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 LOS ALTOS SCHOOL DISTRICT; BOARD OF  
 TRUSTEES OF THE LOS ALTOS SCHOOL  
 DISTRICT; and TIM JUSTUS

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF SANTA CLARA

BULLIS CHARTER SCHOOL,

Petitioner,

v.

LOS ALTOS SCHOOL DISTRICT;  
 BOARD OF TRUSTEES OF THE LOS  
 ALTOS SCHOOL DISTRICT; and TIM  
 JUSTUS, in his capacity as District  
 Superintendent,

Respondents.

Case No. 109CV144569

**DECLARATION OF ERIC D. LUNDBERG  
 IN SUPPORT OF RESPONDENTS'  
 OPPOSITION TO MOTION AND CROSS-  
 MOTION FOR DECLARATORY RELIEF**

Date: August 15, 2012  
 Time: 9:00 a.m.  
 Dept: 2

Judge: Hon. Patricia Lucas

## DECLARATION OF ERIC D. LUNDBERG

I, Eric D. Lundberg, declare:

1. I am the Vice President of Finance for an energy development company located in San Bruno, California, and I reside in Los Altos, California. I have personal knowledge of the facts set forth herein, and if called upon to do so, could and would testify competently with respect to these facts.

2. I have been a certified public accountant since 1999, and have a current and active license in the states of Oregon and Virginia. I worked for the public accounting firm Deloitte & Touche LLP for approximately three years, and have been a finance executive for the past fourteen years.

3. In 2010, I was the treasurer for the Portland Junior Hawks, a non-profit organization created to support youth hockey in Portland, Oregon. In that capacity I was responsible for all financial matters for the organization, including the preparation of budgets, financial statements and tax returns.

4. In the course of my career I have developed an expertise in preparing, reviewing and interpreting financial statements and tax records for various types of for-profit and not-for-profit entities.

5. In early May 2012, I learned that The Bullis-Purissima Elementary School (also known as Bullis Charter School, or BCS) may have loaned money to its principal, Wanny Hersey. I was not familiar with the facts or circumstances of that loan, and so I decided to investigate the details. In the course of my inquiries, I was able to locate copies of the BCS financial statements for BCS' fiscal year ended June 30, 2011 (the "BCS 2011 Financials" or "Financials"). A true and correct copy of these financial statements is attached hereto as Exhibit A. In addition, I also located a copy of BCS' U.S. Internal Revenue Service form "Return for Organizations Exempt from Income Tax" (Form 990) for BCS' fiscal year ended June 30, 2010. A true and correct copy of the 2010 Form 990 is attached hereto as Exhibit B.

6. According to the BCS 2011 Financials, the school is a California Non-Profit Public Benefit Corporation. *See* Ex. A, cover page. BCS loaned \$250,000 to Ms. Hersey in May 2010. *See id.* at 8, note 4. There is no explanation in the Financials regarding the purpose of the loan. The Financials identify Ms. Hersey as "the Superintendent/Principal of the School." *Id.* The Financials do not specify whether the Board of Directors approved this loan.

7. Similarly, the 2010 Form 990, BCS is a 501(c)(3) corporation formed in 2003. *See* Ex. B. at 1. The Form 990 lists Ms. Hersey as an "Officer" of the organization, whose salary is stated to be \$237,328 annually for the year ended June 30, 2010. *Id.* at 7. The Form 990 identifies a loan in the amount of \$62,721 (*id.* at 27), and states the purpose of the loan to be "personal loan." *Id.* at 29. In addition, the Form 990 indicates that the BCS Board of Directors approved this loan. *Id.* at 27. It is not clear whether the loan described in the Financials and the loan listed in the Form 990 are the same loan or different loans.

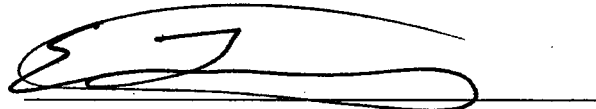
8. After learning the available facts regarding the loan by the school to Ms. Hersey, I became aware of California Corporation Code Section 5236, which states that it is illegal for California non-profit corporations to loan funds to their officers in certain circumstances. In order to learn more information regarding the circumstances of BCS' loan to Ms. Hersey, I sent BCS an email requesting copies of the 2010-11 Form 990 for BCS. Attached hereto as Exhibit C is a true and correct copy of that email.

9. On June 11, 2012, I made a formal request to BCS for copies all loan documents reflecting loans to Ms. Hersey and for copies of all other documents related to the issuance of the loans. Attached hereto as Exhibit D is a true and correct copy of my June 11, 2012, letter to BCS.

10. On June 12, 2012, I filed a formal complaint with the California Attorney General's Office regarding the possible misuse of funds by BCS (the "Complaint"). The Complaint states my belief, based upon my review of the financial records available to me at the time, that BCS improperly loaned \$250,000 to Ms. Hersey, in violation of California Corporation Code Section 5236. Attached hereto as Exhibit E is a true and correct copy of the Complaint and the accompanying cover letter.

11. In response to my June 11, 2012 letter requesting information from BCS, I received a letter dated June 21, 2012, from John C. Lemmo, an attorney with BCS' outside law firm, Procopio, Cory, Hargreaves and Savitch LLP (the "Lemmo Letter"). Attached hereto as Exhibit F is a true and correct copy of the Lemmo Letter. In his letter, Mr. Lemmo agreed to produce all of the documents listed in my June 11 letter, to the extent that those documents exist. However, he informed me that "the school office is essentially closed for several weeks, so verification of record's existence and actual production of your copies will not occur until after staff returns to prepare for the start of the new school year in August." See Ex. F at 1. For this reason, I have not been able to obtain to date the additional documentation needed to confirm whether the loan to Ms. Hersey violates state law.

This declaration was executed on July 17, 2012, at Los Altos, California. I swear under penalty of perjury that, to the best of my knowledge, information and belief, the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Eric D. Lundberg", is written over a horizontal line.

Eric D. Lundberg