I think that letter is in the file. The public will follow that in your letter of
995 January 26, 2010, paragraph three.... Read that for us.
996
997 TG: Item number three?
998
999 DLM: Yes.
1000
1001 TG: "The funds of the charter school appear to have been co-mingled with
1002 another entity."
1003
1004 DLM: And that's where you wrote your analysis of what the problem was.
1005
1006 TG: Yes, that was certainly one of them. Obviously as I stated in the other three,
1007 those were additional. Being unable to get comfortable with the opening
1008 balances, which in large part was the result of those two entities being
1009 intertwined made that difficult to get a cut-off on that year. That's correct.

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1010
1011 DLM: And the others, 1, 2 and 4, also.
1012
1013 TG: That's correct.
1014
1015 DLM: Thank you.
1016
1017 SM: Tell me, how many charter schools do you work with?
1018
1019 TG: Uh, roughly a dozen.
1020
1021 SM: And, in those dozen schools you work with, do you, who engages you to
1022 work for them? Does the charter school engage you to work for them, or does
1023 the district engage you to work with the charter school?
1024
1025 TG: The charter school.
1026
1027 SM: Did you find this was an unusual arrangement that the district was the one
1028 who actually engaged you?
1029
1030 TG: When I was called, I was made aware that this charter school had not been
1031 audited, uh, that in the district's oversight, they felt compelled to encourage that
1032 to happen and they asked would I be willing to be involved, so after my
1033 conversation with the district, I called Ms. Burgess. And that's why, so there
1034 would not be a conflict on my end, I made sure that I was being engaged by both
1035 parties.
1036
1037 SM: Did you have an engagement letter...
1038
1039 TG: Yes, yes I did. I have a copy with me, I'm sorry, yes I have.
1040
1041 SM: Let's take this step by step. You said you got to the point where you felt
1042 uncomfortable. What did you mean by that? Why did you feel uncomfortable?
1043
1044 TG: It was clear, uh, our professional standards are fairly clear on what we can or
1045 cannot do, and once we start preparing or doing certain procedures that we
1046 consider a management function that would impair our independence and to go
1047 further, to be able to render an opinion on what we were provided, we were
1048 going to have to do that.
1049
1050 SM: Did you have to perform any kind of management services for Palmetto
1051 Youth.
1052

1053 TG: Once again, in my estimation when I was at that point, when I made the
1054 decision that I was going to have to resign because I was not going to be able to
1055 be an independent third party.
1056
1057 SM: Tell me, it is my understanding that Kelley-Moser Consulting had been
1058 retained to do their books, are you aware of that?
1059
1060 TG: Yes, I am.
1061
1062 SM: And so, why would that require you, knowing that Kelley-Moser Consulting
1063 was there preparing their books so that you could audit them, how does that put
1064 you, make you cross that line?
1065
1066 TG: Once Kelley-Moser completed their procedures, I reviewed the data that
1067 they provided and recognized that a significant element of what remained could
1068 not be unraveled.
1069
1070 SM: Tell me, what are those significant elements.
1071
1072 TG: There was a large block of both revenue and expenditures that were
1073 attributable to Palmetto Youth Services, but there was no evidentiary matters
1074 for that.
1075
1076 SM: Did you ever find out what Palmetto Youth Services is all about?
1077
1078 TG: I've had obviously more than one conversation with Ms. Burgess about that,
1079 but knowing that what I was being engaged to do was audit the charter school, it
1080 wasn't my, it wasn't on the list of priorities to accomplish in the information
1081 gathering stage.
1082
1083 SM: Uh, did you ever review the 501C documents for Palmetto Youth Academy?
1084
1085 TG: I believe we obtained a copy of that, well one of our issues was if Palmetto
1086 Youth Services or Palmetto Youth Academy could be an entity under the guise of
1087 Palmetto Youth Services. Once again, in the information gathering stage we
1088 knew that was a hurdle that we were going to have to cross to make sure that
1089 we understood the nature of that relationship, but these other items seemed to
1090 be of higher importance and once I made the determination that I was going to
1091 be unable to proceed based on that, I didn't go any further with that
1092 determination.
1093
1094 SM: Ok. Alright, in your letter, you said, terminating your services with Palmetto
1095 Youth Academy, you said, or you indicated that um, that in order for us to render
1096 an opinion on your financial statements, we needed sufficient, competent

1097 evidential matter which supports the financial statements. What document
1098 didn't you receive that supports their financial statements?
1099
1100 TG: A lot of the, there was no support....I mean some of the documentation that
1101 we asked for, we did not receive is how the school accounted for the food
1102 service, how the school accounted for the IDEA services provided to the school
1103 by the school district. The breakout of the revenue and expenditures according
1104 to the state department guide is that if the school, uh, what the school owns, its
1105 fixed asset-wise was not able to be determined it was not able to be segregated
1106 between the school and Palmetto Youth Services, what the opening balances, if
1107 there were, I had no way of knowing, I had no evidence as to what those opening
1108 balances cash, there were no fixed assets reported. It appeared that there were
1109 no accruals for vacation or payroll, none of that information was provided.
1110
1111 SM: Is it possible that an entity may not have assets?
1112
1113 TG: Is it possible? Sure.
1114
1115 SM: And did they tell you that they did not have any assets?
1116
1117 TG: No.
1118
1119 SM: Did you ask?
1120
1121 TG: Yes, I did. They clearly had assets. We were making the determination if
1122 those assets were material or not.
1123
1124 SM: Alright.
1125
1126 TG: And, whose assets they were, whether those assets were acquired by funds
1127 of the charter school or by funds of Palmetto Youth Services.
1128
1129 SM: Did you at any time track the funds that the school received from the district
1130 to make sure that they were expended in accordance with the budgets that the
1131 school had in place?
1132
1133 TG: As I indicated earlier, we were primarily still in the information gathering
1134 stage and I had not gotten to that yet.
1135
1136 SM: How much were you paid for these services?
1137
1138 TG: I don't recall. I'd have to look.
1139
1140 SM: Give me a ballpark.

R35

1141
1142 TG: I'd say right around ten thousand dollars.
1143
1144 SM: So, you got ten thousand dollars of this school's money and you didn't do
1145 anything for them beside send them a letter to withdraw?
1146
1147 TG: This cycle took place over ten months. We visited the school on many
1148 occasions. One of the first things we have to do is gain an understanding of the
1149 entity. There was a certain education process we had to go through. It was my
1150 understanding that it was Ms. Burgess' first time going through an audit. There
1151 was a lot of start, stop, restart asking for information to get the information and
1152 realizing it wasn't really answering the question we had asked, that sort of thing.
1153
1154 SM: Was that a flat fee or an hourly fee?
1155
1156 TG: We gave an estimate on what we thought it would take to, in our
1157 engagement.
1158
1159 SM: You didn't answer my question. Was that a flat fee or an hourly fee? Do you
1160 bill them by the hour or do you have a
1161
1162 TG: I bill as I progressed with an anticipated cap.
1163
1164 SM: What was the anticipated cap in this case?
1165
1166 TG: Twenty-thousand.
1167
1168 SM: Ok. You do work for the Carolinas School for Inquiry?
1169
1170 TG: Yes, I do.
1171
1172 SM: Fine school, huh?
1173
1174 TG: Yes, it is.
1175
1176 SM: I'll tell my wife you said that. What is the cap for their audits?
1177
1178 TG: Each situation is unique. It depends on the circumstances.
1179
1180 SM: What are those circumstances?
1181
1182 TG: Uh, have they ever been audited before, what kind of shape their books and
1183 records are in, the knowledge, the competency of the people that we're dealing
1184 with.

1185
1186 SM: So, in talking to you and listening to you, please correct me if I'm wrong,
1187 does that mean that the first time the school goes for an audit is a lot more
1188 expensive than the second time?
1189
1190 TG: Sometimes, every situation is unique.
1191
1192 SM: What's the general package for audits you do for charter schools, not just
1193 PYA? I knew your package for PYA was twenty-thousand, but what is a general
1194 ballpark package for charter schools, an average?
1195
1196 TG: They vary. Anywhere from twelve to twenty-thousand dollars.
1197
1198 SM: So the max is twenty-thousand dollars?
1199
1200 TG: Not necessarily.
1201
1202 SM: What is the max so far?
1203
1204 TG: Uh, I think I've done one that cost twenty-four thousand.
1205
1206 SM: What school was that?
1207
1208 TG: I'd have to look; I don't recall.
1209
1210 SM: How many students did they have?
1211
1212 TG: I don't remember. I'd have to see which entity that was.
1213
1214 SM: Do you know how many students Palmetto Youth has?
1215
1216 TG: Not off the top of my head, no. I'm sure I have that information somewhere.
1217
1218 SM: So, let me make sure I understand you correctly. You have two engagement
1219 letters, right, one with the district and one with whom?
1220
1221 TG: With both of them.
1222
1223 SM: So, both of them signed?
1224
1225 TG: Right.
1226
1227 SM: And that, in your opinion is an unusual occurrence? Right?
1228

1229 TG: Yes.
1230
1231 SM: Who issued a check?
1232
1233 TG: I'm sorry?
1234
1235 SM: Who issued a check to pay you?
1236
1237 TG: The school district.
1238
1239 SM: Did you receive any opinion from Kelley-Moser Consulting about the
1240 records?
1241
1242 TG: Did I receive an opinion? No.
1243
1244 SM: And Kelley-Moser Consulting does work for numerous other schools, you
1245 believe?
1246
1247 TG: Yes.
1248
1249 SM: You work with them on a regular basis?
1250
1251 TG: That's true.
1252
1253 SM: And, did they have any difficulty that you know of in putting these records
1254 together for you to review?
1255
1256 TG: You'd have to ask them. I don't know. I was provided the information, I don't
1257 know.
1258
1259 SM: They didn't at any point tell you that, hey, this is just an unusual situation
1260 and we can't get these documents together so that you can review them. Did
1261 they?
1262
1263 TG: I'm not sure I understand your question.
1264
1265 SM: Kelley-Moser Consulting didn't tell you that, I mean you work with them
1266 with all these schools, I don't know if you said how many schools that you
1267 worked for, how many schools. In all of these instances, you worked with Kelley-
1268 Moser Consulting, right?
1269
1270 TG: In a lot of cases, yes.
1271
1272 SM: Ninety percent of them, you think, about ninety percent?

1273
1274 TG: I don't, uh, percentage-wise, I don't know.
1275
1276 SM: But for a lot of them you work with Kelley-Moser Consulting, is that correct?
1277
1278 TG: Yes.
1279
1280 SM: In this scenario, though, Kelley-Moser didn't tell you or indicate in any
1281 shape, form or fashion that these documents are just irreconcilable, did they?
1282
1283 TG: No.
1284
1285 SM: Alright. They are the ones that usually reconcile those documents and then
1286 send them to you for audit, is that correct?
1287
1288 TG: Generally speaking.
1289
1290 SM: And, they did send you documents in this case, didn't they?
1291
1292 TG: Yes, they did.
1293
1294 SM: Thanks, that's all the questions I have for him.
1295
1296 DLM: Mr. Jackson, please.
1297
1298 DLM: Mr. Jackson, as Superintendent of schools you had communications and
1299 contact with Palmetto Youth Academy.
1300
1301 LJ: Yes sir.
1302
1303 DLM: You have a file with correspondence?
1304
1305 LJ: Yes, sir.
1306
1307 DLM: Was there a letter sent back in June 19th, 2007?
1308
1309 LJ: Yes, sir.
1310
1311 DLM: And, that's in the file.
1312
1313 LJ: Yes, sir.
1314
1315 DLM: Has this been ongoing since...
1316

1317 LJ: Since that time, yes, sir.

1318

1319 PS: Do you have any questions?

1320

1321 SM: Yes, I was trying to review the letter he made mention of, sorry. Mr. Jackson,
1322 the letter of reference from 2007 didn't have anything to do with the audit, you
1323 just told them that the law had changed, is that correct.

1324

1325 LJ: Right, but it also specifies by the number of bullets that I included in the letter
1326 specify, if I may; Dear Mrs. Burgess, In 2006, the Charter Schools Act was
1327 amended. One of the changes to the Act requires any school board sponsoring a
1328 charter school to annually review the charter school's performance and
1329 compliance with applicable legal requirements. Specifically, this annual review
1330 requires a sponsoring school board to annually evaluate whether the charge
1331 school (1) committed a material violation of the conditions, standards, or
1332 procedures provided for the charter application; (2) failed to meet or make
1333 reasonable progress, as defined in the charter application, toward pupil
1334 achievement standards identified in the charter application; (3) failed to meet
1335 generally accepted standards for fiscal management; or (4) violated any
1336 provision of law from which the charter school is not specifically exempted. The
1337 amendments to the act also require that, if the school board determines the
1338 charter school did fail in any of the above four areas, then the charter must be
1339 revoked. Further, the annual review should be completed so that a school board
1340 can take appropriate action prior to the start of the next school year. Because
1341 the Act requires a sixty day notice of termination period, a school board should
1342 complete its annual review as soon as practical after the end of the school year.
1343 To assist the district and board in carrying out the annual review process, please
1344 provide the district a report addressing the above listed four areas of
1345 compliance. Specifically, please describe in detail (1) any reports or charges
1346 against Palmetto Youth Academy asserting facts that, if true, would constitute a
1347 violation of the conditions, standards or procedures provided for in the charter
1348 agreement. (2) The progress of Palmetto Youth Academy's students toward
1349 public achievement standards identified in the charter agreement. (3) How
1350 Palmetto Youth Academy has met generally accepted standards for fiscal
1351 management. (4) Any reports of charges against Palmetto Youth Academy
1352 asserting facts that, if true, would constitute a violation of a provision of law
1353 from which Palmetto Youth Academy is not specifically exempted. Please
1354 provide the District this information as soon as possible, but no later than July 3,
1355 2007. The district appreciates your attention to this request, and once this
1356 information is received, provided no additional information is deemed
1357 necessary, the matter will be referred to the school board for action on Palmetto
1358 Youth Academy's annual review.

1359

1360 SM: Did they submit those documents to you?

1361
1362 LJ: All save, as was stated previously, we use their report card as a means of
1363 determining pupil accountability, so all was done save the audit.
1364
1365 SM: Alright, and did you send them a letter at that time telling them they need
1366 to do an audit?
1367
1368 LJ: Uh, I had a conversation with Ms. Brown-Burgess and she subsequently met
1369 with Mr. Rabon to see if we could resolve this but we did not get any resolution
1370 at that time.
1371
1372 SM: And this was for the academic year 2006-2007, is that correct?
1373
1374 LJ: That is correct.
1375
1376 SM: Are you aware that for the year 2006-2007 she actually did submit financial
1377 statements to somebody at the district, Mr. Rabon or you. Are you aware of
1378 that?
1379
1380 LJ: I am, yes.
1381
1382 SM: And are you aware that the financial documents she forwarded to you was
1383 included in the 2007, in your 2007 audit?
1384
1385 LJ: I am, yes.
1386
1387 SM: And so, at that point, my question to you again is did you find those to be
1388 unacceptable?
1389
1390 LJ: Not at that particular juncture.
1391
1392 SM: Ok. So back to my original question. Did you send a letter to tell them that
1393 that was not acceptable?
1394
1395 LJ: There is a letter that was sent by Shelley Kelly at the State Department, legal
1396 counsel at the State Department, that is in your packet as well.
1397
1398 SM: Yep. I'm asking about 2007.
1399
1400 LJ: I'll reference that in a minute.
1401
1402 SM: Ok.
1403

1404 LJ: I spoke to Ms. Brown-Burgess about the 2007 letter that I just referenced
1405 trying to resolve the matter. There was no correspondence; it was a
1406 conversation between the two of us.
1407
1408 SM: And of that academic year, with the documents she had forwarded to you
1409 and based on the Act you cited, everything was fine, is that correct?
1410
1411 LJ: Yes, sir.
1412
1413 SM: Tell me what happened then in 2008 that things changed so drastically.
1414
1415 LJ: That's when I became aware of a conversation with Mr. Rabon and the
1416 auditor that we had that they were defined as a separate component needing a
1417 separate audit.
1418
1419 SM: Did you ever inquire from the auditor what changed between 2007 and
1420 2008?
1421
1422 LJ: No, I did not.
1423
1424 SM: You are aware that in 2008, Palmetto Youth Academy submitted the same
1425 kind of report they had submitted in the previous year, correct?
1426
1427 LJ: Yes.
1428
1429 SM: Are you equally aware that this time around, though, uh, that report was
1430 not inserted into the district's final audit?
1431
1432 LJ: Right.
1433
1434 SM: Do you know why it wasn't inserted this time around?
1435
1436 LJ: I do not other than the fact that I was told it needed to be submitted
1437 separately. If I may, subsequent to that, I met with again, counsel with the State
1438 Department sometime early in 2009, because when I spoke with Ms. Burgess,
1439 she indicated that she felt like she did not have to submit an audit, again
1440 referencing based on the questions that you have asked me. So, in order to be
1441 clear, I went to the State Department of Education and talked with their legal
1442 counsel as to what the actual requirement was. So, at that point, I received a
1443 letter back from Shelley Kelly dated March 31, 2009 which states: You asked for
1444 guidance from the South Carolina Department of Education regarding the
1445 requirements for a charter school to submit an audit to its sponsoring school
1446 district. Specifically, you asked whether Palmetto Youth Academy, a charter
1447 school sponsored by your district, is obligated to submit an audit to your district.

1448 As of March 23, 2009, Palmetto Youth Academy had not submitted an audit. The
1449 South Carolina Code law 59-40-50 (B) (3) states that a charter school must
1450 adhere to the same financial audits, audit procedures, and audit requirements as
1451 are applied to public schools. In their charter application, Palmetto Youth
1452 Academy states that they will contract with a Licensed CPA with experience in
1453 school finance to provide financial accounting services and we will utilize a
1454 separate agency for auditing services and that's a quote from their charter
1455 school application. They continue to describe the audit in detail and state that it
1456 is anticipated that the annual audit will be completed by the due date imposed
1457 by State statute. I am attaching a copy of the page from their application that
1458 describes the audit. The charter school law states that the application becomes
1459 the charter contract once the charter is issued. Quote: an approved charter
1460 application constitutes an agreement and the terms must be the terms of a
1461 contract between the charter school and the sponsor." Therefore, the statement
1462 by Palmetto Youth Academy that they will provide the audit is part of the charter
1463 contract. The charter school law states that C – A charter must be revoked or
1464 not renewed by the sponsor if it determines that the charter school (1)
1465 committed a material violation of the conditions, standards, or procedures
1466 provided for in the charter application; (2) failed to meet or make reasonable
1467 progress as defined in the charter application toward pupil achievement
1468 standards identified in the charter application; (3) failed to meet generally
1469 accepted standards of fiscal management, or (4) violated any provision of law
1470 from which the charter school was not specifically exempted. The South Carolina
1471 Department of Education takes no position with regard to what action, if any,
1472 the Florence County School District One should take with regard to this matter. I
1473 am providing this information to you at your request to clarify the legal
1474 requirements regarding audits and the effect that failure to meet requirements
1475 of a charter contract may have on the charter. So, I think this shows that when I
1476 spoke with Ms. Brown-Burgess she was maintaining that she did not have to do
1477 an audit and I'm hearing from my auditor that she did. So in order to get clarity,
1478 I went to the State Department of Education to ask them for an opinion, which is
1479 stated in this letter dated 2009.

1480

1481 SM: Did she ever give you a reason why she felt they were not supposed to do an
1482 audit?

1483

1484 LJ: I can't, I think, I can't recall exactly what she said. I think she just felt that she
1485 was not a component unit and did not have to do one based on the fact she did
1486 submit one the previous year other than the information that was inserted in
1487 your packet.

1488

1489 SM: She didn't tell you that she got documents from the State Department of
1490 Education indicating that if she was receiving less than five hundred thousand
1491 dollars, she wasn't required to do an audit?

R43

1492
1493 LJ: I don't recall.
1494
1495 SM: Did she share that with you?
1496
1497 LJ: I don't recall that. Again, that's why I went to the State Department for
1498 clarity.
1499
1500 SM: If you look at your package, your letter dated April 9, 2009, the third
1501 paragraph, uh, if you're looking at that paragraph, does that refresh your
1502 memory as to why she felt they were not required to do an audit?
1503
1504 LJ: Yes, it says in the winter of 2009, Mr. Rabon contacted you to ascertain the
1505 status of the audit for Palmetto Youth Academy. At that time you indicated that
1506 you had contacted the South Carolina State Department of Education and that
1507 they had informed you that you did not have to submit an audit to Florence
1508 School District One. Mr. Rabon immediately informed me of this situation and I
1509 scheduled a time for you and I to meet to discuss this. We met in your office at
1510 Palmetto Youth Academy and at that time, you indicated to me that you had
1511 received notification from the State Department of Education that you did not
1512 have to submit an audit to Florence School District One. We agreed that you
1513 would forward a copy of the correspondence to my office the following day.
1514 Subsequent to that meeting, I did receive a copy of that correspondence. I
1515 scheduled a conference call with Butch Whiddon, Luther Rabon, Randy Koon,
1516 Assistant Superintendent for Curriculum and Instruction and Dr. Erik Lowry,
1517 Assistant Superintendent for Human Resources. I shared with our auditor the
1518 correspondence you received from the State Department of Education. Mr.
1519 Whiddon was resolute in his opinion that as a component unit as described by
1520 state law and in GASB 14, Palmetto Youth Academy is required to submit an
1521 audit to Florence School District One. At the conclusion of the conference call, I
1522 instructed Randy Koon to contact the State Department of Education to seek
1523 clarity on this issue. Mr. Koon spoke with Melissa Austin, who indicated that she
1524 had forwarded that information to you in error...
1525
1526 SM: So, clearly, she had to receive something from the State Department.
1527
1528 LJ: Yes, sir.
1529
1530 SM: And, and from what you are reading, Ms. Austin stated that she forwarded
1531 that information to her in error, is that correct?
1532
1533 LJ: That is correct.
1534

1535 SM: And she did forward a copy of that document which you received, is that
1536 correct?
1537
1538 LJ: Yes, sir.
1539
1540 SM: In your letter to Ms. Burgess dated March 18, 2010, um, you indicated that,
1541 informing her the board was going to revoke their charter, um, and you said the
1542 reasons were they failed to meet the generally accepted standards of fiscal
1543 management. What does that mean?
1544
1545 LJ: That she did not submit an audit.
1546
1547 SM: Where'd you get that definition out of generally accepted fiscal
1548 management means you submit an audit?
1549
1550 LJ: Based on the GASB requirements as explained to me by our auditors and from
1551 the letter that I received from Shelly Kelly at the State Department of Education.
1552
1553 SM: Tell me of a definition that you know, if any definition that are in the
1554 statutes or regulations that explains what generally accepted standards of fiscal
1555 management means.
1556
1557 LJ: I can't.
1558
1559 SM: That's all the questions I have.
1560
1561 DLM: (There was coughing and Mr. McIntosh's question of Mr. Jackson was not
1562 discernible.)
1563
1564 LJ: Yes, sir.
1565
1566 DLM: That's all we have.
1567
1568 PS: Alright, thank you sir. That would be the information from the district.
1569 Anything you wish to present to us I will be glad to hear if you have additional
1570 information you would like done at this time.
1571
1572 SM: Yes, sir. I have, I think I gave a copy of some documents to the
1573 superintendent and I just want to give you a copy of that. Honestly, I wasn't
1574 aware that this format was going to be the one that is taken here this evening.
1575 So more or less I have prepared the documents summarizing our position
1576 regarding the revocation and I will be glad to make those summations at any
1577 time the chairman feels appropriate. I did not intend to present any witnesses
1578 because I didn't plan for that.

1579
1580 PS: If you'll bear with me just a moment, I was just handed your packet. Let me
1581 just take a moment to see what's here.
1582
1583 SM: Sure.
1584
1585 PS: Ok. Um, the district has presented its information so I'll just leave it to you as
1586 to how you would like to proceed. Is this the only copy of the information that's
1587 available?
1588
1589 SM: That's the only copy ...I have two copies and I was going to give one to the
1590 board and one to _____(could not determine the name).
1591
1592 LJ: We'll get some copies made.
1593
1594 SM: And, just so the record is clear, we did not know this format was so different
1595 from other school districts and if I'd known we were supposed to present I would
1596 have been glad to make sure we had that done. Usually that, honestly I prefer
1597 this format than the ones I've used in other charter school hearings where we
1598 come in there and present our information to the board and the school presents
1599 information and we present our information and supporting documentations as
1600 to why we feel the revocation, as to why the district should not revoke the
1601 charter and ...
1602
1603 PS: Why don't we do this. They are duplicating that packet so that all the board
1604 members will have that packet and while that's being done, if you'd like to
1605 summarize your position, I'm sure it is stated in writing as well, but you certainly
1606 can make a closing summary statement. Why don't we proceed in that fashion if
1607 that's suitable to you.
1608
1609 SM: It's fine. I don't know what the process, sit, stand, does it make a difference.
1610
1611 PS: Whatever your, you can sit. We can hear you just fine.
1612
1613 SM: Ok. Thank you.
1614
1615 PS: The request has been made that we go ahead and have your information
1616 before us before we hear from you. So why don't we take a ten minute recess
1617 and just be back in ten minutes and let you proceed.
1618
1619 **PRESENTATION BY MR. MOKEBA WAS NOT HEARD**
1620
1621 Ok. We've been in executive session to discuss this matter. No action was taken.
1622 I'll entertain a motion that we return to open session.

1623
1624 Mrs. Suzette Reynolds, Board Member (SR): So moved.
1625
1626 Mr. Willard Dorriety, Board Member (WD): Second.
1627
1628 PS: Ok, it's been moved and seconded. Those in favor, please say aye.
1629
1630 GROUP: Aye.
1631
1632 PS: Just a couple of housekeeping matters before I entertain a motion or such
1633 motions as board members might choose to make. For our information and for
1634 notification purposes, we need to know that we have the current names and
1635 addresses of the current Palmetto Youth Academy Board. Do we have that
1636 information?
1637
1638 U: I do not.
1639
1640 PS: Could that information be provided to us.
1641
1642 SM: Sure.
1643
1644 PS: I believe that we would, you know, based on action taken, we would need to
1645 provide direct notification to the board members. If you could provide that
1646 tomorrow to administration that would be optimal. Also, prior to taking that
1647 motion, I would again like to thank everyone for being here, for your attention
1648 and I would like to thank counsel and those who were witnesses and personnel
1649 on behalf of Palmetto Youth Academy for the information provided. Thank you
1650 for allowing us to um have the use and benefit of all the evidence and records
1651 which we had in executive session, the charter and other information that was
1652 utilized in our discussion. I do thank you for all of that and all of that was to our
1653 benefit as we had that for our deliberation. At this time, I will entertain such
1654 motion or motions as the board members wish to make with respect to the
1655 action which is before us which is a request by the Palmetto Youth Academy that
1656 we reconsider the revocation of the charter which has been, uh, the notice for
1657 which had been provided by the district per earlier response.
1658
1659 Mr. Glenn Odom, Board Member (GO): Mr. Chairman, I make a motion that the
1660 board deny the appeal that's before us.
1661
1662 PS: There's a motion made. Is there a second to that?
1663
1664 WD: Second.
1665

1666 There's a motion made and seconded. Is there any discussion with respect to
1667 that? Seeing none, those in favor please say aye.
1668
1669 GROUP: Aye.
1670
1671 PS: Those opposed.
1672
1673 Board Member (not identified): Opposed.
1674
1675 PS: The ayes have that. Ok. Thank you for your presentation. The board did
1676 consider this matter and has acted on that. Thank you for your presence tonight.
1677
1678 SM: Thank you. May I just ask, uh, inquire really, if copies of these be made so
1679 they become part of the record? For purpose of appeal?
1680
1681 PS: Yes, if you would like for the district to duplicate that you can arrange with
1682 Mr. Jackson...
1683
1684 LJ: You can leave it with Mr. Rabon and we will see that he gets a copy.
1685
1686 PS: Ok.
1687
1688 SM: Ok. Thank you.
1689
1690 PS: There are no other matters before the board this evening so we are
1691 adjourned.
1692
1693
1694 **Recorded May 20, 2010**
1695 **Transcribed: August 26, 2010**
1696 **Respectfully submitted by: Cheryl S. Trudeau**
1697 **Executive Secretary**
1698 **Office of the Superintendent**

February 16, 2010

Dr. Larry Jackson
Florence School District One
319 South Dargan Street
Florence, SC 29506-2589

Dear Dr. Jackson:

Generally accepted accounting principals require that your financial statements include the financial information of all of your component units. Palmetto Youth Academy is a component unit of District One. Palmetto Youth Academy did not provide us with audited financial statements to be included in your financial statements.

Generally accepted accounting principals require that the component unit have the same level of attestation services as the reporting government unit, which is audited financial statements.

Since we are not able to audit the Palmetto Youth Academy financial statements for the year ended June 30, 2009, we are faced with a scope limitation.

Since we do not have audited financial statements for the year ended June 30, 2009 for Palmetto Youth Academy, you are not able to make the required financial disclosures on the financial statements of Florence School District One for the year ended June 30, 2009.

Because of the above, we will alter our opinion on the financial statements of Florence School District One for the year ended June 30, 2009.

Please note that this possibility has been discussed with management over the past year and a resolution was not forthcoming from Palmetto Youth Academy.

Your staff has been very diligent and patient in seeking a solution to this problem but has met with limited success for the past two years.

Thank you so much for allowing our firm to help meet your independent auditing requirements.

Baird & Company, CPAs, LLC

BAIRD & COMPANY, CPAS, LLC
Certified Public Accountants

R49



January 26, 2010

Palmetto Youth Academy Charter School
C/O Yvonne Brown-Burgess, Executive Director
1209 North Douglas Street
Florence, South Carolina 29501-0600

Florence Public School District One
C/O Luther Rabon, Chief Financial Officer
319 South Dargan Street
Florence, South Carolina 29506-2589

Effective January 25, 2010, we have terminated our professional relationship with Palmetto Youth Academy Charter School and will cease to serve as Palmetto Youth Academy Charter School's auditors. We have reached this decision reluctantly and after substantial deliberation. In our letter to you dated July 8, 2009 we indicated that in order for us to render an opinion on your financial statements, we needed sufficient, competent evidential matter which supports the financial statements. To date we do not feel that support has been provided, specifically:

1. The records are not in the condition necessary to obtain the type of evidential matter required to form an opinion on the financial statements
2. We would impair our independence and be unable to opine in any fashion if we performed the record keeping necessary to get Palmetto Youth Academy Charter School's books and records to a sufficient condition
3. The funds of the charter school appear to have been comingled with another entity
4. Activity of the school for the periods prior to the year under audit appear to be unrecorded

Our work to this point has consisted primarily of information gathering. We have not and will not issue any report on Palmetto Youth Academy Charter School.

Our working paper files are the property of our firm, and will be maintained by us in accordance with our firm's record retention policy.

We are sending all of the records provided to us from Kelley-Moser Consulting for Palmetto Youth Academy Charter School to Yvonne Brown-Burgess. These include the following:

1. Duplicate copies of checks
2. ADP payroll records
3. Bank Statements
4. Disbursement voucher support

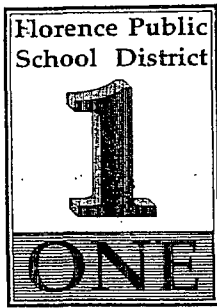
Kind Regards,

A handwritten signature in black ink, appearing to read 'T. A. Grow'.

Timothy A. Grow, CPA

Shareholder

R50



Florence Public School District One

319 South Dargan Street Florence South Carolina 29506-2589

Telephone: (843) 669-4141 Fax: (843) 292-1003

www.fsd1.org

Certified

April 9, 2009

Ms. Yvonne Brown-Burgess
Executive Director
Palmetto Youth Academy
1209 North Douglas Street
Florence, SC 29501

Dear Mrs. Brown-Burgess:

This letter is written in response to the correspondence you sent to me on March 18, 2009, and to the Florence School District One Board of Trustees on March 23, 2009. Beginning in the fall of 2008, Mr. Luther Rabon, Chief Financial Officer of Florence School District One, began dialogue with you regarding the 2007-2008 audit for Palmetto Youth Academy. At that time, Mr. Rabon suggested that you utilize the services of Baird & Company, CPAs, LLC - the same firm that provides auditing services for Florence School District One. Mr. Rabon indicated to me that you declined the use of those services because you felt that the quoted price of \$6,000 was too expensive. You indicated that you would utilize the services of an alternate source.

In December of 2008, Mr. Rabon contacted you to share with you concerns from our auditor, Mr. Butch Whiddon. He scheduled a meeting with you and your auditor for December 12, 2008. No one showed up for that meeting. On December 17, 2008, you wrote a letter to Mr. Rabon outlining a number of concerns about not receiving funds in a timely manner and combined categorical funds. Near the conclusion of your letter of December 17, 2008, you indicated that you would be working with a local financial consultant to complete a more accurate and detailed audit for 2007-2008 that will be submitted to FSD1 and the South Carolina Department of Education upon completion.

In winter of 2009, Mr. Rabon contacted you to ascertain the status of the audit for Palmetto Youth Academy. At that time you indicated that you had contacted the South Carolina State Department of Education and that they had informed you that you did not have to submit an audit to Florence School District One. Mr. Rabon immediately informed me of this situation and I scheduled a time for you and I to meet to discuss this. We met in your office at Palmetto Youth Academy and at that time, you indicated to me that you had received notification from the State Department of Education that you did not have to submit an audit to Florence School District One. We agreed that you would forward a copy of the correspondence to my office the following day. Subsequent to that meeting, I did receive a copy of that correspondence. I scheduled a conference call with Butch Whiddon, Luther Rabon, Randy Koon, Assistant Superintendent for Curriculum and Instruction and Dr. Erik Lowry, Assistant Superintendent for

R51

Human Resources. I shared with our auditor the correspondence you received from the State Department of Education. Mr. Whiddon was resolute in his opinion that as a component unit as described by state law and in GASB 14, *Palmetto Youth Academy is required to submit an audit to Florence School District One*. At the conclusion of the conference call, I instructed Randy Koon to contact the State Department of Education to seek clarity on this issue. Mr. Koon spoke with Melissa Austin, who indicated that she had forwarded that information to you in error and that Palmetto Youth Academy was required to submit an audit to Florence School District One. I asked Mr. Rabon to contact you and, as a result, we agreed to provide you with additional time to secure the audit. You indicated to Mr. Rabon that you would have the audit done by a firm in North Carolina. The Florence School District One Board of Trustees met on February 26, 2009. At that time I informed the board that because of the mix-up with the letter you received from the State Department of Education and our subsequent dialogue with the State Department of Education, we had reached an agreement on the fact that an audit of Palmetto Youth Academy was to be submitted to Florence School District One and that we would extend to you a deadline of March 17, 2009 to submit the audit. You were informed by Mr. Rabon of the time and date of the meeting.

On the morning of March 17, 2009, I received a phone call from Mr. Rabon informing me that you would not have the audit for Palmetto Youth Academy because you could not pay for it to be done. He also indicated that you had communicated to him that you would be charged \$16,000 and you did not have funds to pay for the audit. The Florence School District One Board of Trustees met on March 17, 2009, at 7:00 p.m., at which time Mr. Butch Whiddon of Baird & Company, CPAs, LLC submitted the Florence School District One Audit. The District received a qualified opinion as a result of the omission of Palmetto Youth Academy's audit. As previously indicated, you were invited to the meeting; however, you did not arrive until after that presentation had been made. At the conclusion of the meeting, you approached me and I directed you to speak with Mr. Rabon so that he could share with you what had been discussed.

On March 24, 2009, Mr. Rabon and I met with Melanie Jinnette, Shelly Kelly, legal counsel, and Melissa Austin. The essential question put to staff at the State Department of Education was: Is Palmetto Youth Academy required to submit their audit to Florence School District One? The answer was an unequivocal "yes." I am including a copy of Attorney Kelly's written response.

In your previous correspondence, you posed a number of questions that I will attempt to answer.

1. Is Palmetto Youth Academy required to have a "single audit" as defined by state and federal guidelines? If not, what type of audit is required and was this audit required last year, or any of the years prior to this year?

District Response:

Generally Accepted Accounting Principles require the presentation of Palmetto Youth Academy as a discretely reported component unit of the District.

The following guidance is issued by the Governmental Accounting and Standards Board (GASB).

RSZ

GASB 14 – The Financial Reporting Entity states that most component units should be included in the financial reporting entity by discrete presentation. Discrete presentation entails reporting component unit financial data in a column separate from financial data of the primary government.

Paragraph 65 of **GASB 14** from the “**Original Pronouncements – Governmental Accounting and Financial Reporting Standards**”, volume II states “Because this statement is written from the perspective of the primary government, a governmental component unit should apply the provisions of this Statement as if it were a primary government”

A component unit is under the same reporting requirements for Generally Accepted Accounting Principles as the Primary Government. If the primary government is required to have audited financial statements, then the component unit is required to have its financial statements audited. There are three auditors’ reports included in your reporting package.

Independent Audit	A report is issued on the financial statements.
Government Audit	A report is issued regarding testing of internal controls and compliance.
Single Audit	A report is issued regarding the testing of major federal programs.

2. If there are concerns about management of funds, has the district offered to assist or to pay for the audit?

District Response:

- During a meeting in Mr. Rabon’s office in early December to discuss the fact that PYA had not met the audit requirement of having their audit completed by December 1, 2008, he offered for you to come back to his office at a later date to receive advice or recommendations on how to set up your books based on the accounting and funding manual produced by the State Department of Education. It is your responsibility as the Executive Director to budget and manage the finances for Palmetto Youth Academy. You have never asked nor have you sought Mr. Rabon’s advice about any financial matters.
- As of this moment, you have not requested that Florence School District One pay for your audit. In your phone conversation with Mr. Rabon on Tuesday, March 17, 2009, you shared with him for the first time that PYA was not able to pay for the audit because your auditor in North Carolina had more than doubled the price to perform the audit. He discussed with you that Baird and Company had quoted you \$6,000 dollars to perform the same audit, and you thought that was too high.

3. When PYA was notified that the financial information submitted was not in the correct format, was the district’s auditor willing to provide assistance or make the needed corrections? Why or why not?

R53

District Response:

- Neither the district nor the district's auditors have been contacted by Palmetto Youth Academy administration seeking help or advice on ways to correct the information provided. To the contrary, Mr. Rabon, on numerous occasions, asked to meet with you and your auditor to discuss the information provided by PYA. Having asked many, many times to meet with your local auditor, at the writing of this letter, PYA has not revealed the name of the local auditor. Florence School District One's auditor was not engaged to perform any auditing services for PYA, therefore, they were not under any obligation to correct or amend the report.
- Mr. Rabon contacted the SDE and requested that they conduct a workshop on the process of presenting the audit report to the chartering Districts. He was told by Melissa Austin that charter schools were well aware of their responsibilities and timelines in submitting their audit reports.

4. If PYA was quoted a price of \$13,000 to conduct an audit and the financial statements submitted clearly showed 100 percent of the monthly revenue received was spent on monthly operational expenses, why is the only solution to this problem legal action or recommendation to stop funding? Would this solve the problem? And based on the tremendous academic progress of approximately 65 students in grades 3-6, is the problem worth solving?

District Response:

- It is the responsibility of the Charter School to provide the sponsoring District an audit of their financial records by a Certified Public Accountant.

This information must be provided in a timely manner for it to be included as a component of the district's audit report. We are nine months past the close of the fiscal year and the district is no closer to receiving your audit report than we were at July 1, 2008. We delayed the board meeting until March 17, 2009 to provide PYA additional time to produce their audit report only to be told the day of our meeting it would not be available for the meeting. Mr. Butch Whiddon presented the Board with Florence School District One's audit report without PYA information. The District received a qualified opinion because PYA information was not included in the district's audit report. In contrast, the District would have received an unqualified opinion, the desired opinion for which all school districts in the State of South Carolina strive.

5. Parents continue to ask when the district will provide internet access to the students at Palmetto Youth Academy.

District Response:

- Florence School District One receives funds based on the number of students attending public school. It uses that funding to pay for the cost of internet service for those students. The Palmetto Youth Academy receives funding for the number of students attending its school. Those students are taken out of the census of the school district. The

district receives no funding for those students. The charter school should provide internet service for students out of its per pupil funding the same as it provides for the cost of other services for those students.

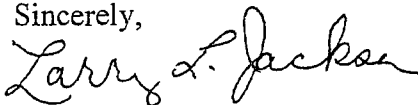
6. When will the district provide transportation for the students at Palmetto Youth Academy?

District Response:

- Section 59-40-60(F)(9), Code of Laws of South Carolina provides that the application for a charter school must contain "a description of how the charter school plans to meet the transportation needs of its pupils." This provision in the charter school application process is there because the state is not responsible for student transportation to a charter school. Section 59-40-50(D): "The State is not responsible for student transportation to a charter school unless the charter school is designated by the local school district as the only school selected within the local school district's attendance area." That exception does not apply to Palmetto Youth Academy. Its school has not been designated as the only school in an attendance zone of the school district. Florence School District One has established attendance zones for the entire school district. Within each attendance zone is a public school to serve the students in that attendance zone. The district has no gaps in the coverage of any of the areas of the district where it is relying on a charter school to serve an area of the district. That is, if the district closed Briggs Elementary School and did not provide another public school to serve the students living in the school zone, but instead relied on a charter school to serve those students, the state funded transportation could then be used for those students who would be eligible for transportation.

In order to bring resolution to this issue, I intend to recommend to the Florence School District One Board of Trustees that an independent audit be performed (by a firm other than Baird & Company) on the finances of Palmetto Youth Academy and that the cost associated with such an audit be deducted from any future allocation to Palmetto Youth Academy. I intend to also recommend to the Florence School District One Board of Trustees that a decision on the authorization of the Charter for Palmetto Youth Academy be contingent upon the review of the audit. Mr. Rabon will be contacting you soon to arrange a time for you to meet with the auditor.

Sincerely,



Larry L. Jackson
Superintendent

LLJ:cst

cc: Board of Trustees

Mr. Laurencè McIntosh, Esq.

Enclosure(s): 1

R55



*Sept. 11th
4-1-09
OST*

Together, we can.

March 31, 2009

Dr. Larry Jackson, Superintendent
Florence School District One
319 S. Dargan Street
Florence, SC 29501

Dear Dr. Jackson:

You asked for guidance from the South Carolina Department of Education (SCDE) regarding the requirements for a charter school to submit an audit to its sponsoring school district. Specifically, you asked whether Palmetto Youth Academy, a charter school sponsored by your district, is obligated to submit an audit to your district. As of March 23, 2009, Palmetto Youth Academy had not submitted an audit.

S.C. Code Ann. § 59-40-50(B)(3) states that a charter school must "adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools." In their charter application, Palmetto Youth Academy states that they "will contract with a Licensed CPA with experience in school finance to provide financial accounting services and we will utilize a separate agency for auditing services." They continue to describe the audit in detail and state that "It is anticipated that the annual audit will be completed by the due date imposed by State Statute." I am attaching a copy of the page from their application that describes the audit.

The charter school law states that the application becomes the charter contract once the charter is issued. ("An approved charter application constitutes an agreement, and the terms must be the terms of a contract between the charter school and the sponsor." S.C. Code Ann. § 59-40-60(A)). Therefore, the statement by Palmetto Youth Academy that they will provide the audit is part of the charter contract.

The charter school law states that: (C) A charter must be revoked or not renewed by the sponsor if it determines that the charter school:

- (1) committed a material violation of the conditions, standards, or procedures provided for in the charter application;

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Dr. Larry Jackson, Superintendent

Page 2 of 2

March 31, 2009

(2) failed to meet or make reasonable progress, as defined in the charter application, toward pupil achievement standards identified in the charter application;

(3) failed to meet generally accepted standards of fiscal management; or

(4) violated any provision of law from which the charter school was not specifically exempted.

The SCDE takes no position with regard to what action, if any, the Florence County School District One should take with regard to this matter. I am providing this information to you at your request to clarify the legal requirements regarding audits and the effect that failure to meet requirements of a charter contract may have on the charter.

If you have any questions, please feel free to contact me.

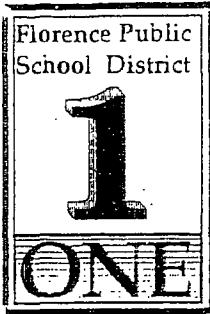
Sincerely,



Shelly Bezanson Kelly
General Counsel

SBK/npr

R57



Florence Public School District One

319 South Dargan Street • Florence, South Carolina 29506-2589

Telephone: (843) 669-4141 • FAX: (843) 673-1108

www.fsd1.org

June 19, 2007

Palmetto Youth Academy

Re: Charter School Annual Performance Review

Dear Ms. Yvonne Brown-Burgess:

In 2006, the Charter Schools Act ("Act") was amended. One of the changes to the Act requires any school board sponsoring a charter school to annually review the charter school's performance and compliance with applicable legal requirements. Specifically, this annual review requires a sponsoring school board to annually evaluate whether the charter school:

- (1) committed a material violation of the conditions, standards, or procedures provided for the charter application;
- (2) failed to meet or make reasonable progress, as defined in the charter application, toward pupil achievement standards identified in the charter application;
- (3) failed to meet generally accepted standards for fiscal management; or
- (4) violated any provision of law from which the charter school is not specifically exempted.

The amendments to the Act also require that, if the school board determines the charter school did fail in any of the above four areas, then the charter must be revoked. Further, the annual review should be completed so that a school board can take appropriate action prior to the start of the next school year. Because the Act requires a sixty day notice of termination period, a school board should complete its annual review as soon as practical after the end of the school year.

To assist the District and Board in carrying out the annual review process. Please provide the District a report addressing the above listed four areas of compliance. Specifically, please describe in detail:

R58

Page two
June 19, 2007

- (1) Any reports or charges against Palmetto Youth Academy asserting facts that, if true, would constitute a violation of the conditions, standards, or procedures provided for in the charter agreement;
- (2) the progress of Palmetto Youth Academy's students toward public achievement standards identified in the charter agreement;
- (3) how Palmetto Youth Academy has met generally accepted standards for fiscal management;
- (4) any reports of charges against Palmetto Youth Academy asserting facts that, if true, would constitute a violation of a provision of law from which Palmetto Youth Academy is not specifically exempted.

Please provide the District this information as soon as possible, but no later than July 3, 2007. The District appreciates your attention to this request, and once this information is received, provided no additional information is deemed necessary, the matter will be referred to the school board for action on Palmetto Youth Academy's annual review.

Sincerely yours,



Larry L. Jackson
Superintendent

LLJ/sdw

R59

Palmetto Youth Academy

Annual Report

On June 30, 2006, The Board of Directors, Faculty, Staff and students of Palmetto Youth Academy celebrated the completion of our first year of operation. *Our mission is to provide an opportunity for all students, regardless of income or ability to reach their full potential (academically, behaviorally and socially).* Although the challenges were great and the resources were few, with the hard work of our students, the commitment of our parents and the dedication of our staff, we are very proud to announce that this year we have successfully carried out our mission.

Student Achievement

Palmetto Youth Academy administered the Palmetto Achievement Challenge Test (PACT) to all students as required by the State of South Carolina. We will use these scores and the Adequate Yearly Progress, AYP, information that will be reported on the school's report as baseline data to develop a written accountability plan for our second year of operation.

Based on the results of diagnostic tests and teacher made assessments, 100% of our students made measurable progress this school year, 91% of the students made at least 1 grade level of progress, and some students gained as much as 2 grade levels. In addition, the number of students making honor roll increased from 18% (first quarter) to 34% (third quarter).

Student behaviors also improved tremendously during the school year. The number of discipline referrals decreased by 40% from the first quarter to the third quarter. There were very few out of school suspensions, only 2 administrative hearings and no expulsions.

We credit this success to the support of our parents. Our discipline policy would not be effective without the positive relationship we have with each of our parents. Although not being able to provide transportation to our students this year decreased enrollment, we did get an opportunity to communicate with parents face to face on a daily basis. This communication and support has proven to be a key factor in both behavior and academic progress.

The small class sizes and comfort of the school setting has allowed each student to develop socially. Students engaged in numerous social activities throughout the year. Students visited another school once a month and interacted with same age peers for "Fun First Friday". The 5th and 6th grade students attended the "Palmetto Ball" where they dressed in semi-formal attire, took pictures, danced, and socialized with their peers. The 6th grade class took a class on etiquette and visited several restaurants to practice the skills they learned. In addition, students were taught conflict resolution skills and rewarded for utilizing them.

Student Enrollment

Palmetto Youth Academy has an open enrollment policy that does not discriminate on any basis, including: disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services. We actively recruited and advertised throughout Florence County. We held several informational meetings and attended numerous community events presenting information about the school.

Palmetto Youth Academy offers grades 3-6 and our 135 day ADM was 64.33.

Number of students by grade:

Third Grade	19
Fourth Grade	15
Fifth Grade	23
Sixth Grade	8

Demographics: Race and Gender

Caucasian (1%), African American (99%), Male (35), Female (30)

Palmetto Youth Academy employs a certified special education teacher to provide services to students with an IEP in accordance with state and district requirements. Our special education teacher worked closely with the Director of Special Education and other Florence School District One Special Ed Personnel to ensure that each student's IEP was developed, reviewed, implemented, and documented as required by federal, state and local regulations.

Percentage of students in Special Education with an IEP

25%

Palmetto Youth Academy participated in the Title I Targeted Assistance Program through Florence School District One. We had a total of 57 students who qualified for free/reduced lunch and we received Title I funds for 22 students.

Percentage of students qualifying for free and reduced lunch

82%

Under the Charter School Law, Palmetto Youth Academy is allowed to accept up to 20% out of district students. We are in compliance with this law and we will continue to limit our enrollment of out of district students to less than 20%.

Percentage of out of district students

9%

Through a secure network connection to Florence School District One, Palmetto Youth Academy utilizes SASI, a student and school administration information system, to report and update the aforementioned information on a daily basis.

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Teachers

The instructional staff of Palmetto Youth Academy has proven to be a team of dedicated individuals who are willing to go the extra mile to ensure that each student reaches their full potential. This year we had 3 full time teachers, 1 part time teacher and 3 part time teacher assistants. The percentage of non-certified teachers was less than the 25% that is allowed for charter schools. All instructional staff and substitute teachers meet and exceed the requirements of "No Child Left Behind".

All instructional staff have attended at least one of the following Professional Development Trainings or Conferences.

Curriculum Development- Florence, SC
CPR/ First Aid Training – Palmetto Youth Academy
Title I -Technical Assistance, Florence District One
Teaching Phonics- Palmetto Youth Academy
SC Math Conference – Greenville, SC
Effective Classroom Management Strategies – Palmetto Youth Academy
SC Association Black Educators – Myrtle Beach, SC
Differentiated Learning Styles – Choices, Florence, SC
SC ETV Streamline – Columbia SC
SC Public Charter School Association, Annual Conference – Pawley's Island, SC
SC PACT Administration – Florence District One - Palmetto Youth Academy
Teaching Financial Literacy – FMU Florence, SC
Special Education/ IEP Content – Florence District One
Referral for Special Education/ Intervention Team-Florence District One

Finances

Palmetto Youth Academy has operated within the projected budget for the 2005/2006 school year. As a result, the school's finances are in good standing. Palmetto Youth Academy is currently working with Florence District One to finalize allocations and payments due to the school for 2005/2006 categorical funding and adjusted per pupil funding. All financial resources have been accounted for in accordance with the SDE's *Financial Accounting Handbook* and *Funding Manual*. All state and federal funds (revenue) will be accounted for on Florence School District One's books. Detailed expenditure information has been reflected in the school's financial records.

As required by Section 59-40-50(B)(3) of the South Carolina Code of Laws, 1976, Palmetto Youth Academy will adhere to the same financial audits, audit procedures, and requirements as are applied to public schools operating in the same school district.

Palmetto Youth Academy
Annual Budget Report
July 05 - JUNE 06

R63

Month/Year	Jul-05	Aug. -05	Sept. -05	Oct. 05	Nov. 05	Dec. 05	Jan-06	Feb. 06	March. 06	Apr-06	May-06	Jun-06	Total 05/06
Number of Students	0	67	67	67	67	67	62	62	62	65	65	65	
254 300 Facility Lease											\$30,000		\$30,000
254 321 Public Utility Services (Water & Sewer)								\$74				\$3	\$77
254 323 Repairs & Maintenance Services		\$20,843	\$45	\$14	\$417	\$148	\$211	\$1,612	\$100	\$175	\$130	\$896	\$24,592
254 329 Waste Management Services		\$650	\$400	\$356	\$359	\$176	\$175	\$175	\$190	\$193	\$193	\$193	\$3,044
254 340 Telephone		\$400	\$1,111	\$1,675	\$820	\$427	\$823	\$1,406	\$823	\$840	\$1,040	\$1,354	\$10,719
254 470 Energy (Electric, Gas, Oil)			\$533	\$368	\$265	\$248	\$348	\$391	\$385	\$243	\$233	\$211	\$3,227
Total Support Services	\$0	\$29,500	\$7,649	\$8,155	\$8,286	\$7,244	\$7,053	\$11,647	\$8,747	\$8,185	\$38,496	\$24,904	\$156,918
Total Expenditures	\$0	\$43,480	\$26,876	\$28,461	\$25,130	\$25,373	\$20,559	\$31,228	\$26,211	\$25,412	\$60,556	\$44,821	\$355,158
Yearly Balance	\$0	\$79	\$49	\$134	\$49	\$722	\$894	\$11,752	\$16,950	\$48,014	\$23,601	\$14,923	\$18,629

Palmetto Youth Academy

Public Charter School

Florence School District One

Financial Report and Budget Summary

July 1, 2006 - June 30, 2007

R64

Palmetto Youth Academy

Program Description

- Palmetto Youth Academy, PYA, is a nonprofit organization with 501-c-3 status.
- PYA is a public charter school located in Florence, SC.
- Palmetto Youth Academy is governed by an annually elected, Board of Directors.
- As required, the school's Board of Directors has reviewed and approved all information submitted in this report.
- Florence School District One serves as the sponsoring school district, and as the LEA, or Local Education Authorizer for PYA.
- This report is based on data from fiscal year, 2006/2007, which was Palmetto Youth Academy's second year of operation.
- Palmetto Youth Academy, offers grades 3-6, with a maximum enrollment of 75 students.
- The school operates on a year-round schedule with optional attendance during quarterly, 2-week inter-sessions.
- Hour of operation are 7:30 am to 6:00 pm. This includes an additional 3 hours of extended day activities from 3:00 pm to 6:00 pm provided to students, tuition-free.

Reference- SC Charter School Legislation

The South Carolina Charter Schools Act was originally enacted in 1996 and amended in 2002 and in 2006. The General Assembly passed this legislation to provide for the organization and operation of flexible, innovative, and substantially deregulated public schools as part of the effort to reform and improve the state's educational system. A charter school is defined in the law as a public, nonreligious, non-home-based, nonprofit corporation forming a school that operates within a public school district but is accountable to the local school board of trustees of the district that grants its charter. The charter school is considered a public school and part of the school district in which it is located for the purposes of state law and the state constitution. The charter school must be administered and governed by a governing body in a manner agreed to by the charter school applicant and the sponsor (local school district's board of trustees). The governing body is to be elected annually.

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Palmetto Youth Academy

Reporting Criteria

Based on the, *Single Audit Act Amendments (SAAA)*, described below, and the total amount of annual revenues received by PYA, **\$486,509**, submission of a single audit report is not required for the 2006/2007 fiscal year.

Reference – Single Audit Act Amendments (SAAA)

In 1984, the United States Congress—concerned about fiscal responsibility and management of the \$100 billion dollars annually dispersed by the federal government—passed the Single Audit Act. In July 1996, Congress enacted Public Law 104-156, Single Audit Act Amendments (SAAA). The amendments were developed to streamline and improve the effectiveness of the Single Audit Act and to further define audit requirements for all entities that receive and administer federal financial assistance. Section 7502 of the SAAA requires that “Each non-Federal entity that expends a total amount of Federal awards equal to or in excess of \$300,000 . . . in any fiscal year . . . shall have either a single audit or a program- specific audit made.” **Final revisions to OMB Circular A-133 increase the audit threshold from \$300,000 to \$500,000 for fiscal years ending after December 31, 2003.**

However, a detailed report of the school’s financial management system and an annual budget summary has been prepared and approved by the school’s current governing board for submission to Florence School District One, the Local Education Authority, as stated in the established charter agreement.

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Palmetto Youth Academy

Review Components

Financial Management Policies

- The school's accounting system must include sufficient internal controls, a clear audit trail, and written cost allocation procedures as necessary.
- Financial management systems must be capable of distinguishing expenditures that are attributable to local, state, federal and grant funds from those that are not.
- This system must be able to identify costs by programmatic year and by budget line item and to differentiate among instructional and administrative costs.
- The school's financial manager, or designee, must maintain adequate supporting documents for the expenditures (federal and nonfederal) and in-kind contributions, if any, on file for a minimum of 3 years.
- Costs must be shown in books or records (e.g., disbursements ledger, journal, payroll register) and must be supported by a source document such as a receipt, travel voucher, invoice, bill, or in-kind voucher.
- The school's financial manager, or designee, must approve all expenditures, document receipt of goods and services, and record payments on the school's accounting records.

Financial Reporting Procedures

- The Board of Directors should appoint an audit/finance subcommittee.
- This subcommittee will nominate the independent auditor and/or review the scope and results of the audit, if an audit is required.
- The audit/finance subcommittee also receives notice of any consequential irregularities and management letter comments that the auditor noted during the engagement. Additionally, the subcommittee will develop a corrective action plan to address all relevant weaknesses noted by the auditor.
- The audit/finance subcommittee will also review all financial information of the Charter School and provide recommendations to the full Board of Directors. Further, the audit/finance subcommittee will present the audit to the full Board for acceptance.
- The Board of Directors will acknowledge their acceptance of the audit by signing the *Board Acceptance Letter*.

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Palmetto Youth Academy

Financial Report

The accompanying statement of net assets of PYA Charter School (a governmental entity), as of June 30, 2007 and the related statements of revenue, expenses and changes in net assets for the year then ended have been prepared using *Generally Acceptable Accounting Principles* and approved by the school's current governing board.

Maintaining accurate records and updated reports of day to day operations included in these financial statements are the responsibility of the school's management. These financial statements were reviewed in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained within *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require reasonable assurance about whether the financial statements are free of material misstatement. The basis for this financial report includes examining evidence supporting the amounts and disclosures in the financial statements. Additional factors include assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

Based on a thorough review, the financial statements referred to above present fairly, in all material respects, the financial position of PYA Charter School as of June 30, 2007 and the changes in its net assets and cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, this report has been developed on consideration of the School's internal control over financial reporting and tests of its compliance with certain provisions of laws, regulations, contracts and grants.

The accompanying financial management information is presented for purposes of additional analysis as required by the school's Board of Directors and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in a audit of basic financial statements and, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

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Palmetto Youth Academy

Financial Management Analysis as of June 30, 2007

Analysis of the PYA Charter School's financial management performance provides an overview of the school's financial activities for the fiscal year ended June 30, 2007. Please read it in conjunction with PYA's financial statements.

The School as a Whole

PYA received their charter in June 2004 to operate as a public charter school in the Florence District. The initial charter is awarded for a five-year period and is subject to renewal by the Florence School District One Board of Trustees. During the first year, PYA provided grades three through six and their enrollment was comprised of 65 students. The school currently expects to be operating at its capacity of 75 students at the beginning of September 2008.

Financial Highlights

PYA had revenues of \$486,509 for the year ended June 30, 2007, of which, \$422,024 were state and local revenues and \$64,485 were revenues from federal sources including: Title I, II, V, Drug and Violence Prevention – Title IV, and Charter School Grant.

Financial Statements

The Statement of Net Assets and the Statement of Revenues, Expenditures and Changes in Net Assets include the assets, liabilities, revenue and expenses of PYA. This activity is recorded using the accrual basis of accounting, which is similar to the accounting method used by most private-sector companies. Under the accrual basis of accounting all revenue and expenses are recognized when earned or incurred regardless of when the cash is received or paid. Additionally, these statements report the school's net assets and the related changes in them. Net assets are the difference between assets and liabilities and represent one way to measure the school's financial health or financial position. Over time, increases or decreases in the net assets are one indicator of whether the financial health is improving or declining. However, one should consider other non-financial factors when considering the overall health of the school.

Budgetary Highlights

PYA's annual budget was amended as the fiscal year progressed. The original budget included State and Local Revenues of \$32,627 per month for operating expenses. However, due to discrepancies in EFA codes, PYA received monthly revenues of \$29,693 from December 2006 through April 2007. In May 2007, the monthly per pupil funds were adjusted to include the total balance due. The major reason for continued sustainability after the decrease between budgeted and actual revenues was due to very close monitoring of the school's monthly expenses.

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School's Financial Activities

Based on the total amount of revenues received for fiscal year ended June 30, 2007, This financial report did not require implementation of Governmental Accounting Standard Board Statement No. 34 *Basic Financial Statements and Management and Discussion and Analysis – for State and Local Governments*; accordingly a comparative analysis of current and prior year balances is not included. However, such an analysis will exist in subsequent years, if determined necessary, by the school's total amount of annual revenues.

The majority of PYA's funding is received from Florence School District One and is based on a standard per pupil rate. During the fiscal year ended June 30, 2007, PYA had an average of 70 students and received \$391,530 in per pupil funding, which represent 80% of the school's revenue. In addition, PYA received various federal funds and grants which totaled \$64,485.

Contacting the School's Financial Manager

This financial report is designed to provide the reader with a general overview of PYA's finances and to show the accountability for the funds received. If you have questions about this report or need additional financial information, contact the Business Office of PYA at (843) 679-7070.

Palmetto Youth Academy
Statement of Net Assets
 June 30, 2007

	Total
ASSETS	
Cash and cash equivalents	75
Due from other governmental units	8,105
Other receivables	
Internal balances	18,629
Inventories and prepaid expenses	22,920
Capital assets:	
Land	
Buildings	
Equipment	46,414
Less accumulated depreciation	19,029
Total capital assets, net of depreciation	27,385
Total Assets	77,114
 LIABILITIES	
Accounts payable and other current liabilities	6,220
Deferred revenue	18,041
Long-term liabilities:	
Due within one year:	
Bonds, capital leases, and contracts	
Accrued interest	
Special termination benefits and compensated absences	1,159
Claims and judgments	
Due in more than one year:	
Bonds, capital leases, and contracts	
Accrued interest	
Special termination benefits and compensated absences	6,692
Claims and judgments	
Total Liabilities	32,112
NET ASSETS	45,002
Invested in capital assets, net of related debt	
Restricted for:	
Capital projects	
Debt service	
Other purposes (specify)	
Unrestricted (deficit)	

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Total Net Assets

45,002

PYA SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE
FOR FISCAL YEAR ENDED JUNE 30, 2007

<u>REVENUES</u>		<u>ACTUAL</u>
Local Sources		
1900	Contributions from private sources and Foundation	1,250
	<u>Total Local Sources</u>	<u>1,250</u>
State Sources		
3300	Education Finance ACT-EFA/Per Pupil Rate (General Funds – FSD1)	391,530
3500	Education Improvement ACT –EIA/ Per Pupil Rate (Categorical Funds –FSD1)	18,041
3577	Teacher Supplies	500
3583	EAA Summer School/Comprehensive Remediation	6,577
3607	6-8 Enhancement	70
3610	K-5 Enhancement	4,056
	<u>Total State Sources</u>	<u>420,774</u>
Federal Sources		
4310	Title I	30,040
4331	Title II	1,122
4330	Title V	89
4920	Drug and Violence Prevention Program Title IV	500
4900	Other Federal Sources:	
	Charter School Grant	32,734
	<u>Total Federal Sources</u>	<u>64,485</u>
	<u>TOTAL REVENUE ALL SOURCES</u>	<u>486,509</u>
EXPENDITURES		
INSTRUCTION		
110	General Instruction	
	100 Salaries	181,863
	200 Employee Benefits	27,525
	300 Purchased Services	59,382
	400 Supplies and Materials	41,332
	500 Capital Outlay	12,600
	<u>TOTAL INSTRUCTION</u>	<u>322,702</u>
200	SUPPORT SERVICES	
	100 Salaries	67,620
	200 Employee Benefits	9,651
	300 Purchased Services	20,062
	318 AUDIT SERVICES	2,320
	400 Supplies and Materials	4,280
	500 Capital Outlay	5,540
	Expenditures (Cont.)	ACTUAL
254	Operation and Maintenance of Plant	
	320 Purchased Services	45,312
	321 Public Utilities	312
	470 Energy	4,121
	<u>TOTAL Support Services</u>	<u>159,218</u>
	<u>Total Expenditures</u>	<u>481,920</u>
	<u>Net Carryover</u>	<u>(4,589)</u>

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Palmetto Youth Academy

Financial Report and Annual Budget Summary

ACCEPTANCE OF THE BOARD OF DIRECTORS

We, the Board of Directors of Palmetto Youth Academy, PYA, Charter School, have voted to accept the representations of management and the expression of the opinions made by the appointed sub-committee as embodied in the financial reports and statements prepared for the year ended June 30, 2007.

We also certify that the representations made by management and the disclosures in the financial statements are accurate and have been correctly and completely disclosed as required by accounting principles generally accepted in the United States of America and the *SC Charter School Act*, for the period ended June 30, 2007.

Board President or Treasurer or Other Designated Person

Date

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Palmetto Youth Academy Charter School,)
)
Appellant,)
)
v.)
)
Florence County School District 1 Board of)
Commissioners,)
)
Respondent.)

Docket No. 10-ALJ-30-0631-AP

ORDER

APPEARANCES

Palmetto Youth Academy Charter School:
Florence County School District 1 Board
of Commissioners:

Samuel M. Mokeba, Esquire
D. Lawrence McIntosh, Esquire

STATEMENT OF THE CASE

This matter is before the Administrative Law Court (“ALC” or “Court”) pursuant to S.C. Code Ann. §§ 59-40-10 et seq., the South Carolina Charter Schools Act of 1996 (“Act”). Appellant Palmetto Youth Academy Charter School (“Appellant”) filed an appeal with the ALC on June 23, 2010, seeking review of the Florence County School District 1 Board of Commissioners’ (“School District”) written decision dated June 1, 2010. In its decision, the School District determined that Appellant’s charter should be revoked based upon its failure to meet generally accepted standards of fiscal management.

After timely notice to the parties, oral arguments were held at the ALC in Columbia, South Carolina on April 18, 2012. The parties presented arguments on their respective positions at the hearing. After a review of the Record on Appeal and careful consideration of the parties’ arguments, the Court reverses the School District’s decision.

BACKGROUND

Appellant presented its charter to the South Carolina Department of Education’s Charter School Advisory Committee and the School District, and the charter was approved with operations to

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begin in 2005 for the 2005-2006 academic school year. As required by statute, Appellant must annually prepare a report on the state of the school and present the report to the School District. As part of the annual reporting requirement, Appellant provided the School District with financial statements that disclosed the costs of administration, instruction, and other spending categories for its charter. Furthermore, as part of its own financial management requirements, the School District is required to ensure that an independent audit of its operations is performed each year. The District's audit process requires it to compile financial records from all its component units, or District schools. During the first two years of operations, Appellant's financial submissions to the School District, and from the District to the auditor, were met with general approval as indicated in the School District's audits for the 2005-2006 and 2006-2007 academic years. During those years, the School District received an unqualified or favorable review from its auditors.

At the end of the 2007-2008 academic year, Appellant submitted its financial statements to the School District in the same manner and format as those submitted during the previous two academic terms. However, this time the District informed Appellant that it must submit a complete audit for the 2007-2008 academic year. Based upon information received from the State Department of Education, Appellant believed it was not required to submit the more detailed audit. The School District later confirmed that Appellant received such information from the State Department of Education; however, the School District informed Appellant that this information was incorrect, and that Appellant must submit a complete audit to the School District. Appellant was informed that because it was now considered a "component unit" of the School District, it was required to have an independent audit completed rather than the more informal financial statements it had completed in the past.

Appellant was instructed to submit the completed independent audit by March 17, 2009; however, Appellant was unable to comply. After Appellant failed to meet the March 17, 2009 deadline, the School District – without consulting Appellant – took approximately \$10,000 of funds allocated for Appellant and retained Elliott Davis, LLC (Elliott Davis) to perform an independent audit for the 2007-2008 fiscal year. However, Appellant had already retained Kelly-Moser Consulting, LLC (Kelly-Moser), a financial management firm, to assist it in preparing documents for an audit. Appellant subsequently provided Elliott Davis with boxes of documents and evidence that

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were compiled by Kelly-Moser in preparation for the required audit.

On January 25, 2010, Appellant received a letter from Elliott Davis informing them that they were terminating their professional relationship with Appellant for several reasons, including lack of information obtained from Appellant and that Elliott Davis felt uncomfortable completing the audit based upon its preliminary investigation. Elliott Davis did not reimburse the School District or Appellant with the initial funds it received to complete the audit as Elliott David considered the \$10,000 to be a retainer.¹

On March 18, 2010, the School District voted to revoke Appellant's charter at the end of the school year. The School District cited Appellant's failure to meet generally accepted standards of fiscal management as the reason for its revocation.² Further, the School District cited Elliott Davis's termination letter as support for the decision. (ROA, pgs. 4 and 5). On March 30, 2010, Appellant timely requested a hearing before final action was taken on the status of its charter. On May 20, 2010, the District confirmed its decision to revoke the charter of Appellant. Appellant timely filed a Notice of Appeal with the ALC on June 23, 2010.

JURISDICTION AND STANDARD OF REVIEW

The Act provides for the creation and establishment of charter schools in South Carolina. Although charter schools are exempted from complying with many laws and regulations applicable to a public school, a charter school "must" meet certain requirements as set forth in the Act. See, S.C. Code Ann. § 59-40-50(B). Further, S.C. Code Ann. § 59-40-60 provides that "[a]n approved charter application constitutes an agreement, and the terms must be the terms of a contract between the charter school and the sponsor," "[t]he contract between the charter school and the sponsor shall reflect all agreements regarding the release of the charter school from school district policies," and "[a] material revision of the terms of the contract between the charter school and the approving board may be made only with the approval of both parties." See also James Academy of Excellence v.

¹ During the hearing below, a representative of Elliott-Davis testified that a completed audit similar to Appellant's would cost approximately \$20,000.

² Because Appellant was considered a component unit of the School District, its failure to complete the independent audit affected the School District's audit, and it received a qualified (unfavorable) opinion as to the School's District's audit. Thus, the School District revoked Appellant's charter because of the qualified opinion's affect on the District ability to perform some of its functions.

Dorchester County School District Two, 376 S.C. 293, 299-300, 657 S.E.2d 469, 472 (2008).

S.C. Code Ann. § 59-40-110(C) provides that a sponsor must revoke a school's charter if it determines that the charter school:

- (1) committed a material violation of the conditions, standards, or procedure provided for in the charter application;
- (2) failed to meet or make reasonable progress, as defined in the charter application, toward pupil achievement standards identified in the charter application;
- (3) failed to meet generally accepted standards of fiscal management; or
- (4) violated any provision of law from which the charter school was specifically exempted.³

Section 59-40-110(A) requires the sponsor to annually evaluate the conditions outlined in § 59-40-110(C) and to use those evaluation results in making a determination for nonrenewal or revocation of the charter. If a sponsor decides to revoke a charter, it must notify the charter school's governing body in writing and in reasonable detail of the grounds for the proposed termination at least sixty days prior to termination of the charter. See S.C. Code Ann. § 59-40-110(D). As provided in S.C. Code Ann. § 59-40-110(F), the charter school's governing body may then request, in writing, a hearing before the sponsor within fourteen days of receipt of the notice of termination of the charter. After receipt of a timely request for a hearing by a charter school governing body, the sponsor shall conduct a hearing prior to taking final action. See S.C. Code Ann. § 59-40-110(F). A final decision of the sponsor to revoke a charter may then be appealed to this Court pursuant to S.C. Code Ann. § 59-40-90.

The ALC has authority to review the final order of the School District as an appeal under S.C. Code Ann. § 1-23-380(5), which provides for reversal only if its findings are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

³ As specified by S.C. Code Ann. § 59-40-110(E), the only grounds for revocation of a charter are those contained in § 59-40-110(C).

- (e) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

In applying this scope of review, the reviewing court may not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact, but may reverse where the decision is affected by an error of law. Liberty Mutual Ins. Co. v. S.C. Second Injury Fund, 363 S.C. 612, 611 S.E.2d 297 (Ct. App. 2005). Therefore, in this instance, the Court will review the findings of the School District to determine if its findings of fact or conclusions of law are based on substantial evidence contained in the whole record. In Porter v. South Carolina Public Service Commission, 333 S.C. 12, 20-21, 507 S.E.2d 328, 332 (1998), the South Carolina Supreme Court defined the substantial evidence standard of review as follows:

Substantial evidence is relevant evidence that, considering the record as a whole, a reasonable mind would accept to support an administrative agency's action. Substantial evidence exists when, if the case were presented to a jury, the court would refuse to direct a verdict because the evidence raises questions of fact for the jury. It is more than a mere scintilla of evidence, but is something less than the weight of the evidence. Furthermore, the possibility of drawing two inconsistent conclusions from the evidence does not prevent a court from concluding that substantial evidence supports an administrative agency's finding.

The Supreme Court found "[t]his deferential standard of review does not mean, however, the Court will accept an administrative agency's decision at face value without requiring the agency to explain its reasoning." Id. at 21, 507 S.E.2d at 332. Further, the agency "must fully document its findings of fact and base its decision on reliable, probative, and substantial evidence on the whole record." Id. "An administrative body must make findings, which are sufficiently detailed to enable this Court to determine whether the findings are supported by the evidence and whether the law has been applied properly to those findings." Id.

DISCUSSION

Appellant raises the following issues on appeal:

1. The School District's reasons for revocation do not constitute a material breach or violation of Appellant's charter.
2. The School District's assertion that Appellant failed to meet generally accepted standards of fiscal management is

erroneous in light of the substantial evidence in the record.

3. The School District's decision to revoke Appellant's charter is arbitrary and capricious; characterized by an abuse of discretion; or clearly unwarranted exercise of discretion.

Authority to Revoke Charter Pursuant to S.C. Code Ann. § 59-40-110(C)

Appellant first argues that the School District's reason for terminating its charter does not constitute a material breach or violation of the charter. I disagree. Under the Act, a sponsor – here, the School District – is authorized and required to revoke a charter if it determines the charter school committed any one of the four violations stated in S.C. Code Ann. § 59-40-110(C). Section 59-40-110(C)(3) provides that a charter must be revoked if the sponsor determines that the charter school “failed to meet generally accepted standards of fiscal management.” In this case, the School District determined that Appellant's charter must be revoked due to “material violations of conditions, standards and procedures in the management of [Appellant's] finances and the operation of [its] school.” Thus, the School District was well within its authority to revoke Appellant's charter based upon fiscal management concerns.

School District's Decision to Revoke Charter

Appellant next argues that the School District's decision is erroneous in light of the substantial evidence in the record, is arbitrary and capricious, and characterized by an abuse of discretion. I agree.

Pursuant to S.C. Code Ann. § 59-40-110(B)(2), Appellant submitted financial statements to the School District which disclosed the costs of administration, instruction, and other spending categories for its charter during the first two years of operation. These financial submissions to the School District were met with general approval. At the end of the 2007-2008 academic year, Appellant again submitted its financial statements, in the same format, to the School District. However, Appellant was informed that because it was now considered a “component unit” of the School District, it was required to have an independent audit completed and submitted to the School District. Appellant was given no prior notice of the change or why it was now being considered a component unit in year 3 of operation when its prior submissions were met with general approval. Moreover, Appellant contacted the State Department of Education and was informed that an

independent audit was not necessary, although the School District later confirmed that the information given to Appellant by the State Department of Education was incorrect.

Although the Respondent never gave Appellant a reason for why it is now considered a component unit of the School District, Appellant nevertheless attempted to have an independent audit completed prior to the deadline given by the School District. Appellant was diligent in retaining a Kelly-Moser, a firm that is familiar with and does work with other charter schools, to help get their records in order for the audit, however because of funding constraints, Appellant was unable to have the audit completed before the deadline. Subsequently, the School District took approximately \$10,000 of Appellant's allocated money and retained Elliott Davis to perform the independent audit for the 2007-2008 academic year. By letter dated January 26, 2010, Elliott Davis informed both Appellant and the School District that it was terminating its professional relationship with Appellant prior to the completion of the audit based upon lack of information received from Appellant, and because Elliott Davis believed that funds of Appellant had been comingled with another entity. (ROA Pg. 5). Despite having terminated the relationship prior to the completion of the audit, Elliott Davis did not return the \$10,000 to Appellant or the School District as it viewed the payment as a "retainer." Furthermore, the School District did not reallocate those funds to Appellant.⁴

The School District abused its discretion in terminating Appellant's charter based upon fiscal management issues as relayed in Elliott Davis' January 26, 2010 letter. (ROA Pg. 4). First, there is no statute or regulation that defines what constitutes generally accepted standards of fiscal management. Although the School District argues that failure to complete an independent audit would constitute failure to meet generally accepted standards of fiscal management, the School District's own actions prevented – or at a minimum, hindered – Appellant's ability to ensure that an independent audit was completed. Specifically, during Elliott Davis' investigation, it concluded that Appellant had commingled its funds with another entity. However, had either Elliott Davis or the

⁴ Appellant subsequently retained Kelly-Moser to complete the 2007-2008 audit. The same initial information forwarded to Elliott-Davis by Appellant was used to complete the subsequent audit. Notably, during oral arguments, the School District acknowledged that Appellant is continuing to operate and all of its audits subsequent to the 2007-2008 academic year have been met with satisfaction by the School District. Appellant further noted that Kelly-Moser has been retained by Appellant in each subsequent year's audit.

School District made even a cursory inquiry, they could have learned that Appellant and the separate entity, Palmetto Youth Services, were one and the same.⁵ Thus, any concern regarding the possibility of comingling of Appellant's money with another entity was meritless. Secondly, the School District took \$10,000 of Appellant's allocated money to fund the Elliott-Davis audit. After the premature conclusion of the professional relationship, neither Elliott-Davis nor the School District reallocated this money to Appellant so that it could retain a firm to complete the audit. For a small charter school that functions on a stringent budget, generating approximately twenty thousand dollars to complete an audit near the end of the school year is a difficult – if not impossible – task. Put simply, it was an abuse of discretion for the School District to take Appellant's allocated money to pay for an audit that was never completed, fail to reallocate the funds to Appellant to have the audit done, and then revoke Appellant's charter based upon its failure to have that audit completed.

Accordingly, having reviewed the entire record, and listened carefully to the arguments presented by the parties, the Court finds that the School District abused its discretion in revoking Appellant's charter, and the Court reverses the School District's decision.

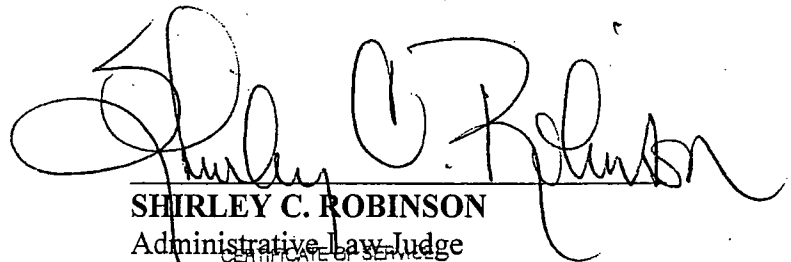
ORDER

Based upon the foregoing,

IT IS HEREBY ORDERED that the School District's decision dated June 1, 2010 is **REVERSED**.

AND IT IS SO ORDERED.

May 2nd, 2012
Columbia, South Carolina


SHIRLEY C. ROBINSON
Administrative Law Judge

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the emergency Mail Service addressed to the party(ies) or their attorney(s).

This 4 day of May 2012
By: Joseph A. Henderson
Judicial Law Clerk

⁵ During oral arguments, Appellant clarified that Palmetto Youth Services is a non-profit corporation doing business as Palmetto Youth Academy, and this information would have been provided to Elliott Davis had they made inquiry.

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CERTIFICATE OF SERVICE

I, the undersigned employee of McIntosh Law Office, do hereby certify that the foregoing Record On Appeal has this day been served by Federal Express to the following person, this 13th day of June 2012.

Samuel M. Mokeba, Esquire
BAKER, RAVENEL & BENDER & L.L.P.
3710 Landmark Drive, Suite 400
Columbia, South Carolina 29204
803-799-9091

BY: Beverly G. Capps
Beverly G. Capps

RS2

D. LAURENCE McINTOSH

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June 13, 2012

Ms. Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, S.C.29201

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SC Court of Appeals

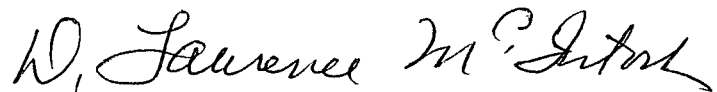
Via Federal Express #8006 6260 1856

RE: Palmetto Youth Academy Charter School vs. Florence County School District 1 Board of Trustees.
Appellate Case No. 2012-212001

Ms. Kitchings:

Enclosed are 15 copies and one unbound copy of the Record On Appeal, which we are filing. A copy of this has been served on counsel for the respondent.

Sincerely yours,



D. Laurence McIntosh

DLM/bjgc

Enclosures

cc: Samuel M. Mokeba, Esquire

CERTIFICATE OF SERVICE

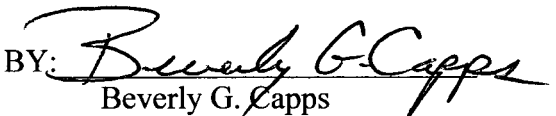
I, the undersigned employee of McIntosh Law Office, do hereby certify that the foregoing Brief of Appellant has this day been served by Federal Express to the following person, this 13th day of June, 2012.

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56 Court of Appeals

BY: 
Beverly G. Capps