



BALLARD SPAHR ANDREWS & INGERSOLL, LLP

REPORT TO THE BOARD OF DIRECTORS OF
PHILADELPHIA ACADEMY CHARTER SCHOOL

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I. INTRODUCTION

On April 17, 2008, the Board of Directors (hereinafter, the “Board”) of the Philadelphia Academy Charter School (hereinafter, “PACS”) retained Ballard Spahr Andrews & Ingersoll, LLP (hereinafter, “we” or “Ballard”) to conduct an independent investigation concerning allegations of misappropriation by PACS’ then-CEO, Kevin M. O’Shea, and consultant and former CEO, Brien N. Gardiner, as well as conflicts of interest arising from O’Shea and Gardiner’s roles as fiduciaries of PACS and their outside business interests.¹ In the course of Ballard’s investigation, we have interviewed more than 30 witnesses and reviewed thousands of documents in PACS’ possession or control and from third parties.

At the outset, Ballard notes that while the findings herein are supported by substantial evidence, the record, and thus Ballard’s findings, do not include interviews of O’Shea or Gardiner, both of whom refused repeated requests for interviews.² The record also does not include documents that are solely within the possession or control of O’Shea, Gardiner, and/or the various entities they control, or documents the production of which can be compelled only by subpoena.³ Finally, the record does not contain computer records that were destroyed at O’Shea’s direction and with the assistance of his sister, Connie O’Shea.⁴

Notwithstanding O’Shea’s and Gardiner’s refusals to cooperate, and the destruction of computer records, Ballard has uncovered substantial evidence of wrongdoing by O’Shea and Gardiner. As described in detail herein, Gardiner and O’Shea repeatedly sought reimbursement for expenses unrelated to PACS’ operations and freely used PACS’ monetary and operational resources for their own benefit and the benefit of their outside business interests. All of this was done at great expense to PACS. Indeed, as of the date of this report, more than \$700,000 is missing from an account that is funded solely by PACS and held in the name of a corporation that exists exclusively for PACS’ benefit. Gardiner and Jamie O’Shea, Kevin

O'Shea's wife, appear to have been the central figures in this misappropriation of PACS' funds, which is described in detail in Section II.F below. O'Shea, for his part, does not appear to have been involved in frauds as complicated as Gardiner's. O'Shea's frauds on PACS and his abuse of his position, however, were no less destructive, as he systematically siphoned cash from virtually every aspect of PACS' operations, even going so far as to misappropriate money raised by PACS' Student Council and National Honor Society that was intended for the Marine Corps' Toys for Tots program.

Ballard also has focused on the degree to which, if any, PACS' Board was involved in Gardiner's and O'Shea's wrongdoing. Ballard has found no evidence that members of the Board benefited through O'Shea's and Gardiner's misconduct. Ballard, however, concludes that O'Shea's and Gardiner's misconduct could have been mitigated or prevented had the Board adopted more robust internal controls, received more competent assistance from its advisors, or fostered more effective communications between its members. Ballard accordingly has made a number of recommendations, many of which have already been put in place by the Board, designed to prevent misconduct such as O'Shea's and Gardiner's from occurring again in the future.

II. BACKGROUND

A. Before Ballard's Investigation Commenced

Prior to April 4, 2008, the Philadelphia School District's Inspector General began an inquiry into alleged conflicts of interest involving Gardiner and O'Shea. On April 4, 2008, Martha Woodall, a staff writer for the Philadelphia *Inquirer*, contacted PACS to follow up on concerns first raised publicly at a December 2007 School Reform Commission ("SRC") meeting. Woodall spoke with Tara O'Shea, with whom she left a message.⁵ Woodall also spoke with Gardiner, who advised her to call Rosemary DiLacqua, the President of PACS' Board.⁶

Gardiner notified Robert O'Donnell, Esquire, PACS' counsel, about Woodall's inquiries and O'Donnell called DiLacqua on April 4 to insist that she meet with him that day.⁷ O'Donnell stated to DiLacqua that he had met earlier that week with O'Shea and Gardiner, during which meeting they discussed the Pennsylvania Public Officials and Employees Ethics Act (herein, the "Ethics Act") and conflicts of interest.⁸ As DiLacqua recounted it, she was confused by much of what O'Donnell said, although she recalled O'Donnell stating that he had given Gardiner legal advice on discrete issues, which advice Gardiner applied more broadly than O'Donnell expected.⁹ O'Donnell informed DiLacqua that he had no records reflecting any of his conversations with Gardiner.¹⁰

DiLacqua left O'Donnell's office and called O'Shea. They met that evening for approximately one hour.¹¹ Before they met, Megan Simmons, the High School Coordinator, observed O'Shea leaving the PACS High School carrying approximately five full expandable files of documents.¹² During their meeting, DiLacqua observed that O'Shea appeared "concerned" and "panicky."¹³ O'Shea repeatedly stated that he was unaware of Gardiner's other businesses.¹⁴ DiLacqua informed O'Shea that he would need to explain these other business relationships to the Board, and called Joseph Resta, Board Vice President, and Basil Merenda, Board Treasurer, to set up a meeting for the next morning, April 5.¹⁵

On Saturday, April 5, O'Shea, DiLacqua, Resta, and Merenda met at the PACS High School. Gardiner was not asked to attend this meeting; DiLacqua could not explain why she did not invite Gardiner.¹⁶ During this meeting, O'Shea produced several charts that he represented as reflecting the boards of directors of Philadelphia Academy Services ("PAS"), Philadelphia Academy Charter Development Corporation ("CDC"), and Charter School Development Associates ("CSDA").¹⁷ O'Shea also informed DiLacqua, Resta, and Merenda that

he received compensation from Charter School Choice (“CSC”); Resta recalled that O’Shea said he received \$2,000 per month from CSC, whereas DiLacqua recalled O’Shea stating that he received \$4,000 per month.¹⁸

At the conclusion of the meeting, O’Shea escorted Resta to the door. As they stood at the door, O’Shea stated to Resta, “Dude, I think I’m fucked.”¹⁹ Resta and Merenda both left the High School; DiLacqua and O’Shea remained.²⁰

On Sunday, April 6, Megan Simmons, the High School Coordinator, went to the High School to clean up from a fundraising party she held the night before at PACS. DiLacqua’s car was in the parking lot; Simmons saw O’Shea and Tara O’Shea in and around the faculty lounge, from which she also heard DiLacqua’s voice.²¹ Simmons observed a number of expandable files of documents in the faculty lounge. She believes she heard the copying machine operating but she is unsure whether she heard the shredder operating.²² In response to Ballard’s questions, DiLacqua denied that she participated in or observed the shredding of documents that day, and stated that she instead believes she was making copies of pamphlets for a Philadelphia Police Department Care Unit presentation regarding crimes against the elderly.²³ (DiLacqua is a Detective in the Philadelphia Police Department.) Although DiLacqua informed Ballard that she had documentation corroborating her version of events, she has not produced these documents to Ballard. Regardless of DiLacqua’s involvement, Ballard notes that substantial evidence exists that O’Shea removed or destroyed documents in the days before Ballard commenced its investigation. Indeed, in response to Simmons’ inquiry as to how he was holding up in light of the investigations and *Inquirer* article, O’Shea stated “they won’t find anything in my office because I cleaned it out.”²⁴ In fact, shortly after the first *Inquirer* article

ran, Eileen McGrody, an Administrative Assistant, observed O'Shea cleaning out files in his office with a trash can beside him.²⁵

On April 5, 2008, Resta contacted Ballard to discuss engaging it as outside counsel to conduct an independent investigation. Resta explained that counsel for the School District of Philadelphia ("School District") and Woodall posed questions to PACS regarding PACS' relationship with various entities.²⁶ Resta provided Ballard with a copy of an email from the School District's counsel to Robert O'Donnell, Esquire, PACS' Counsel, regarding PACS' relationships with CDC, PAS, and CSC.²⁷

On April 8, 2008, Resta advised Ballard that an emergency meeting of the Board was scheduled for Thursday, April 10, 2008, and requested that Ballard attend. Resta later advised Ballard that the Board did not want Ballard to attend and that DiLacqua stated that Ballard's qualifications to conduct the investigation had not been adequately established.

On April 11, 2008, Resta and Merenda advised Ballard that the Board had voted to hire Ballard to conduct an internal investigation regarding O'Shea's and Gardiner's possible conflicts of interest. Resta advised Ballard to contact O'Donnell for additional background information regarding the investigation. Ballard met with O'Donnell at its office on April 14, 2008. During that meeting, O'Donnell advised Ballard that he did not have any documents regarding PACS or any of the related entities that would assist Ballard in its investigation. Despite Resta and Merenda's April 11 call, Ballard was not permitted to commence its representation formally until April 17, 2008, when the Board officially approved Ballard's retention.

On April 14, 2008, the Office of the Inspector General ("OIG") for the School District requested to examine "certain financial transactions conducted by the Philadelphia

Academy Charter School.”²⁸ On April 15, 2008, the first article regarding potential conflicts of interest and misappropriation involving Gardiner and O’Shea appeared in the Philadelphia *Inquirer*.

B. The Process for Ballard’s Investigation

In connection with this investigation, Ballard has reviewed:

- PACS’ bank records for the period of September 2006 through March 2008;
- O’Shea’s, Connie O’Shea’s, and Tara O’Shea’s personnel files;²⁹
- O’Shea’s Statement of Financial Interest, signed May 5, 2007;³⁰
- Gardiner’s consulting agreement;
- O’Shea’s expense reimbursement request for the period 2005 through January 2008;
- Gardiner’s expense reimbursement request for the period 2005 through March 2008;
- PACS’ charter and charter renewal application;
- PACS’ annual reports from 1999 through 2007;
- PACS’ board minutes from 1999 through March 2007;
- PACS’ independent audit reports from 2000 through 2007;
- Articles of Incorporation for Philadelphia Academy Services, Philadelphia Academy Community Development Corporation, The Cynwyd Group, LLC (“Cynwyd Group”), and KMO Inc.;
- certain Philadelphia Academy Community Development Corporation loan documents;³¹
- Invoices from vendors and architects;
- PACS’ Home Depot, Lowe’s, and Sunoco credit card statements; and
- 2006-2007 Revenue Records from the High School’s Lunch Program, Vending Machines, and Dress Down Days.

Ballard requested, but did not receive, a number of additional documents that would have assisted it in its investigation. For example, Ballard repeatedly requested that O'Shea and Gardiner produce records relating to PAS, the CDC, and CSDA, but neither O'Shea nor Gardiner produced a single document in response to these requests. Ballard also did not have access to the financial records of PAS, CSDA, O'Shea, or Gardiner. Ballard additionally notes other documents that it did not receive, or to which Ballard did not have access, throughout this report.

In addition to reviewing the above items, Ballard interviewed Yvonne DeAngelo and Michael Whisman of Charter School Choice at Ballard's office on April 24, 2008.³² Ballard also interviewed each member of PACS' Board of Directors: Rosemary DiLacqua, Board President, on May 6, 2008 and May 30, 2008 at PACS' High School; Joseph Resta, Board Vice President, on May 2, 2008 by telephone and on May 29, 2008 at Ballard's office³³; and Basil Merenda, Treasurer, on May 2, 2008 by telephone.³⁴ On April 30, 2008, Ballard interviewed the following Board Members at PACS' Elementary School: Vicki Vendetti, Board Secretary³⁵; Dr. Preston Feden, Board Member³⁶; and Connie Rodgers, Parent Representative.³⁷

Ballard interviewed the following individuals in person at PACS' High School: Larry Sperling, then-Chief Academic Officer and Acting Chief Executive Officer,³⁸ Heide Kester, Faculty Member,³⁹ Mona Fritz, Cafeteria Aide,⁴⁰ Barbara Frost, Cafeteria Aide,⁴¹ Arthur Cornish, Owner of Sparklin Clean,⁴² and Philip Palan, Facilities Manager, on May 1, 2008⁴³; Tara O'Shea, Administrative Assistant,⁴⁴ and Megan Simmons, High School Coordinator, on May 2, 2008⁴⁵; William Neveil, Transportation Manager,⁴⁶ and Phillip Palan, Facilities Manager, on May 15, 2008; Harry Deitz, Faculty Member, on May 16, 2008⁴⁷; and Eileen McGrody, Administrative Assistant,⁴⁸ and Penny Lucas, Administrative Assistant, on May 21, 2008.⁴⁹

Ballard interviewed the following individuals in person at PACS' Elementary School: Karen Semon, Business Manager,⁵⁰ Mary Joscelyne, Administrative Assistant,⁵¹ Lisa Osborn, Bookkeeper for Charter School Choice, on May 6, 2008⁵²; Cathy Adams, Special Education Coordinator for K-12,⁵³ Elmer Clawges, Security Manager,⁵⁴ Anna Marie Siegmann, K-5 Coordinator, on May 8, 2008⁵⁵; Christine DeLisi, Faculty Member,⁵⁶ Yvonne DeAngelo, Charter School Choice, Robert Komorowski, Vendor and Parent, on May 14, 2008⁵⁷; Timothy Beaver, Faculty Member, on May 21, 2008⁵⁸; and Joyce Podell, Administrative Assistant,⁵⁹ Mary Joscelyne, Administrative Assistant, Anna Marie Siegmann, K-5 Coordinator, on May 27, 2008; and Susan Varra, Faculty Member⁶⁰ and Justin Palan, Teacher's Aide on June 6, 2008.⁶¹

Ballard interviewed the following individuals by telephone: Thomas Westervelt, Len Campbell, and Robert Wilkinson of Penn Systems on May 7, 2008⁶²; Daniel Reardon, former PACS Faculty Member, on May 11, 2008⁶³; Michael Shane on May 14, 2008⁶⁴; Dennis Cogan, Esquire, Counsel for City Wide Roofing, on May 19, 2008.⁶⁵

C. The Philadelphia Academy Charter School

PACS began as a Kindergarten through 8th grade charter school in 1999 and was approved for expansion through 12th grade in 2003. PACS' first High School class graduated in June 2007 and its founding kindergarten class graduated 8th grade in June 2008. PACS' students hail from neighborhoods throughout the City of Philadelphia. On June 18, 2008, PACS' charter was renewed for five years, through 2013.

PACS' mission statement is as follows:

We of the Philadelphia Academy Charter School believe that in order for all children (and adults as well) to function at their highest level of potential, to become life-long lovers of learning, to live and work and grow with integrity, self discipline, compassion, and respect for themselves and others, they must learn and flourish in environments that honor their individuality and commonality. Experiences that broaden their world beyond the classroom and develop their critical skills necessary to make the difficult decisions as they grow to become truly productive and contributing citizens of the world are essential.

PACS' student body is unique in the Philadelphia School District in that PACS educates a large population of special education students who appear to Ballard to be seamlessly integrated into regular education classes. Ballard also has observed that PACS' faculty and staff is steadfast in its commitment to PACS, with many members of PACS' faculty and staff having been at the school since its inception, which is attributable in large part to the strong parental commitment and involvement. Equally important, of course, is PACS' students' dedication; PACS' students seem to thoroughly enjoy the opportunity that PACS provides and to thrive in PACS' unique environment, particularly insofar as special education students are mainstreamed in the general student population. In all, PACS appears to honor its mission in every respect, an accomplishment made all the more remarkable in light of the systematic and pervasive betrayals the PACS community has suffered as a result of Gardiner's and O'Shea's conduct.

D. Brien Gardiner, Kevin O'Shea, Connie O'Shea, and Tara O'Shea

1. Brien Gardiner

By all accounts, Gardiner was a leader of the Pennsylvania charter school movement and an effective and respected administrator. With respect to PACS, Gardiner did "whatever it took" in 1999 and 2000 to make PACS operational and suitable for education, including frequently using his own money and credit card to make purchases as needed.⁶⁶

According to Yvonne DeAngelo, a management consultant who returned to PACS in March 2008, Gardiner was not diligent about seeking reimbursement for these expenses, and tended to think of his finances as indistinct from the school's in the sense that if a purchase was required, he would make it, regardless of whether the purchase came from the school's account or his.⁶⁷ While Ballard's review did not extend back to the years including and immediately following PACS' founding, no witness raised any concern that Gardiner inappropriately sought or received reimbursement from PACS in the early years of PACS' existence.

Until 2004, Gardiner acted as PACS' Chief Academic Officer. O'Donnell then advised the Board that the title of Chief Academic Officer should be changed to Chief Executive Officer,⁶⁸ which position Gardiner occupied until June 30, 2006, when Gardiner retired.⁶⁹ From 2005 to 2006, Gardiner received a salary of \$164,500 from PACS.⁷⁰ In addition, Gardiner sought reimbursement for \$10,000 of expenses he reportedly incurred for medical disability and life insurance, which reimbursement he claimed he was entitled to under his employment contract.⁷¹ Ballard has not received a copy of Gardiner's 2005 employment contract, or a list of PACS employees for whom the school provided medical benefits.

From October 1, 2006, until May 14, 2008, Gardiner acted as a consultant to PACS pursuant to a consulting agreement he entered into on May 20, 2006.⁷² Under this Consulting Agreement, which PACS entered into with Gardiner's company, Charter School Development Associates, he received annual compensation from PACS in the amount of \$84,000, as well as \$10,000 "each year to defray the cost of medical insurance and business related expenses."⁷³ Ballard notes that Gardiner remained on PACS' medical insurance plan for its employees through 2008, even though he was a consultant being paid additional sums for the purchase of medical insurance.⁷⁴ Gardiner also apparently was provided with a car that PACS

owned,⁷⁵ although it is unclear when PACS first provided him with a car. The Gardiner/PACS Consulting Agreement only required Gardiner to provide up to “ninety [80] (sic)” days of service to PACS.⁷⁶ The Gardiner/PACS Consulting Agreement specifically provides: “School agrees that Consultant shall not be restricted in any manner from participating in other business activities including and in particular the provision of services to other schools and educational providers.”⁷⁷

DiLacqua entered into the Gardiner/PACS Consulting Agreement on behalf of PACS.⁷⁸ During our interviews, no Board member other than DiLacqua recalled being involved in the negotiation of this agreement, prepared by O’Donnell and executed by DiLacqua, or the subsequent agreement, also prepared by O’Donnell, that extended the term of the Consulting Agreement to 2026 and increased the annual compensation increases to 10% per year.⁷⁹ In addition, no Board minutes or other Board documents evidence Board ratification of any of these decisions.

2. Kevin O’Shea

O’Shea’s involvement with PACS began in 1999, when he served as a member of the Board.⁸⁰ At that time, O’Shea, who does not have a college degree, was a woodshop teacher at Franklin Towne Charter School, where he earned \$50,000.⁸¹ O’Shea’s focus while on the Board appears to have been on facilities management.⁸² According to Adams, Franklin Towne reduced O’Shea’s salary to \$35,000 because of his lack of qualifications.⁸³ O’Shea then looked to employment at PACS, and the PACS Board hired O’Shea as PACS’ Director of Operations in September 2002.⁸⁴ O’Shea was hired at a salary of \$60,000.⁸⁵ Within four months, O’Shea and Gardiner sent PACS’ management company, Nobel, a memo stating that the Board had approved salary increases for O’Shea and Gardiner of \$2,000 per month and \$3,000 per month, respectively, that these amounts ultimately would be paid by PAS, and that PACS could seek

reimbursement for these increases from PAS.⁸⁶ In January 2003, Gardiner authorized Nobel to pay a \$7,000 bonus for O'Shea on the ground that O'Shea had saved PACS \$70,000 in operating expenses and was entitled to receive 10% of these savings.⁸⁷ No supporting analysis appears to have been required or provided with respect to this calculation of savings, and no notice appears to have been given to the Board regarding this bonus. Similar to Gardiner, O'Shea sought \$10,000 in expense reimbursement in 2005, which he represented to Nobel that he was entitled to receive under his employment contract (which Ballard also has not received).⁸⁸ According to O'Shea's memorandum to Nobel, he sought reimbursement for disability and life insurance (\$4,660), 8,429 miles of travel (\$3,540), an EZ Pass (\$600), and a "Dinner Meeting" (\$1,200).⁸⁹ Ballard has not uncovered any evidence that the Board ratified O'Shea's claim of entitlement to expense reimbursement.

For the 2006-2007 academic year, O'Shea's salary as Director of Operations was \$115,781.⁹⁰ On June 1, 2007, O'Shea's salary was increased to \$129,254.43.⁹¹ While the memorandum memorializing the June 2007 pay raise reflects that the Board's Personnel Committee agreed to the raise, Resta and Feden, two of the Personnel Committee's three members, informed us that the Personnel Committee has not met regularly in the past few years.⁹² In addition, although the June 1, 2007 memorandum reflects that it was copied to the entire Board, no Board member other than DiLacqua, who signed the memorandum, recalls having received it.⁹³ (Of O'Shea's \$129,254 salary, PAS continued to be responsible for a significant portion; at some point or points after 2003, the amounts PACS billed PAS for reimbursement for O'Shea's salary increased to \$4,238.02 per month.⁹⁴)

Over the summer of 2007, it appears that O'Shea's salary was raised to approximately \$168,000 because, in September 2007, DiLacqua authorized a salary increase of

\$27,000 to \$204,000.⁹⁵ There does not appear to be any documentation to support O'Shea's salary increase to \$168,000, and no Board member recalls having approved that increase.⁹⁶ With respect to O'Shea's salary increase to \$204,000, no Board member other than DiLacqua appears to have been involved in this decision, and the October 2007 Memorandum reflecting this pay increase does not reflect being copied to the Board.⁹⁷

On September 20, 2007, the Board did approve O'Shea's promotion to CEO of PACS, but the Executive Session at which the Board considered this promotion was acrimonious, with a number of Board members expressing serious reservations about O'Shea's appointment to that position. Resta recalled that he may have received a call from DiLacqua earlier in the day on September 20, but no other Board member reported having had notice of the pending decision to appoint O'Shea, in part because the Board did not regularly receive an agenda in advance of the meeting.⁹⁸ All Board members reported that they were surprised by the topic of O'Shea's appointment as CEO, but that they were informed by Gardiner and O'Shea that O'Donnell stated that O'Shea's promotion had to be resolved that night.⁹⁹ Several Board members raised O'Shea's lack of credentials for the position as a concern but Gardiner assured the Board that he would continue to serve as the Chief Academic Officer and that O'Shea's role would largely continue as director of operations, and that this action was merely a change in titles.¹⁰⁰ Based on Gardiner's assurances and the apparent urgency of the decision, the Board approved O'Shea's promotion.¹⁰¹ The Board, still in Executive Session, raised the issue of whether O'Shea would receive an increase in compensation given his new title, but O'Shea told the Board that he was not worried about his compensation and that it would be resolved at a later date.¹⁰²

According to a number of sources, after his appointment as CEO, O'Shea was absent from PACS regularly. In addition, it is clear that O'Shea's tenure as CEO was marked by abuse of PACS faculty and staff and an accompanying destruction of faculty and staff morale. Faculty members repeatedly reported instances in which O'Shea verbally abused faculty and staff¹⁰³ and demonstrated preferential treatment of faculty.¹⁰⁴ O'Shea's treatment of Cathy Adams is particularly illustrative. O'Shea repeatedly threatened her job, called her an "asshole" and "a piece of shit," and criticized her performance as a special education administrator.¹⁰⁵ On one occasion, while threatening her job, O'Shea stated that when he fired Adams, he would "walk her out in front of her son," a PACS student.¹⁰⁶ On other occasions, he told Adams that he would have fired her sooner if it were not so much trouble.¹⁰⁷

A number of faculty members recounted how O'Shea would point to his identification badge, which reflected that he was PACS' CEO, and say, "this means I'm important."¹⁰⁸ In a coordinators' meeting after he was appointed CEO, which meeting DiLacqua attended, O'Shea informed the coordinators, "I demand your loyalty" and instructed them not to speak with Gardiner.¹⁰⁹ O'Shea regularly told faculty and staff, "if you don't like it, leave." He also instructed PACS faculty and staff not to speak with the Board.¹¹⁰

O'Shea's prohibition against speaking to the Board may have been unnecessary in light of how PACS' faculty and staff viewed the Board. Various members of the faculty and staff stated that they believed PACS was run by Gardiner, O'Shea, and DiLacqua, and viewed the balance of the Board as powerless.¹¹¹ O'Shea and DiLacqua were viewed as inseparable, a view perpetuated both by O'Shea, who kept a picture of him and DiLacqua on his office wall and referred to her as "best of friends,"¹¹² and the wide-spread knowledge that O'Shea had been supportive of DiLacqua's family when DiLacqua's husband was scrutinized for allegedly

covering up an accident.¹¹³ DiLacqua also supported this view. As Siegmann recalled, DiLacqua once told two PACS staff members, “I would never speak against him [O’Shea].”¹¹⁴

At the time of our interviews, we understood that a large portion of the PACS faculty was actively seeking other employment. Since O’Shea’s departure, however, one staff member informed us that she “can now sleep at night,”¹¹⁵ and Ballard understands that the majority of PACS’ faculty and staff will return in the fall.

3. Connie O’Shea

As with her brother Kevin, most faculty members interviewed by Ballard who had interacted with Connie O’Shea reported that she was abusive to faculty and that she inappropriately disciplined or favored students.¹¹⁶ Connie O’Shea also appears to have had fewer responsibilities than the two other coordinators¹¹⁷ but, owing to a salary increase she received in October 2007, earned more than Adams or Siegmann.¹¹⁸ Ballard has not received any evidence that the PACS Board ratified Connie O’Shea’s October 2007 salary increase.

By far, however, Connie O’Shea’s most troubling misconduct is her participation in the destruction of Brien Gardiner’s hard drive. According to Podell, who works in the office next to Gardiner’s old office, Connie O’Shea called Podell into Gardiner’s office on Friday, April 11. When Podell entered the office, Connie O’Shea was underneath Gardiner’s desk and was attempting to lift the hard drive of Gardiner’s computer.¹¹⁹ Connie O’Shea asked Podell to help remove the hard drive, but Podell refused.¹²⁰ Connie O’Shea succeeded in recovering the hard drive and locked it in a filing cabinet in the front office.¹²¹ On Monday, April 14, Penn Systems, called in by Connie O’Shea, replaced the hard drive of a computer in the front office,¹²² where Connie O’Shea had stored Gardiner’s computer. Penn Systems explicitly informed us that Gardiner’s hard drive was one of the three hard drives they replaced at O’Shea’s direction.¹²³

4. Tara O'Shea

O'Shea's daughter, Tara, appears to have performed no service to PACS other than to act as O'Shea's personal assistant. When she was hired as an administrative assistant on November 6, 2006, Tara's salary was \$25,750.00.¹²⁴ For the 2006-2007 school year, Tara's salary was increased to \$28,522.50, making her the second highest paid administrative assistant at the High School.¹²⁵ As discussed below in Section II.F.2, Tara O'Shea filled the vending machines in the High School and collected money from the vending machine and Dress Down Day, as well as lunch money, on behalf of her father. She also arranged for O'Shea's meetings at PACS and elsewhere that related to non-PACS business.¹²⁶ Tara O'Shea was regularly observed at the end of school days in her father's office, counting "piles of cash."¹²⁷

E. Related Entities

After PACS' inception, a number of related corporate entities were created ostensibly to benefit PACS. For example, based on O'Donnell's interpretation of Pennsylvania's charter school law, O'Donnell recommended the creation of the CDC, the purpose of which was solely to serve as the acquirer of the property on which the PACS High School would be built. Similarly, Gardiner created PAS as a non-profit corporation for the stated purpose of allowing PACS to receive the services of retired Philadelphia School District employees whom PACS could not directly employ. As described below, these entities figure prominently in the abuses PACS has suffered.

1. Philadelphia Academy Charter Development Corporation

The Philadelphia Academy Charter Development Corporation (“CDC”) is a Pennsylvania non-profit corporation founded in 2003 to allow PACS to acquire the property on which the PACS High School would be built.¹²⁸ The CDC was created with the assistance of Bob O’Donnell, who also represented PACS.¹²⁹ The CDC’s Articles of Incorporation state:

No part of the net earnings of the Corporation shall inure to the benefit, or the distribution to, its members, trustees, officers or other private persons except that the corporation shall be authorized and empowered to pay reasonable compensation in salaries rendered and to make payments and distributions in furtherance of its purposes.¹³⁰

When O’Donnell formed the CDC, he informed the PACS Board that the CDC was being created for the sole benefit of PACS. The CDC’s original Articles of Incorporation, however, did not clearly reflect this purpose. The CDC’s purpose when it was formed in November 2002 was to provide “educational and community services in the Philadelphia area.”¹³¹ In August 2005, the CDC amended its Articles of Incorporation to reflect that the CDC’s purpose was “[t]o provide educational and community services in the benefit of or to perform the function of the Philadelphia Academy Charter School.”¹³² Consequently, from August 2005 to present, the CDC indisputably has existed solely for the benefit of PACS.

When the CDC was formed, the PACS Board requested that at least one of its members be appointed to the CDC Board to ensure that the CDC’s operations could be monitored.¹³³ On the advice of O’Donnell, however, no member of the PACS Board could be appointed to the CDC Board, but relatives and trusted persons could be appointed.¹³⁴ As a consequence, an associate in O’Donnell’s law firm, Rhonda Anderson, Jamie O’Shea, and Eileen Katz (DiLacqua’s sister) were appointed to the CDC Board.¹³⁵ As of the date of this report, it is unclear who the members of the CDC Board are. Katz has informed us that she continues to

serve as a board member and believes that Jamie O'Shea resigned from the board, but has not seen any document memorializing Jamie O'Shea's resignation. Gardiner, through his counsel, has stated that the CDC Board is comprised of Robert Purdy, Gerald Brennan, and Dr. Jack Apsche, each of whom denies having agreed to serve on the CDC Board.

In 2004, using funds PACS provided, the CDC obtained a mortgage on the Tomlinson Road property on which the High School is located. Since obtaining the mortgage, the CDC has received rent payments from PACS to satisfy the CDC's mortgage payments.¹³⁶ PACS' sent payments, however, far exceed the 110% of debt service the CDC/PACS lease requires. Whereas the debt service presently is in the appropriate amount of \$16,500, PACS' monthly payments to the CDC are approximately \$66,000. The 2006 and 2007 PACS Audit Reports state that PACS paid this additional amount to assist it with its "cash flow," but it is unclear why the CDC required any cash flow above the 110% of the debt service the CDC/PACS lease required.

There has been no suggestion that Katz or Anderson engaged in any wrongdoing in their roles on the CDC Board. Ballard has uncovered evidence, discussed in Section II.F.1. below, that O'Shea, Gardiner, and Jamie O'Shea misused CDC funds, thereby largely eliminating the surplus PACS compiled since its founding and jeopardizing PACS' ability to make capital and educational improvements to the schools.

2. Philadelphia Academy Services

PAS is a Pennsylvania non-profit corporation founded in 2002 by Brien Gardiner.¹³⁷ According to Resta, Gardiner established PAS to enable PACS to secure specialized services, such as speech therapy, for PACS' students.¹³⁸

A rider to PAS' Articles of Incorporation provides:

The Corporation is organized exclusively for charitable, literary, scientific, religious and educational purposes provided for under Section 501(c)(3) of the Internal Revenue Code of 1986 and does not contemplate receiving gain or profit, incidental or otherwise.¹³⁹

Like the CDC, PAS' Articles of Incorporation also provide that no part of PAS' net earnings "shall inure to the benefit, or be distributable to, its members, transfers, officers or other private persons" except "to pay reasonable compensation for services rendered" and to make payments in furtherance of its purposes.¹⁴⁰ Ballard's ability to explore additional sources of income to Gardiner and O'Shea, other than those described above, was limited by Ballard's lack of access to PAS', CSDA's, Cynwyd Group,¹⁴¹ and KMO, Inc.'s financial records. However, Ballard uncovered information that, in 2005, both O'Shea and Gardiner received payments of \$100,000 from PAS.¹⁴² These amounts apparently were salaries O'Shea and Gardiner drew from PAS.¹⁴³

PACS received reimbursements from PAS for salaries of PAS employees who worked at PACS. In 2004-2005, PACS received \$120,830 from PAS; in 2005-2006, PACS received \$115,795 in reimbursement from PAS; and in 2006-2007, PACS received \$74,375 in reimbursements.¹⁴⁴

3. Charter School Development Associates

According to PACS Board members, Gardiner established CSDA to allow retired Philadelphia School District employees to provide services at PACS without interfering with these employees' School District pensions.¹⁴⁵

CSDA is an organization Gardiner owns. CSDA does not exist in the Pennsylvania Department of State's business entities database.¹⁴⁶ For the 2004-2005 academic year, CSDA received \$129,716 for the provision of psychological evaluation services.¹⁴⁷

Gardiner's ownership interest in CSDA was disclosed and is reflected in the 2005 PACS Annual Report.¹⁴⁸ For the 2005- 2006 academic year, CSDA received \$216,130, also for the provision of psychological evaluation services.¹⁴⁹ For the 2006-2007 academic year, CSDA entered into a contract with PACS to provide consulting on "fundraising, school operations, personnel issues and special election issues."¹⁵⁰ Under the terms of this agreement (which Ballard has not received a copy of), CSDA receives a fee of \$94,000 per year, with yearly increases of 3%, until the contract expires in October 2016.¹⁵¹

4. Nobel Learning Communities, Inc. and Charter School Choice

Nobel Learning Communities, Inc. ("Nobel") is a publicly-traded educational company that, among other things, provides management services for schools. From PACS' inception until August 2007, Nobel provided management services for PACS. In September 2007, CSC took over the PACS management contract. CSC is a Pennsylvania corporation founded in 2004.¹⁵²

From 2004 to 2005, PACS paid Nobel a fee of \$340,992 for management services. Nobel received \$356,678 from PACS in 2005 to 2006, and received \$370,945 from PACS for the 2006-2007 academic year.¹⁵³ Beginning in September 2007, CSC received \$29,167 per month in management service fees.¹⁵⁴

As noted above, O'Shea informed DiLacqua, Resta, and Merenda that he received compensation from CSC, which CSC denies. Gardiner indisputably received compensation from CSC, as described below in Section II.F.10.

F. Investigated Conflicts of Interest and Misuse of PACS Funds

As described herein, Ballard has uncovered substantial evidence that Gardiner and O'Shea utilized PACS' resources to benefit their own business interests, committed frauds on PACS, or otherwise failed to honor their obligations as fiduciaries of PACS.

1. Misuse of CDC Funds

The largest abuse, in monetary terms, of PACS' funds occurred in connection with the CDC. As noted above, the CDC exists for a single purpose – to acquire the property on which the PACS High School was built – and all funds contained in the CDC account are either funds that PACS initially provided to purchase the property (approximately \$1.4 million) or the accumulation of amounts in addition to mortgage payments that were to be set aside as a reserve. All told, PACS estimates that the CDC's account should presently contain between \$1.7 million and \$1.8 million. As of May 2008, however, the CDC account contains only \$792,119.63.¹⁵⁵

One troubling transaction appears to account for much of the \$1 million that should be in the CDC account. In August 2007, the CDC appears to have loaned PAS \$710,000.¹⁵⁶ On August 13, 2007, Robin Eglin of OmniVest Properties emailed Jamie O'Shea, a CDC board member, to inform her that \$710,000 would be required for the closing on the property at 6632 Bustleton Avenue.¹⁵⁷ On August 13, 2008, Jamie O'Shea emailed Nobel to inform it of the authorization for "the wire transfer of \$710,000 from PAS CDC to Land Services USA, Inc. for the purchase of 6652 [sic] Bustleton Avenue Philadelphia, PA."¹⁵⁸ The fund transfer took place either that day (August 13) or the following day.¹⁵⁹ To date, Ballard has not received documents memorializing the terms of the loan or reflecting the authorization of the loan by the CDC Board, which authorization is required by the CDC bylaws.¹⁶⁰ Property records reflect that PAS purchased 6632 Bustleton Avenue on August 15, 2007, for \$1,409,000, and that PAS initially carried a \$750,000 mortgage on the property.¹⁶¹

Similarly, in July 2006 the CDC sought to acquire an interest in the property at 1330 Rhawn Street. Ballard has not received documents reflecting CDC Board authorization for this purchase, although Jamie O'Shea executed the Purchase Agreement for 1330 Rhawn Street on behalf of the CDC, and Gardiner executed amendments to that agreement on behalf of the

CDC.¹⁶² The \$250,000, along with approximately \$14,000 in interest, was returned to the CDC account on April 17, 2008.¹⁶³

While the Purchase Agreement makes clear that the CDC was the intended purchaser of the property, it appears that the CDC's attempted purchase was for the sole benefit of PAS, not PACS, as the CDC's Articles of Incorporation require. In his October 30, 2007 proposal to the SRC, Gardiner states that PAS "has secured" the Rhawn Street site, but makes no mention of the CDC's interest in the property.¹⁶⁴

Lastly, the CDC balance sheet reflects a "deposit" of \$50,000 and settlement expenses of \$283,000.¹⁶⁵ To date, Ballard has not received any documentation relating to these transactions or CDC Board approval for these transactions.

2. Engineer Bills for 1330 Rhawn Street

In connection with the attempted purchase of 1330 Rhawn Street, Pennoni Associates, Inc. was retained to consult in the "1330 Rhawn Street Project." Gardiner instructed CSC to pay the Pennoni bill, for \$948.50, from the PACS account.¹⁶⁶

3. Engineer Bills for 6652 Bustleton Avenue

Gardiner also retained Urban Engineers, Inc. to perform environmental engineering consulting services for 6652 Bustleton Avenue, which is the address for one of the two locations of the Northwood Academy Charter School. Urban Engineers billed \$4,800 for these services, which account Gardiner authorized to be paid from the PACS account.¹⁶⁷

4. Prototype School Building for New Orleans

At some point in 2007, Gardiner retained Cathers & Associates, an architectural firm, to design a school building for the Recovery School District in New Orleans.¹⁶⁸ Cathers & Associates sent the bill for services rendered in December 2007 to Gardiner; O'Shea authorized the payment of \$735 from the PACS account on February 6, 2008.¹⁶⁹

5. Agora Cyber Charter School Roof

On February 29, 2008, City Wide Roofing, Inc. installed a roof on the property located at 60 Chestnut Street, Devon, Pennsylvania.¹⁷⁰ As the City Wide invoice reflects, O'Shea was billed for this work at the Devon location, which is a building owned by the Cynwyd Group, of which Gardiner was a partner until June 2008, and from which Agora Cyber Charter School runs its operations.¹⁷¹ O'Shea authorized the payment of this bill, in the amount of \$5,150, from PACS funds.¹⁷² In October or November 2007, O'Shea submitted an invoice from City Wide to CSC for \$9,987.¹⁷³ O'Shea instructed CSC to pay Gardiner for the amount of the invoice from the PACS account.¹⁷⁴ Upon investigation, we discovered that the invoice was completed by O'Shea and that City Wide did not perform the work described in the invoice.¹⁷⁵

On April 17, 2008, Gardiner wrote PACS a check, drawn on the Cynwyd Group account, in the amount of \$15,137, as reimbursement for "roofing work."¹⁷⁶

6. PAS Executive Offices and Furniture

On January 3, 2008, O'Shea and Gardiner received an estimate for the construction of executive offices from Family Contractors, Inc.¹⁷⁷ This estimate describes the scope of work requested as the installation of 1,800 square feet of executive office space, including a large conference room, two full bathrooms, and an "upgraded Brazilian cherry kitchenette" with granite countertop.¹⁷⁸ The cost of this project was estimated to be \$145,000.¹⁷⁹ This project was not discussed with or approved by the PACS Board, and O'Shea informed PACS faculty and staff, including Sperling and Simmons, that these offices were constructed for PAS and would provide executive office space for O'Shea, Gardiner and Tara O'Shea.¹⁸⁰ To date, PACS has paid for these offices through four payments of \$30,000; PACS has been invoiced for the balance (\$25,000), but Ballard has not received confirmation that this amount has been paid.¹⁸¹ O'Shea also ordered \$12,499 of custom office furniture for the PAS executive

offices,¹⁸² which furniture was delivered in May 2008. In addition, three flat screen televisions were found in the office designated for Gardiner.

7. \$70,000 Interest Free Loan from PACS to PAS

Ballard understands that PACS provided PAS with an interest-free loan for which PAS reimbursed PACS.¹⁸³ Ballard requested but has not seen any supporting documentation regarding this loan.

8. Legal Bills

In August and September 2007, Gardiner retained the law firm of Stradley Ronon to perform legal work relating to the Northwood Academy Charter School location on Bustleton Avenue and the Rhawn Street location Gardiner sought to acquire through the CDC. Stradley Ronon billed Gardiner and addressed the bills to the CDC.¹⁸⁴ In September 2007, PACS paid \$11,334.54 to Stradley Ronon to pay the first two of these bills; on February 12, 2008, PACS paid the third bill, in the amount of \$937.48.¹⁸⁵

9. Long Term Care Insurance

In January 2008, PACS also paid \$15,762.90 for long term care insurance for both Kevin and Jamie O'Shea in January 2008.¹⁸⁶ Ballard has not received any documentation authorizing this payment or the entitlement of the O'Sheas to this benefit.

10. Gardiner's CSC Consulting Fees

In 2006, Gardiner entered into a consulting agreement with CSC.¹⁸⁷ In 2006, Gardiner received \$47,450 from CSC.¹⁸⁸ In 2007, Gardiner received \$65,066.68 from CSC.¹⁸⁹ As noted above, CSC took over the PACS account in September 2007. The PACS Board was introduced to CSC by Gardiner, who did not disclose the fact that he was a paid consultant to CSC.¹⁹⁰

11. Use Of PACS Personnel

PACS maintenance staff reported to us that, for the past several years, they were required to provide maintenance services at both locations of the Northwood Academy Charter School, the A Plus At Westmeade facility that Jamie O'Shea operated at Friends Hospital, the Agora Cyber Charter School, Gardiner's homes in Philadelphia and the New Jersey Shore, and O'Shea's homes in Philadelphia and the New Jersey Shore.¹⁹¹ We understand from PACS staff that, when maintenance was called, they were unavailable approximately 50% of the time because they were not on-site.¹⁹² At one point, the PACS maintenance staff reportedly was at O'Shea's beach home for approximately two straight weeks.¹⁹³

In apparent recognition of their personal use of PACS staff, both Gardiner and O'Shea, through their counsel, provided checks to PACS, ostensibly to reimburse PACS. Gardiner provided PACS with a check in the amount of \$5,000 and O'Shea provided PACS with a check in the amount of \$20,235.¹⁹⁴ Ballard requested that O'Shea provide the supporting documentation to calculate the amount of his payment, but to date Ballard has not received this documentation.

12. Agora Office At PACS

For some time in 2006 and 2007, the Agora Cyber Charter School operated out of offices in the PACS High School. PACS has no record of receiving any rent payments from Agora. According to Tara O'Shea, if Agora made any rent payments, Gardiner received them.¹⁹⁵

13. Agora Office At 1 Belmont Avenue

On July 28, 2006, PACS was invoiced \$5,700.00 for plumbing work performed at 1 Belmont Avenue, Suite 503.¹⁹⁶ The work order describes the installation of a kitchen sink, ice maker, and coffee outlet. Upon investigation, we determined that 1 Belmont Avenue, Suite 503 is the location of an Agora office.¹⁹⁷

14. Cellular Phone Plans

PACS provides cellular phones to its bus drivers, administrators, and certain faculty and staff members, as well as bus drivers and administrators for Northwood Charter Academy School, for which PACS is reimbursed.¹⁹⁸ Until April or May 2008, PACS provided cellular phones to Colleen Gardiner (Gardiner's wife) and Jamie O'Shea despite the fact that neither Colleen Gardiner nor Jamie O'Shea worked for PACS.¹⁹⁹ In addition, Colleen Gardiner's, Tara O'Shea's, and Edward O'Shea's (O'Shea's father) cellular phone plans were at least three times the amount as the phone plans of other PACS employees.²⁰⁰

15. Northwood Field Trips

PACS provides bus transportation services to Northwood Academy Charter School for which it is reimbursed.²⁰¹ PACS is not reimbursed by Northwood for the cost of field trips. PACS' transportation manager reported to us that he assigns field trips to a driver and that PACS pays the drivers \$50 in cash regardless of the length or distance of the trip or the number of students.²⁰² Between September 2007 and May 2008, PACS provided buses and bus drivers for forty-eight field trips for Northwood.²⁰³

16. Mercury Minivan

On June 26, 2007, O'Shea directed Nobel to cut a check to Gardiner for the purchase of a 2004 Mercury Voyager Minivan.²⁰⁴ O'Shea represented to Nobel that he was duly authorized by Board Resolution 06-14-07-09 to execute PACS' purchase of Gardiner's vehicle.²⁰⁵ PACS' June 14, 2007 minutes contain no mention of the purchase of Gardiner's vehicle or Board Resolution 06-14-07-09.²⁰⁶ The \$16,500 PACS paid to Gardiner for the vehicle appears to be more than double the Kelley Blue Book value of a similar vehicle in "good" condition.²⁰⁷

17. Gardiner's Expense Reimbursements

Ballard reviewed Gardiner's expense reimbursement requests for purchases on his personal VISA credit card from 2006 to 2008.²⁰⁸ We understand that PACS does not have a corporate credit card and that Gardiner permitted the faculty and staff to use his credit card for a variety of school related purchases.²⁰⁹ Mr. Gardiner's expense reimbursement requests consists of copies of his personal credit card statements with a notation beside each credit card statement entry indicating the general reason for the purchase.²¹⁰ Due to Gardiner's lack of documentation regarding his proffered expenses, it is difficult to determine the legitimacy of individual expense reimbursement requests. Nevertheless, the following categories of reimbursement requests appear inappropriate.

a. New Orleans

On March 25, 2008, Gardiner submitted a reimbursement request in the amount of \$3,328 for round-trip airline tickets to New Orleans for himself and Dr. Brown, co-founder of the Agora Cyber Charter School and, until June 2008, Gardiner's partner in the Cynwyd Group.²¹¹ There is no record that PACS has any business in New Orleans or that Brown ever reimbursed PACS for the purchase of her plane ticket.

b. Entertainment

On November 17, 2005, Gardiner submitted a reimbursement request to Nobel for Philadelphia Flyers Tickets in the amount of \$6,072.²¹² The note Gardiner wrote accompanying the request was "Flyers tickets that Kevin O'Shea uses to entertain clients."²¹³

c. Meals

Gardiner routinely submitted expense reimbursement requests to Nobel, and later CSC, for meals.²¹⁴ Ballard has highlighted several of these requests below, several of which, based on the amount of reimbursement sought, appear to relate to meals for one person:

Date Requested	Proffered Reason for Reimbursement	Detail	Amount
11/17/05	Business Meals	Credit card statement for Gearos on 8/16/05 in Philadelphia, PA	\$47.84
11/17/05	Business Meals	Credit card statement for Michael's Family Restaurant on 8/18/05 in Philadelphia, PA	\$10.97
11/17/05	Business Meals	Credit card statement for Michael's Family Restaurant on 8/24/05 in Philadelphia, PA	\$18.19
11/17/05	Business Meals	Credit card statement for Bennigans on 8/25/05 in Philadelphia, PA	\$23.22
11/17/05	Business Meals	Credit card statement for Bennigans on 8/30/05 in Philadelphia, PA	\$14.09
11/17/05	Business Meals	Credit card statement for Michael's Family Restaurant on 9/8/05 in Philadelphia, PA	\$12.06
11/17/05	Entertainment, food – Phillies for Department of Education	Credit card statement for Michael's Family Restaurant on 9/21/05 in Philadelphia, PA	\$27.91
11/17/05	Entertainment, food – Phillies for Department of Education	Credit card statement for Michael's Family Restaurant on 9/28/05 in Philadelphia, PA	\$36.01
11/17/05	Entertainment, food – Phillies for Department of Education	Credit card statement for Slacks Hoagie Shack on 9/30/05 in Philadelphia, PA	\$64.49
11/17/05	Entertainment, food – Phillies for Department of Education	Credit card statement for Michael's Family Restaurant on 10/10/05 in Philadelphia, PA	\$18.52
11/21/05	Business Meals	Credit card statement for China Wok on 10/12/05 in Huntingdon Valley, PA	\$61.95
11/21/05	Business Meals	Credit card statement for Michael's Family Restaurant on 10/12/05 in Philadelphia, PA	\$17.45
11/21/05	Business Meals	Credit card statement for Bennigans on 10/21/05 in Philadelphia, PA	\$42.78
11/21/05	Business Meals	Credit card statement for Moonstruck on 10/25/05 in Philadelphia, PA	\$358.77

d. Travel

Gardiner also sought reimbursement for EZ Pass payments in September and November 2005 in the amount of \$105.00 each.²¹⁵

18. O'Shea's Expense Reimbursements²¹⁶

Members of CSC reported that O'Shea would instruct them to pay his expense reimbursements "ASAP," and that O'Shea would send Tara O'Shea to the Elementary School to stand in front of Osborn's desk until she cut his reimbursement checks.²¹⁷ O'Shea's insistence on immediate reimbursement and his practice of sending his daughter to collect his reimbursement checks appears to have been designed to compel PACS' management function to provide reimbursement without scrutiny. Ballard notes, however, that until DeAngelo returned to PACS in March 2008, neither Nobel nor CSC seem to have pushed back on O'Shea's requests. Once DeAngelo arrived at PACS and began to review O'Shea's reimbursement requests, she informed O'Shea that no further reimbursement requests would be approved unless DiLacqua provided authorization.²¹⁸ O'Shea did not submit any further reimbursement requests.²¹⁹

a. Meals

O'Shea submitted numerous reimbursement requests for meals and claimed that some of these expenses were for meetings with PACS coordinators or administrative staff.²²⁰ PACS' coordinators and staff reported going to meals with O'Shea only a fraction of the times he claimed. Simmons recalled going to dinner with O'Shea twice and lunch four or five times²²¹; McGrody recalled attending one lunch with O'Shea and Simmons²²²; Lukas recalled going to lunch once with O'Shea²²³; Siegmann recalled going to lunch with O'Shea and other coordinators on one or two occasions and breakfast once.²²⁴

Some of O'Shea's requests were brazenly false. For example, O'Shea submitted reimbursement request for a dinner at Moonstruck on December 21, 2007 for "Admin & Coordinators Business."²²⁵ Osborn reported to us that, earlier on December 21, 2007, Tara O'Shea told Osborn that she was going to dinner for her sister's birthday that evening. Shortly

after this conversation, Obsorn received O’Shea’s reimbursement request for the dinner at Moonstruck for \$434.31.²²⁶ Similarly, O’Shea submitted nearly \$2,000 in expense reimbursement requests for meals at restaurants on Long Beach Island, New Jersey.²²⁷

A sample of O’Shea’s requests are highlighted below:

Date Requested	Proffered Reason for Reimbursement	Detail	Amount
4/16/07	Business Lunch	Cheese steaks. Receipt does not contain details regarding location, date, time, or number of guests.	\$78.00
4/16/07	Business Lunch	Receipt unreadable	\$46.30
4/25/07	Business Meeting	Boston Market on 3/2/07 at 1:41PM	\$32.20
4/25/07	Staff Lunch	Credit card receipt for Red Robin Neshaminy on 1/24/07 at 12:58PM.	\$32.25
4/25/07	Coordinators Lunch	Joy Tsin Lau at 10 th and Race Streets, Philadelphia, PA on 4/22/07 at 12:08PM for four guests	\$46.76
4/25/07	Meeting at Friendly’s	Friendly’s on 4/13/07 at 8:18PM for two guests	37.68
4/25/07	Coordinator’s meeting	Nifty Fifty’s on 4/16/07 at 11:55AM for two guests	28.94
9/21/07	Business Meeting (Red Robin)	Red Robin Neshaminy at 10:PM (date unreadable)	54.37
9/21/07	Breakfast meeting (IHOP)	IHOP on 9/14/07 at 10:36AM for two guests	18.91
9/21/07	Business Meeting (Tucker’s)	Credit card receipt for Tucker’s on 8/19/07 at 7:33PM	171.64
9/21/07	Business Lunch (Whitman’s Tavern)	Whitman’s Tavern on 9/11/07 at 6:48PM for five guests	\$68.85
9/21/07	Business Meeting (Outback)	Credit card receipt for Outback Steakhouse on 9/5/07 at 7:02PM	\$67.74
9/21/07	Business Meeting (Panzone’s Pizza)	Credit card receipt for Panzone’s Pizza on 8/4/07 at 11:08PM	177.37
9/21/07	Business Meeting (Buckalew’s)	Credit card receipt for Buckalew’s on 8/11/07 at 6:47PM.	\$123.52
9/21/07	Business Meeting (Olive Garden)	Credit card receipt for Olive Garden on 9/4/07 at 5:12PM for four guests	74.28
9/21/07	Business Meeting (Outback)	Outback Steakhouse (details regarding date, time and guests unreadable). Alcoholic beverages were purchased.	\$77.74
9/21/07	Business Lunch (Kitchen Check)	Receipt unreadable	\$23.11
9/21/07	Business Meeting (Tucker’s)	Credit card receipt for Tuckers on 9/15/07 at 6:06PM	\$162.24

Date Requested	Proffered Reason for Reimbursement	Detail	Amount
9/21/07	Business Meeting (Nifty Fifties)	Nifty Fifty's on 7/9/07 at 6:29PM for three guests	\$29.71
9/21/07	Business Meeting (Gearo's)	Receipt does not indicate that this is Gearo's or the date. Meal occurred at 6:18PM and it was attended by 6 guests.	\$189.86
9/21/07	Business Meeting (Outback)	Credit card receipt for Outback Steakhouse on 9/18/07 at 6:52PM in Bensalem, PA.	\$79.61
9/21/07	Business Meeting (Gearo's)	Receipt unreadable	\$52.81
9/21/07	Business Meeting (Philly Crab & Steak)	Receipt unreadable	\$150.00
9/21/07	Business Meeting (Panzone's)	Panzone's on 8/20/07 at 10:23PM	\$49.58
9/21/07	Business Meeting (Don Pablo's)	Credit card receipt for Don Pablo's on 8/24/07 at 8:33PM	\$68.95
9/21/07	Business Meeting (Tucker's)	Credit card receipt; details are unreadable	\$316.32

b. Gift Cards

On March 10, 2007, O'Shea submitted a reimbursement request for a \$400 gift card from Citizens Bank for an "Employee Gift."²²⁸ No PACS employee that Ballard interviewed reported receiving this gift card.

c. Sale of Personal Copier Machines

On May 4, O'Shea submitted a reimbursement requests for the sale of two copying machines that he owned to PACS for \$1,900 and \$2,050, respectively.²²⁹

d. Sam's Club

Between 2006 and 2008, O'Shea submitted numerous reimbursement requests from Sam's Club for various candy that he purchased for the vending machines O'Shea and Gardiner owned and O'Shea maintained at the High School.²³⁰ These requests roughly total \$5,245.61.²³¹ Critically, while PACS paid for the candy and soda O'Shea stocked the vending

machines with, he also collected all revenues from the vending machine and never reimbursed PACS. Some of these reimbursement requests follow:

Date	Proffered Reason for Reimbursement	Details	Amount
3/10/07	Professional development snacks	Sam's Club on 2/12/07. Receipt lists various candies; receipt says "O'Shea Investigations, Inc."	\$507.22
3/10/07	Play snacks	Sam's Club on 2/23/07. Receipt lists various candies; receipt says "O'Shea Investigations, Inc."	\$592.74
3/10/07	Play snacks	Sam's Club on 3/5/07. Receipt lists various candies; receipt says "O'Shea Investigations, Inc."	\$595.66

19. Engraving Machine

The purchase of an engraving machine has been alleged to be further evidence of O'Shea's misuse of PACS funds. Ballard does not believe the allegations relating to the engraving machine have any merit. On February 25, 2007, O'Shea authorized the purchase of computer operated laser engraving machine for \$20,000.²³² According to the High School's carpentry instructor, the engraver will be incorporated into the program's curriculum for the 2008-2009 school year, and it will provide students with an opportunity to learn how to operate sophisticated machinery.²³³ It will be used to create trophies and plaques for PACS events in-house.²³⁴

20. Chandelier

When DiLacqua and O'Shea met on the evening of April 4, O'Shea informed DiLacqua that Gardiner obtained a chandelier that PACS paid for, and for which Gardiner "had forgotten" to reimburse PACS.²³⁵ On April 4, 2007, PACS was invoiced by Colonial Electric for \$175 for an item picked up at Colonial Electric's Cape May, New Jersey location.²³⁶ Upon investigation, Ballard determined that the invoice was for the purchase of a Murray Feiss chandelier.²³⁷

21. Quads

Until April 2008, there were three quads stored at the High School. Only one quad remains at PACS. Members of the faculty and staff reported that they accompanied O'Shea on trips to his home in the Poconos where they rode the quads, and that they believed at least one of the quads belonged to O'Shea.²³⁸ Ballard has not received information that PACS purchased any of these quads; while these records might exist, Ballard has not yet received them.

22. Fuso Dump Truck

On October 18, 2007, the Board authorized O'Shea's request for the purchase of a Mitsubishi Fuso truck.²³⁹ PACS' transportation manager reported that the dump truck was purchased for the purpose of plowing snow at PACS, the Northwood Academy Charter School locations, and Camelot, but the truck has not yet been fitted with a snow plow.²⁴⁰ Thus far, the dump truck, which cost \$44,999, has been used on a couple of occasions to transport mulch.²⁴¹

23. Dress Down Day Money

For the 2007-2008 school year, the High School sponsored Dress Down Days on Fridays whereby students who paid \$2 were permitted to wear street clothes to school. Dress Down Days typically yielded around \$700 per week. In previous years, Dress Down Day monies were donated to a school activity, a club-sponsored event, or a charity.²⁴² At the beginning of the 2007-2008 school year, O'Shea made it clear that the Dress Down Money would not be donated to any activities or charities and that the money needed to go to PACS because it was "poor."²⁴³

Simmons collected the Dress Down Day money and delivered it to O'Shea or Tara O'Shea. Prior to April 8, 2008, PACS has no record that Dress Down Money was ever received by the PACS' accounting personnel.²⁴⁴ Between April 8, 2008 and June 3, 2008, Joscelyne received \$7,593 in Dress Down Day Money.²⁴⁵

24. Toys for Tots

O'Shea permitted one exception to the 2007 policy described above of not permitting Dress Down Day money to benefit a charity. In December 2007, O'Shea permitted the Student Council and National Honor Society to sponsor a Dress Down Day to raise money for PACS' Toys for Tots toy drive. Simmons, the faculty moderator for the National Honor Society, collected approximately \$800 for the Toys for Tots Dress Down Day.²⁴⁶ About half of this \$800 was in larger bills; after the students left for Target to make their purchases, Simmons approached O'Shea to convert the smaller bills into larger bills that could be used more easily when shopping.²⁴⁷ O'Shea took the roughly \$400 from Simmons and told her she would receive no additional money for the students to make Toys for Tots purchases.²⁴⁸ Simmons accordingly met with the students at Target and was embarrassed to inform them that they could make purchases with only half the money they raised.²⁴⁹ Simmons is unaware of what happened to the other \$400 once O'Shea took it from her.

25. Lunch Program

For the past three years, and until O'Shea's departure, the High School cafeteria staff did not count lunch receipts at O'Shea's explicit instruction. As Barbara Frost and Mona Fritz informed us, O'Shea directed them not to count the money they collected during lunch.²⁵⁰ As Ms. Frost recounted, O'Shea told her "it was none of her business."²⁵¹ On one occasion, O'Shea found Ms. Fritz counting the lunch money and "screamed" at her.²⁵² The cafeteria staff accordingly simply collected the lunch money and delivered it directly to O'Shea or Tara O'Shea.²⁵³

According to PACS' records, it received almost double the revenue from the High School's lunch program following O'Shea's suspension.²⁵⁴ Between September 12, 2007 and March 31, 2008, PACS received \$49,784.09, for an average of \$1,715 per week.²⁵⁵ Between

April 17, 2008 and June 3, 2008, Joscelyne received \$23,407 from the High School, for an average of \$3,343 per week.²⁵⁶

26. Vending Machines

It was commonly known that O’Shea and Gardiner owned and profited from the vending machines at the High School.²⁵⁷ Tara O’Shea stocked the vending machines, and either she or O’Shea collected the money from the vending machines.²⁵⁸ According to PACS’ records, PACS did not receive any money from the High School’s vending machines between September 2007 and April 24, 2008.²⁵⁹ Following O’Shea’s suspension, PACS received \$6,376 from the High School’s vending machines.²⁶⁰

27. Sunoco Credit Cards

In addition to PACS’ bus drivers, O’Shea, Gardiner, and a member of PACS’ maintenance staff had PACS-issued credit cards from Sunoco. A review of the purchases authorized by O’Shea or the maintenance staff reveal numerous purchases in New Jersey and northern Pennsylvania near the Poconos.²⁶¹ A sample of these purchases follows:

Date	Location	Amount
08/10/07	244 Route 72 W Manahawkin, NJ	\$34.00
09/03/07	5695 Route 9, New Gretna, NJ	\$65.00
09/09/07	Route 220, N Valley Road, Muncy Valley, PA	\$60.00
09/16/07	244 Route 72 W Manahawkin, NJ	\$53.00
09/21/07	Hanover & Hampton Streets, Pemberton, NJ	\$42.50
10/03/07	244 Route 72 W Manahawkin, NJ	\$68.01
11/04/07	Hanover & Hampton Streets, Pemberton, NJ	\$56.85
11/10/07	Hanover & Hampton Streets, Pemberton, NJ	\$73.00
11/12/07	244 Route 72 W Manahawkin, NJ	\$41.72
12/08/07	32 Blakeslee Blvd., Lehighon, PA	\$36.01
12/26/07	Route 220 & Valley Road, Muncy Valley, PA	\$43.00
12/27/07	Route 1, Box 1012A, Forksville, PA	\$62.25
12/29/07	Route 1, Box 1012A, Forksville, PA	\$56.50
12/29/07	180 & Route 534, White Haven, PA	\$30.00
01/19/08	244 Route 72 W Manahawkin, NJ	\$56.50
02/06/08	180 & Route 534, White Haven, PA	\$51.51
02/07/08	Route 1, Box 1012A, Forksville, PA	\$40.00
02/08/08	Route 1, Box 1012A, Forksville, PA	\$47.01
02/08/08	Route 1, Box 1012A, Forksville, PA	\$47.01

Date	Location	Amount
02/10/08	Route 220 & Valley Road, Muncy Valley, PA	\$24.77
02/10/08	180 & Route 534, White Haven, PA	\$25.50
02/19/08	357 East Federal Street, Burlington, NJ	\$70.40
03/20/08	244 Route 72 W Manahawkin, NJ	\$45.43
03/28/08	180 & Route 534, White Haven, PA	\$55.00
03/30/08	Route 220 & Valley Road, Muncy Valley, PA	\$39.01
03/30/08	180 & Route 534, White Haven, PA	\$37.13

28. Home Depot and Lowe's Credit Cards

O'Shea, Gardiner, and several members of PACS's maintenance staff also had PACS-issued Home Depot and Lowe's credit cards.

Mr. O'Shea authorized numerous purchases on his PACS-issued Home Depot and Lowe's credit cards in New Jersey.²⁶² A sample of O'Shea's purchases on his PACS-issued Home Depot credit card are as follows:

Date of Invoice	Location	Brief Description	Amount
3/28/2007	Cape May Courthouse, NJ	Six pencil pulls, two 12" mud pans, etc	\$344.26
8/10/2007	Stafford Township, NJ	Bookshelves, area rugs, showerhead, shower rings, etc.	\$837.24
1/19/08	Stafford Township, NJ	Space heater (\$298), snowbrush, saucers, etc.	\$527.41

In addition, the PACS maintenance staff reported that, at O'Shea's direction, they used PACS' Home Depot and Lowe's credit cards to procure equipment and supplies used at Northwood Academy Charter School, the A Plus Program at Westmeade facility, Agora Cyber Charter School, and at Gardiner and O'Shea's homes at the New Jersey Shore.²⁶³ With respect to purchases in New Jersey, the PACS maintenance staff reported that the items purchased were intended for and used at O'Shea or Gardiner's shore homes.²⁶⁴ Phil Palan informed us that, if paint was left over once the painting of O'Shea's shore home was completed, he would bring the

unused paint back to PACS.²⁶⁵ A sample of purchases on PACS-issued Home Depot and Lowe's credit cards by the PACS maintenance staff in New Jersey are as follows:

Home Depot

Date of Invoice	Location	Brief Description	Amount
4/12/2007	Cape May Courthouse, NJ	Unknown	\$153.12
4/12/2007	Cape May Courthouse, NJ	48 inch level, etc.	\$64.52
4/17/2007	Cape May Courthouse, NJ	Newel Kit	\$124.48
4/18/2007	Cape May Courthouse, NJ	Eight tray liners, love twist lock, etc.	\$166.24
5/15/2007	Cape May Courthouse, NJ	Dust mask, etc.	\$225.14
10/3/2007	Stafford Township, NJ	Planks and hooks	\$259.93
1/30/2008	Stafford Township, NJ	Two 3" deck screws, etc.	\$104.75
1/30/2008	Stafford Township, NJ	Miscellaneous	\$37.32

Lowe's

Date of Sale	Location	Brief Description	Amount
4/3/2007	Rio Grande, NJ	Retractable 2 pac black, TS heavy duty floor scrap, PVC mail adapter, etc	\$281.75
4/17/2007	Rio Grande, NJ	4 piece quick change counters worm drive HD, etc	\$233.89
5/15/2007	Rio Grande, NJ	Rosin Building Paper	\$8.98
5/16/2007	Rio Grande, NJ	Low voltage mounting plaque switch plate, pleyer and wrench, etc.	\$28.53
5/16/2007	Rio Grande, NJ	Miscellaneous supplies	\$14.78
5/16/2007	Rio Grande, NJ	9" stand Piston Smith, deck maintenance kit, paintbrushes, white semi-gloss, drywall kit, etc.	\$88.41

G. Role of the Board

As noted above, Ballard concludes that much of the abuse and fraud Gardiner and O'Shea committed could have been prevented or reduced if the Board had been more proactive. Ballard also notes, however, that the information the Board had at its disposal was severely limited by the conduct of O'Shea. As described above, O'Shea repeatedly instructed PACS' faculty and staff to not communicate with the Board. In addition, at Gardiner's and O'Shea's suggestion, the Board met only every other month²⁶⁶; from September 2007 to March 2008, the Board met only three times. Further, the School Improvement Committee, which could have been a useful medium for the PACS Board to interact with PACS faculty and staff, was gradually phased out, with Gardiner and O'Shea frequently calling Resta and Feden to state that no meeting was necessary on scheduled evenings.²⁶⁷ In all, while the scope of Gardiner's and O'Shea's misconduct is shocking, and their misconduct was, in retrospect, blatant, O'Shea's attempts to control information available to the Board were persistent, focused, and, unfortunately, successful.

DiLacqua appears to be the sole exception to the practice of keeping the PACS Board in the dark, although she appears to have been unaware of a great deal of Gardiner's and O'Shea's conduct. DiLacqua, by her own account, was more readily available than other Board members, and whether by virtue of that fact or her position as Board President she was central to a number of the decisions that now appear questionable. Ballard reiterates that it has not found any evidence that suggests that DiLacqua benefited financially from any of the conduct described herein.

Ballard also notes that the Board and the school in general were surrounded by well-qualified, well-compensated advisors, and that the Board, and DiLacqua in particular, stated that, on many occasions, they were led to believe that actions undertaken by O'Shea and

Gardiner were appropriate because O'Donnell approved (or was said to have approved) the courses of conduct. Legal services was not the only area in which the PACS Board received and depended upon advice and competence; the PACS Board relied on its bank, its management companies, and its auditors to remain vigilant and defend its interests. Unfortunately, many of PACS' advisors also had relationships with related entities. For instance, O'Donnell appears to have also been counsel to PAS and the CDC. As a result, PACS' advisors were placed in the position of having to balance competing interests, often to PACS' disadvantage.

III. CONCLUSIONS

A. Applicable Standards

In conducting this internal review, Ballard has reviewed Gardiner's and O'Shea's conduct in light of the standards set forth in the Pennsylvania Public Official and Employee Ethics Act (the "Ethics Act") and in PACS' internal policies. The Ethics Act provides:

No public official or public employee shall engage in conduct that constitutes a conflict of interest.

65 Pa. C.S. § 1103(a). Ballard has also been guided by opinions of the Pennsylvania State Ethics Committee, including its Opinion in *In re Eiben*, 04-002 (a copy of which is produced in the Appendix as Exhibit 151.)²⁶⁸

Other standards apply to Ballard's evaluation of the factual record. The PACS employee handbook contains sections regarding conflicts of interest and hiring of family members:

Conflict of Interest: employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of the organization's business dealings.²⁶⁹

Hiring Family Members: The Board of Trustees recognizes that it may employ members of the same family. However, one family member may not directly or indirectly supervise another or process, review, or audit the work of another without written approval from the highest-ranking employee.²⁷⁰

The PACS Board's bylaws contain a number of relevant provisions. For

example:

- **Selection/Composition:** 7 members, the Principal (non-voting); officers - president, VP, treasurer. Members - 2 year terms; unlimited. Officers - 1 year term.
- **Restrictions:** No Board Member shall as a private person engage in **any business transaction with the corporation, be employed in any capacity, or receive any pay for services rendered to the corporation.** No member of the local School Board from the district in which Philadelphia Academy operates the school may be a member of the Board.

Notably, because the principal is a non-voting Board member, Gardiner, at least through 2006, was subject to the Board's restrictions, and because he continued to serve as the grade school's principal until May 14, 2008, likely remained subject to the Board's restrictions until then. Similarly, O'Shea, as PACS' CEO and the principal of the High School, was subject to the Board's restrictions.

Finally, Ballard has applied Pennsylvania common law principals of agency, under which agents have unequivocal fiduciary duties to their principals, and fraud.

B. Specific Findings

1. Gardiner

In light of the conduct described above, Ballard concludes that Gardiner violated his fiduciary duties to PACS. Gardiner appears to have elevated the interests of his outside businesses, including PAS, over those of PACS, and in so doing has jeopardized PACS' ability to fund capital projects and educational programming initiatives. Gardiner's conduct is particularly surprising and disappointing in light of the profound trust PACS' faculty, staff,

parents, and students placed in him as PACS' founder and a leader of the charter school movement.

In particular, Gardiner repeatedly sought reimbursement for expenses not properly attributed to PACS or incurred for the benefit of businesses other than PACS. Gardiner also was central to the formation of businesses that inherently posed and continue to pose conflicts to PACS, such as PAS. Gardiner also freely drew from PACS' resources for his personal benefit and the benefit of his outside business interests. Gardiner accordingly has violated his fiduciary obligations to PACS and the termination of the Gardiner/PACS consulting agreement was warranted by any measure.

2. Kevin O'Shea

Based on the conduct described above, Ballard concludes that O'Shea repeatedly violated his fiduciary obligations to PACS and was properly terminated for cause. O'Shea's fraudulent conduct was pervasive; O'Shea appears to have attempted to benefit personally from almost every facet of PACS' operation. As the unequivocal record shows, there is substantial evidence that O'Shea stole a significant portion of PACS' High School lunch money; regularly kept the Dress Down Day money for himself; kept all proceeds of the vending machines sales, notwithstanding the fact that PACS purchased all candies and sodas with which the vending machines were stocked; and ensured that he and his family members received every possible benefit from his position, including pay raises, payment of cell phone bills, and insurance. O'Shea abused his position in other ways as well, ranging from his brazen use of PACS' maintenance staff to cut his lawn and make repairs to his shore home to his plainly inappropriate treatment of PACS' faculty and staff. There can be no dispute that O'Shea was unqualified to be PACS' CEO and was grossly overcompensated even if he had intended to faithfully serve PACS as its CEO. Instead, he plainly intended to exact unwarranted respect from the PACS

community through intimidation while cheating PACS, its students, and taxpayers of funds the PACS community sorely needed. Even in light of his demonstrable lack of appropriate qualifications, Ballard does not believe that anyone could have predicted that O'Shea would have engaged in the fraudulent behavior described herein.

3. PACS' Board

Ballard has not found any evidence that any member of the PACS Board of Directors benefited personally from any of the conduct described herein. Ballard notes with great concern the possibility that DiLacqua was involved in O'Shea's attempts to destroy records. On the evidence Ballard has reviewed, including DiLacqua's interviews, during which Ballard found DiLacqua to be credible, Ballard cannot conclude that DiLacqua in fact engaged in the destruction of PACS' records.

Together with Gardiner and O'Shea, it is clear that DiLacqua was primarily responsible for the majority of decisions made regarding PACS' operations. While the PACS Board appears to have functioned appropriately in the early years of PACS' existence, it is clear that the Board no longer functioned properly over the last several years. The Board's Personnel Committee did not meet regularly, its Finance Committee met rarely, if ever, and its individual members received discrete areas of responsibility, with DiLacqua controlling all other aspects of the Board's business. As noted below, with respect to Ballard's findings concerning internal controls, the PACS Board failed to communicate properly and failed to act with appropriate vigilance. Had the PACS Board overseen O'Shea and Gardiner more rigorously and with greater scrutiny, and had the PACS Board received more competent legal advice, or advice direct from O'Donnell and not through the filter of Gardiner and O'Shea, at least some of the frauds perpetrated by O'Shea and Gardiner could have been prevented.

4. Connie O'Shea

Ballard concludes that Connie O'Shea's termination from PACS was warranted. As noted above, numerous members of PACS' faculty and staff reported that Connie O'Shea was abusive to those members of the faculty and staff whom she did not favor and also frequently demonstrated preferential treatment of the students. From Ballard's perspective, however, the most critical aspect of Connie O'Shea's misconduct relates to her participation in the destruction of Brian Gardiner's hard drive.

5. Tara O'Shea

Ballard concludes that Tara O'Shea's termination from PACS was warranted. Tara O'Shea served no function that benefited PACS; by her own admission, Tara O'Shea's responsibilities related solely to the collection of money for her father, the stocking of her father's vending machines, and the operation of her father's and Gardiner's outside business activities. Indeed, after her father's suspension on April 17, 2008, Tara O'Shea by all accounts performed no responsibilities on behalf of PACS.

6. PACS' Internal Controls

Ballard finds that PACS' internal controls were inadequate to prevent or detect the frauds committed by O'Shea and Gardiner. PACS' internal controls were rudimentary at best and in operation were demonstrably ineffective. No mechanism existed to ensure that Gardiner's and O'Shea's reimbursement requests were related to PACS' business and were appropriate, and O'Shea and Gardiner were able to circumvent the requirement of Board approval by simply informing PACS' accounting function – whether Nobel or CSC – that payments were approved when, in fact, the Board had not even considered their requests. In addition, O'Shea was able to dominate PACS' internal accounting function by insisting on

immediate approval of his reimbursement requests, including dispatching his daughter, Tara, to stand at the desk of the CSC employee considering the reimbursement request until it was paid.

PACS' Board also did not operate effectively or serve as an effective overseer of the school. According to DiLacqua, there were many occasions on which the outside obligations of other Board members prevented them from participating in decisions that she believed needed to be made immediately. From the perspective of other Board members, in contrast, DiLacqua routinely overstepped her role as Board president by making critical decisions without soliciting input from the other Board members or informing them of her decisions.

These differing views of DiLacqua's role, whether she made decisions that urgently needed to be addressed or overstepped her role as Board President, are best exemplified by DiLacqua's approvals of O'Shea's salary and Gardiner's PACS Consulting Agreement. No member of the Board other than DiLacqua knew of O'Shea's salary when it was first reported in the Philadelphia *Inquirer*. Similarly, no Board member was aware of the terms of the Gardiner PACS consulting agreement or its extension until 2026 until Ballard presented it to the Board during its investigation. The lack of communication that existed among the Board members, as well as the absence of appropriate delegation of responsibilities throughout the Board, helped create an environment in which O'Shea and Gardiner were able to act with the apparent authority of the Board, without the Board's knowledge.

IV. RECOMMENDATIONS

Throughout the course of its investigation, Ballard has made numerous recommendations to the PACS Board designed to prevent any additional frauds from being perpetrated against PACS and to assist PACS in its application for renewal of its charter. Accordingly, many of the recommendations described below have already been enacted.

Ballard's recommendations are as follows:

- The PACS Board should consider the immediate termination of Kevin O'Shea, Connie O'Shea, and Tara O'Shea and the immediate termination of the Gardiner/PACS Consulting Agreement;
- The PACS Board should consider implementing a policy prohibiting any future contracts or relationships with any entity owned by, controlled by, or affiliated with Kevin O'Shea and/or Brian Gardiner, and/or any O'Shea or Gardiner relative;
- The PACS Board should consider adopting and implementing rigorous internal controls and policies designed to ensure the following:
 - that PACS' internal accounting function operates appropriately;
 - that PACS' Board and administration create and maintain an environment in which only the highest ethical conduct is tolerated;
 - that the PACS' Board and administration create an environment in which all members of the PACS community, including staff, faculty, parents, and teachers, are free to voice concerns and objections without fear of reprisal;
 - that PACS' accounting function properly accounts for all revenue and receipts;
 - that the PACS' Board and administration award contracts only to appropriate bidders, and always in the best interest of the PACS community as a whole;
- That the PACS Board consider implementing procedures designed to ensure that all PACS staff, faculty, parents, and students have appropriate and sufficient opportunities to address concerns to the PACS Board;
- That the PACS Board adopt a rigorous conflict of interest policy and unambiguous and strenuous code of ethics;
- That the PACS Board consider whether it has received the full benefit of the consulting and advisory services that it has received since PACS' inception, and particularly since Gardiner's

resignation as PACS' CEO, and consult with its counsel, Latsha Davis Yohe & McKenna, P.C., regarding the legal remedies, if any, it may wish to pursue;

- That the PACS Board consider immediately seeking the return of all assets that the CDC controls and, after consultation with its counsel, Latsha Davis Yohe & McKenna, P.C., consider appropriate remedies against the CDC, PAS, and any other entity controlled by Gardiner and/or O'Shea or in which Gardiner and/or O'Shea has an interest, or that inappropriately received PACS funds or the use of PACS assets;
- The PACS Board should consider immediately severing ties with O'Donnell as PACS' and the PACS' Board's counsel and retain new counsel to replace O'Donnell;
- The PACS Board should consider fully cooperating with the SRC, the School District's Inspector General, and the Department of Justice; and
- The PACS Board should consider pursuing coverage under all applicable policies of insurance for counsel fees and the losses it has incurred.

¹ See April 17, 2007 Board Minutes, produced in Appendix as Exhibit 1.

² See April 21, 2008 Ltr. from Grugan to Levine, produced in the Appendix as Exhibit 2; April 21, 2008 Ltr. from Grugan to Dandridge, produced in the Appendix as Exhibit 3; April 29, 2008 Ltr. from Grugan to Levine, produced in the Appendix as Exhibit 4; April 29, 2008 Ltr. from Grugan to Dandridge, produced in the Appendix as Exhibit 5.

³ Neither O'Shea nor Gardiner produced a single document in response to Ballard's requests. Moreover, members of PACS' High School staff reported to us that O'Shea removed and/or destroyed a significant volume of documents from his office at PACS after he learned of the Philadelphia *Inquirer's* investigation regarding potential conflicts of interest. See Megan Simmons Interview Memorandum ("Simmons Memo") at 7-8; Eileen McGrody Interview Memorandum ("McGrody Memo") at 2; Margaret Lukas Memorandum ("Lukas Memo") at 2, respectively produced in Appendix as Exhibits 6, 7, and 8. Finally, as discussed herein, we received information that O'Shea, along with his daughter Tara and possibly Rosemary DiLacqua, were involved in the copying and possible shredding of documents on April 6. (Simmons Memo at 7-8). DiLacqua denied participation in the shredding of documents and that any shredding occurred in her presence. See Rosemary DiLacqua Interview Memorandum ("DiLacqua Memo") at 7, produced in the Appendix as Exhibit 9.

4 *See infra* at Section II.D.3. *See also* Penn Systems invoices dated April 14, 2008, April
17, 2008, and May 7, 2008, for services performed on April 8, 2008, April 14, 2008, and
April 17, 2008, respectively produced in the Appendix as Exhibits 10, 11, and 12. *See
also* Joyce Podell Interview Memorandum (“Podell Memo”) at 1-2, produced in the
Appendix as Exhibit 13.

5 *See* Martha Woodall Interview Memorandum (“Woodall Memo”) at 1, produced in the
Appendix at Exhibit 14.

6 *Id.*

7 DiLacqua Memo at 7 (Ex. 9).

8 *Id.*

9 *Id.* at 7-8.

10 *Id.* at 8.

11 *Id.*

12 Simmons Memo at 7 (Ex. 6).

13 DiLacqua Memo at 8 (Ex. 9).

14 *Id.*

15 *Id.*

16 *Id.* at 9; Joseph Resta Interview Memorandum (“Resta Memo”) at 6, produced in
Appendix as Exhibit 15.

17 *See id.* *See also* Entity Charts produced in the Appendix as Exhibit 16.

18 *See* DiLacqua Memo at 9 (Ex. 9); Resta Memo at 6 (Ex. 15).

19 Resta Memo at 7 (Ex. 15).

20 *Id.*

21 Simmons Memo at 7-8 (Ex. 6).

22 *Id.* at 8.

23 DiLacqua Memo at 7 (Ex. 9).

24 Simmons Memo at 8 (Ex. 6).

25 McGrody Memo at 2 (Ex. 7).

26 Woodall contacted Gardiner and O’Shea by telephone on April 4, 2008, and contacted Gardiner, O’Shea and DiLacqua by letter (hand delivered to their residences) on April 9, 2008. In both the telephone calls and letters, Woodall advised Gardiner, O’Shea, and DiLacqua regarding the areas that she was investigating for an upcoming article on PACS and invited their responses. Woodall Memo at 1-2 (Ex. 14).

27 *See* March 28, 2008 Email from O’Donnell to Elizabeth Gutman, produced in the Appendix as Exhibit 17.

28 *See* April 14, 2008 letter from Thomas M. Doughty to O’Shea and DiLacqua, produced in the Appendix as Exhibit 18.

29 Ballard requested but did not receive a copy of Gardiner’s personnel file.

30 Ballard requested copies of Gardiner’s and O’Shea’s Statements of Financial Interest (“SFI”), which they were required to file pursuant to 65 Pa. C.S. §1104(a), from 1999-present. Ballard only received O’Shea’s SFI for calendar year 2006 (SEC-1 Rev. 01/07), produced in the Appendix as Exhibit 19.

31 Ballard received these documents both from DeAngelo and counsel for Nobel.

32 A copy of Yvonne DeAngelo’s and Michael Whisman’s Interview Memorandum (“DeAngelo Memo”) is produced in the Appendix as Exhibit 20.

33 The Resta Memo is produced in the Appendix as Exhibit 15.

34 A copy of Basil Merenda’s Interview Memorandum (“Merenda Memo”) is produced in the Appendix as Exhibit 21.

35 A copy of Vicki Vendetti’s Interview Memorandum (“Vendetti Memo”) is produced in the Appendix as Exhibit 22.

36 A copy of Dr. Preston Feden’s Interview Memorandum (“Feden Memo”) is produced in the Appendix as Exhibit 23.

37 A copy of Connie Rodgers’ Interview Memorandum (“Rodgers Memo”) is produced in the Appendix as Exhibit 24.

38 A copy of Larry Sperling’s Interview Memorandum (“Sperling Memo”) is produced in the Appendix as Exhibit 25.

39 A copy of Heide Kester’s Interview Memorandum (“Kester Memo”) is produced in the Appendix as Exhibit 26.

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- 40 A copy of Mona Fritz’s Interview Memorandum (“Fritz Memo”) is produced in the Appendix as Exhibit 27.
- 41 A copy of Barbara Frost’s Interview Memorandum (“Frost Memo”) is produced in the Appendix as Exhibit 28.
- 42 A copy of Arthur Cornish’s Interview Memorandum (“Cornish Memo”) is produced in the Appendix as Exhibit 29.
- 43 A copy of Philip Palan’s Interview Memorandum (“Palan Memo”) is produced in the Appendix as Exhibit 30.
- 44 A copy of Tara O’Shea’s Interview Memorandum (“Tara O’Shea Memo”) is produced in the Appendix as Exhibit 31.
- 45 The Simmons Memo is produced in the Appendix as Exhibit 6.
- 46 A copy of William Neveil’s Interview Memorandum (“Neveil Memo”) is produced in the Appendix as Exhibit 32.
- 47 A copy of Harry Dietz’s Interview Memorandum (“Dietz Memo”) is produced in the Appendix as Exhibit 33.
- 48 The McGrody Memo is produced in the Appendix as Exhibit 7.
- 49 The Lukas Memo is produced in the Appendix as Exhibit 8.
- 50 A copy of Karen Semon’s Interview Memorandum (“Semon Memo”) is produced in the Appendix as Exhibit 34.
- 51 A copy of Mary Joscelyne’s Interview Memorandum (“Joscelyne Memo”) is produced in the Appendix as Exhibit 35.
- 52 A copy of Lisa Osborn’s Interview Memorandum (“Osborn Memo”) is produced in the Appendix as Exhibit 36.
- 53 A copy of Cathy Adams’ Interview Memorandum (“Adams Memo”) is produced in the Appendix as Exhibit 37.
- 54 A copy of Elmer Clawges’ Interview Memorandum (“Clawges Memo”) is produced in the Appendix as Exhibit 38.
- 55 A copy of Anna Marie Siegmann’s Interview Memorandum (“Siegmann Memo”) is produced in the Appendix as Exhibit 39.
- 56 A copy of Christine DeLisi’s Interview Memorandum (“DeLisi Memo”) is produced in the Appendix as Exhibit 40.

57 A copy of Robert Komorowski's Interview Memorandum ("Komorowski Memo") is produced in the Appendix as Exhibit 41.

58 A copy of Timothy Beaver's Interview Memorandum ("Beaver Memo") is produced in the Appendix as Exhibit 42.

59 The Podell Memo is produced in the Appendix as Exhibit 13.

60 A copy of Susan Varra's Interview Memorandum ("Varra Memo") is produced in the Appendix as Exhibit 43.

61 A copy of Justin Palan's Interview Memorandum ("Palan Memo") is produced in the Appendix as Exhibit 44.

62 A copy of Penn Systems' Interview Memorandum ("Penn Systems Memo") is produced in the Appendix as Exhibit 45.

63 A copy of Daniel Reardon's Interview Memorandum ("Reardon Memo") is produced in the Appendix as Exhibit 46.

64 A copy of Michael Shane's Interview Memorandum ("Shane Memo") is produced in the Appendix as Exhibit 47.

65 A copy of Dennis Cogan's Interview Memorandum ("Cogan Memo") is produced in the Appendix as Exhibit 48. Ballard also spoke with Martha Woodall, a Staff Writer for the Philadelphia *Inquirer*. A copy of the Woodall Memo is produced in the Appendix as Exhibit 14.

66 *See* DeAngelo Memo at 2 (Ex. 20).

67 *Id.*

68 *See* April 20, 2004 Board Minutes, produced in the Appendix as Exhibit 49.

69 *See* May 16, 2006 Letter from Gardiner to DiLacqua, produced in the Appendix as Exhibit 50.

70 *See* Chart produced by the Philadelphia *Inquirer*, at <http://www.philly.com/inquirer/gallery/17695554.html>.

71 *See* PACS Payment Record and accompanying Memorandum from Gardiner to Miller, produced in the Appendix as Exhibit 51.

72 *See* Gardiner/PACS Consulting Agreement, produced in the Appendix as Exhibit 52. From June 30, 2006 until September 17, 2007, it appears that PACS did not have an acting CEO.

73 *Id.*

74 *See* Osborn Memo at 2 (Ex. 36).

75 *See* List of Insured Vehicles, produced in the Appendix as Exhibit 53.

76 *See* Gardiner/PACS Consulting Agreement (Ex. 52). Most Board members informed us that they understood from Gardiner that he would be present at the school full time. *See* DiLacqua Memo at 4-5 (Ex. 9); Merenda Memo at 3 (Ex. 21); Resta Memo at 4 (Ex. 15); and Rodgers Memo at 2 (Ex. 24).

77 *See* Gardiner/PACS Consulting Agreement (Ex. 52).

78 *Id.*

79 *See* September 20, 2007 Addendum to Contract, produced in the Appendix as Exhibit 54.

80 O’Shea served as Vice President of the Board from 1999 to 2002. PACS 1999-2000, 2000-2001, and 2001-2002 Annual Reports, produced in the Appendix as Exhibit 55, 56, and 57. *See also* May 30, 2001 Board Minutes, produced in the Appendix as Exhibit 58.

81 *See* Memorandum of Understanding between Kevin M. O’Shea and Franklin Towne Charter School, produced in Appendix as Exhibit 59. Based on the salaries of PACS faculty, O’Shea’s Franklin Towne Salary appears to have been high, particularly in light of his lack of credentials.

82 DiLacqua Memo at 4 (Ex. 9).

83 Adams Memo at 3 (Ex. 37).

84 The PACS Board meeting minutes from September 2002 do not explicitly describe the Board’s consideration on approval of O’Shea’s promotion to CEO. *See* September 17, 2002 Board Meeting Minutes, produced in the Appendix as Exhibit 60.

85 *See* August 1, 2002 New Hire Information Form, produced in the Appendix as Exhibit 61.

86 *See* December 13, 2002 Ltr. from Gardiner and O’Shea to Nobel, produced in the Appendix as Exhibit 62.

87 *See* January 8, 2003 Memo from Gardiner, produced in the Appendix as Exhibit 63.

88 *See* PACS Payment Record with accompanying November 15, 2005 Memorandum from O’Shea to Miller, produced in the Appendix as Exhibit 64.

89 *Id.*

90 *See* June 1, 2007 Memorandum from Board Personnel Committee to O’Shea, produced in the Appendix at Exhibit 65.

91 *Id.*

92 Resta Memo at 2 (Ex. 15); Feden Memo at 2 (Ex. 23). According to Feden, the
Personnel Committee's last meeting was in April 2007. Feden Memo at 2. DiLacqua
was the Personnel Committee's third member.

93 Resta Memo at 5 (Ex. 15); Feden Memo at 3 (Ex. 23); Rodgers Memo at 2 (Ex. 24);
Merenda Memo at 3 (Ex. 21); Vendetti Memo at 2 (Ex. 22).

94 *See* Invoices from PACS to PAS for O'Shea's Payroll Expenses, produced in the
Appendix as Exhibit 66.

95 October 19, 2007 Confidential Memo to O'Shea's Personnel File, produced in the
Appendix as Exhibit 67.

96 DiLacqua Memo at 4 (Ex. 9); Resta Memo at 5 (Ex. 15); Feden Memo at 3 (Ex. 23);
Rodgers Memo at 2 (Ex. 24); Merenda Memo at 3 (Ex. 21); Vendetti Memo at 2 (Ex. 22).

97 All Board members (other than DiLacqua) stated they were unaware of O'Shea's salary
until it was revealed in the Philadelphia *Inquirer*. *See, e.g.*, Resta Memo at 5 (Ex. __). In
addition, and unlike the June 1, 2007 memo, the October 19, 2007 memo is not copied to
any member of the Board. *See* October 19, 2007 Memo (Ex. 67). DiLacqua informed
Ballard that she believed she had the authority to approve O'Shea's October 2007 salary
increase, *see* DiLacqua Memo at 4 (Ex. 9), but the other Board members recalled that
when the topic of O'Shea's compensation was raised at the September 20, 2007, meeting,
they were told that O'Shea was not concerned about compensation and the matter would
be addressed at some later point. *See, e.g.* Resta Memo at 5 (Ex. 15).

98 *See* DiLacqua Memo at 4 (Ex. 9); Resta Memo at 4 (Ex. 15); Feden Memo at 2 (Ex. 23);
Merenda Memo at 2 (Ex. 21); Rodgers Memo at 2 (Ex. 24); Vendetti Memo at 2 (Ex. 22).

99 *See, e.g.*, DiLacqua Memo at 4 (Ex. 9); Feden Memo at 2 (Ex. 23).

100 *See, e.g.*, Resta Memo at 4-5 (Ex. 15); Feden Memo at 3 (Ex. 23); Vendetti Memo at 2
(Ex. 22).

101 *See* September 20, 2007 Board Meeting Minutes, produced in the Appendix as Exhibit
68.

102 *See* Resta Memo at 5 (Ex. 15); Vendetti Memo at 2 (Ex. 22).

103 For example, several witnesses recalled a meeting where O'Shea verbally abused and
humiliated a member of the administrative staff for allegedly smiling while he was
speaking. *See* Dietz Memo at 2; Neveil Memo at 4; Adams Memo at 2; Siegmann Memo
at 2, produced in the Appendix as Exhibits 32, 33, 37, and 39.

O'Shea's inappropriate conduct toward PACS' faculty and staff was not limited to verbal abuse. In February 2008, O'Shea became concerned that PACS administration was leaking information to PACS parents. On February 5, 2008, O'Shea instructed Penn Systems to access the personal email accounts of two PACS administrators for "inappropriate content." As with the destruction of Gardiner's hard drive, Connie O'Shea participated in the attempt to access the administrators' personal email accounts. *See* Penn Systems Invoice dated February 20, 2008 produced in the Appendix as Exhibit 69; Adams Memo at 5-6 (Ex. 37); and Simmons Memo at 5 (Ex. 6).

104 For example, for the 2007-2008 school year, Connie O'Shea's friend, Chrystal Ladd, made nearly \$5,000 more than Christine DeLisi despite the fact that DeLisi has more teaching experience than Ladd and a Master's Degree, while Ladd has a Bachelor's Degree. *See* PACS' 2007-2008 Salary Chart ("Salary Chart"), produced in the Appendix as Exhibit 70; DeLisi Memo at 2 (Ex. 40). In addition, Gardiner's step-daughter Jessica was promoted as lead special education teacher despite her relative inexperience to other special education faculty members (Ms. Gardiner has taught for only two years, as compared to the more than 15 years' experience that other faculty members had). *See* Salary Chart (Ex. 70); Adams Memo at 3-4 (Ex. 37); Kester Memo at 4 (Ex. 26).

105 Adams Memo at 1, 4-6 (Ex. 37); *see also* DeLisi Memo at 4 (Ex. 40).

106 Adams Memo at 5 (Ex. 37).

107 *Id.*

108 *See, e.g.* Simmons Memo at 2 (Ex. 6).

109 Adams Memo at 5 (Ex. 37); Siegmann Memo at 3 (Ex. 39).

110 Adams Memo at 7 (Ex. 37); Siegmann Memo at 3 (Ex. 39).

111 Sperling Memo at 2 (Ex. 25); Simmons Memo at 4 (Ex. 6); Kester Memo at 3 (Ex. 26); Beaver Memo at 3 (Ex. 42); DeLisi Memo at 5 (Ex. 40).

112 Siegmann Memo at 3 (Ex. 39).

113 Simmons Memo at 9 (Ex. 6).

114 Siegmann Memo at 8 (Ex. 39).

115 Semon Memo at 2 (Ex. 34).

116 Adams Memo at 2-3 (Ex. 37); DeLisi Memo at 2-3 (Ex. 40).

117 Adams Memo at 2 (Ex. 37); Siegmann Memo at 2 (Ex. 39).

118 Connie O'Shea earned \$86,867.50; whereas, Adams and Siegmann earned \$82,067.50.
See Salary Chart (Ex. 68).

119 Podell Memo at 1 (Ex. 13).

120 *Id.*

121 *Id.*

122 *See* April 17, 2008 Penn Systems Invoice (Ex. 11).

123 *See* Penn Systems Memo at 2 (Ex. 45).

124 *See* November 11, 2006 New Hire Information Form, produced in the Appendix as
Exhibit 71. O'Shea signed Tara's New Hire Form as her supervisor.

125 *See* Salary Chart (Ex. 70). There was no documentation in Tara's file to support her
salary increase for the 2007-2008 school year.

126 *See* Simmons Memo at 2 (Ex. 6); Shane Memo at 1 (Ex. 47).

127 Simmons Memo at 4 (Ex. 6).

128 *See* Resta Memo at 3 (Ex. 15).

129 In addition to PACS and the CDC, Ballard understands that O'Donnell represents or has
represented Philadelphia Academy Services, Northwood Academy Charter School, and
the School Reform Commission.

130 *See* Philadelphia Academy Charter Development Corporation Articles of Incorporation
and accompanying rider, produced in the Appendix as Exhibit 72.

131 *Id.*

132 *Id.*

133 *See* DiLacqua Memo at 5 (Ex. 9); Resta Memo at 3 (Ex. 15)

134 *Id.*

135 *See id.*

136 *See* Resta Memo at 3 (Ex. 15).

137 *See* Philadelphia Academy Services Articles of Incorporation and accompanying rider,
produced in the Appendix as Exhibit 73.

138 *See* Resta Memo at 3 (Ex. 15).

139 See Philadelphia Academy Services Articles of Incorporation (Ex. 73).

140 *Id.*

141 Cynwyd Group, is a Pennsylvania limited liability company formed on November 14, 2005 by Brien Gardiner and Dorothy Brown. According to its Certificate of Organization, Cynwyd Group is located at 1 Belmont Avenue in Bala Cynwyd, PA. See Certificate of Organization, produced in the Appendix as Exhibit 74.

142 See August 29, 2005 Email from Gardiner to Miller; Payment Details Listings for Gardiner and O'Shea, produced in the Appendix as Exhibit 75.

143 *Id.*

144 See PACS 2005, 2006 and 2007 Auditor Reports, produced in the Appendix as Exhibit 76, 77, and 78.

145 Resta Memo at 3 (Ex. 15); DiLacqua Memo at 5 (Ex. 9).

146 See <http://www.corporations.state.pa.us/corp/>.

147 See 2005 PACS Auditor Report (Ex. 76).

148 *See id.*

149 See 2006 PACS Auditor Report (Ex. 77).

150 See 2007 PACS Auditor Report (Ex. 78).

151 *Id.*

152 See Charter School Choice Articles of Incorporation, produced in the Appendix as Exhibit 79.

153 See 2005, 2006, and 2007 PACS Auditor Reports (Exs. 76, 77, and 78.)

154 See 2007 PACS Auditor Report (Ex. 78).

155 See CDC Account Statement, produced in the Appendix as Exhibit 80.

156 See CDC Balance Sheet produced in the Appendix as Exhibit 81.

157 See Email exchange between Jamie O'Shea, Nobel, and OmniVest, produced in the Appendix as Exhibit 82.

158 *Id.*

159 See August 13, 2007 Wire Transfer Authorization, produced in the Appendix as Exhibit 83.

160 A copy of the CDC's Bylaws are produced in the Appendix as Exhibit 84.

161 See Property Deeds Search for Philadelphia Academy Services, produced in the Appendix as Exhibit 85.

162 See Purchase and Sale Agreement for 1330 Rhawn Street amendments to Purchase and Sale Agreement, produced in the Appendix at Exhibit 86. See also CDC Purchase Record reflecting \$100,000 payment to LandServices USA, Inc., produced in the Appendix as Exhibit 87. See also February 27, 2007 Email from Jamie O'Shea to Miller re: \$100,000 check to LandServices USA, produced in the Appendix as Exhibit 88.

163 See CDC Account Statement (Ex. 79). See also April 15, 2008 email exchange between Land Services USA and DeAngelo, produced in the Appendix as Exhibit 89.

164 See Proposal for Vocational Op-N in Alternative Education, produced in the Appendix as Exhibit 90. See also July 20, 2006 Ltr. from Stradley Ronon, as counsel to the CDC, to OmniVest Properties, produced in the Appendix as Exhibit 91. This letter appears to reflect that OmniVest would be the ultimate buyer of the Rhawn Street property, but Ballard has not uncovered any other correspondence or documentation to confirm this. In addition, Ballard produces in the Appendix the "JEVS" file Gardiner maintained in his PACS office, produced in the Appendix as Exhibit 92.

165 See CDC Balance Sheet (Ex. 80).

166 See PACS Payment Record and accompanying Pennoni Bill, produced in the Appendix as Exhibit 93; October 31, 2007 email exchange between Whisman and Osborn regarding statement from Pennoni Associates, produced in the Appendix as Exhibit 94.

167 See PACS Payment Record, produced in the Appendix as Exhibit 95; see also Email Exchange between Whisman and Osborn, produced in the Appendix as Exhibit 96; August 14, 2007 Invoice from Urban Engineers, produced in the Appendix as Exhibit 97.

168 Paul Vallas, former CEO for the School District of Philadelphia, is currently the superintendent of the Recovery School District in New Orleans.

169 See PACS Payment Record, produced in the Appendix as Exhibit 98; January 10, 2008. Invoice from Cathers & Associates, Inc. (reflecting "KOS authorization"), produced in the Appendix as Exhibit 99.

170 See February 29, 2008 Invoice from City Wide Roofing, produced in the Appendix as Exhibit 100.

171 See Cynwyd Group's Certificate of Organization (Ex. 74).

172 See PACS Payment Record, produced in the Appendix as Exhibit 101; February 29, 2008 Invoice from City Wide Roofing (reflecting “KOS” authorization) (Ex. 100).

173 See October 22, 2007 Payment Record and accompanying City Wide Invoice, produced in Appendix as Exhibit 102.

174 *Id.*

175 See Cogan Memo at 1 (Ex. 48).

176 See The Cynwyd Group, LLC check, produced in the Appendix as Exhibit 103.

177 See January 3, 2008 quote from Family Contractors, Inc., produced in the Appendix as Exhibit 104. See also Cathers & Associates Drawings, produced in the Appendix as Exhibit 105.

178 *See id.*

179 *See id.*

180 See DiLacqua Memo at 6 (Ex. 9); Sperling Memo at 4 (Ex. 25); Simmons Memo at 11 (Ex. 6).

181 See PACS Payment Records, produced in the Appendix as Exhibits 106, 107, 108, and 109. See also April 10, 2008 Family Contractors Final Payment Invoice, produced in the Appendix as Exhibit 110.

182 See March 22, 2008 invoice from Advanced Office Furniture, produced in the Appendix as Exhibit 111. See also March 18, 2008 fax sheet from “O’Shea” (erroneously dated 3/18/2007), produced in the Appendix as Exhibit 112.

183 See December 17, 2007 PAS Commerce Bank Check, produced in the Appendix as Exhibit 113. See DeAngelo Memo at 5.

184 See September 13, 2007 Invoice from Stradley Ronon for \$10,294.54, produced in the Appendix as Exhibit 114; September 13, 2007 Invoice from Stradley Ronon for \$1,040.00, produced in the Appendix as Exhibit 115; September 13, 2007 Invoice from Stradley Ronon for \$937.45, produced in the Appendix as Exhibit 116. Several of these bills contain handwritten notes from Yvonne DeAngelo that PAS should be billed for these amounts. To date, Ballard has not seen evidence that PAS reimbursed PACS.

185 See PACS Payment Records, produced in the Appendix as Exhibits 114, 115, and 116.

186 See PACS Payment Record, and accompanying invoice from Massachusetts Mutual Life Insurance Company, produced in the Appendix as Exhibit 117.

187 See Gardiner CSC Consulting Agreement, produced in the Appendix as Exhibit 118.

188 See 2006 Gardiner CSC Form 1099, produced in the Appendix as Exhibit 119. Under the Gardiner CSC Consulting Agreement, Gardiner received \$4,450 per month as compensation. Because Gardiner received more than twelve times this monthly amount, it appears that Gardiner received some additional compensation from CSC outside of that required under the Consulting Agreement.

189 See 2007 Gardiner CSC Form 1099, produced in the Appendix as Exhibit 120.

190 See Resta Memo at 6 (Ex. 15); DiLacqua Memo at 6 (Ex. 9).

191 See Palan Memo at 1-2 (Ex. 30); Neveil Memo at 4-5 (Ex. 32).

192 See Siegmann Memo at 4-5 (Ex. 39); Neveil Memo at 4-5 (Ex. 32).

193 See Simmons Memo at 4 (Ex. 6).

194 See May 7, 2008 Ltr. from Levine to Grugan; May 13, 2008 Ltr. from Dandridge to Grugan, produced in the Appendix as Exhibits 121 and 122.

195 Tara O'Shea Memo at 3 (Ex. 31).

196 See Invoice from LOR-MAR Mechanical Services, Inc. to Philadelphia Academy Charter High School dated July 23, 2006; Work Order from LOR MAR to O'Shea dated May 11, 2006, produced in the Appendix as Exhibit 123.

197 See May 10, 2008 Squitieri Memo, produced in the Appendix as Exhibit 124. See also Cynwyd Group Certificate of Organization (Exhibit 74).

198 See Neveil Memo at 3-4 (Ex. 32); Osborn Memo at 2 (Ex. 36 and accompanying PACS Phone List (Ex. 36A)

199 See Neveil Memo at 3-4 (Ex. 32); PACS Phone List (Ex. 36A)

200 Osborn Memo at 2 (Ex. 36) and PACS Phone List (Ex. 36A).

201 See DeAngelo Memo at 5 (Ex. 20).

202 See Neveil Memo at 2 (Ex. 32).

203 See Spreadsheet of Northwood Academy Charter School Field Trips, produced in the Appendix as Exhibit 125.

204 See June 26, 2007 Memo from O'Shea to Miller and PACS Payment Record, produced in Appendix as Exhibit 126.

205 *Id.*

206 See June 14, 2007 Board Minutes, produced in the Appendix at Exhibit 127.

207 See Kelley Blue Book Record, produced in the Appendix at Exhibit 128.

208 See Gardiner's Expense Reimbursement Requests and PACS Payments Records from 2005 through 2008 produced in the Appendix as Exhibit 129. Ballard created spreadsheets of Gardiner's expense reimbursement requests from 2005 through 2008, produced in the Appendix as Exhibits 130. See Memo from Ballard to PACS File for an overview of Ballard's review of Gardiner's expense reimbursement requests, produced in the Appendix as Exhibit 131.

209 See Joscelyne Memo at 3 (Ex. 35); Siegmann Memo at 7 (Ex. 39). Ms. Siegmann used Gardiner's credit card to purchase airline tickets to an After School Program conference in Florida for herself and her husband. Siegmann Memo at 7. Ms. Siegmann provided Gardiner with reimbursement check for the cost of her husband's airline ticket the very next day. *Id.*; Siegmann Payment Record for \$232, produced in Appendix as Exhibit 132. Upon investigation, we determined that Gardiner was also reimbursed by PACS for both Ms. Siegmann's and her husband's airline tickets. See Gardiner's Expense Reimbursement Requests and PACS Payment Records (Ex. 129).

210 See Gardiner's Expense Reimbursement Requests and PACS Payment Records (Ex. 129).

211 Gardiner's proffered reason for the reimbursement was "New Orleans Support." See Gardiner's Expense Reimbursement Requests and PACS Payment Records (Ex. 129).

212 *Id.*

213 *Id.*

214 *Id.*

215 *Id.*

216 See O'Shea's Expense Reimbursement Requests and PACS Payments Records from 2005 through 2008, produced in the Appendix as Exhibit 133. Ballard created spreadsheets of O'Shea's expense reimbursement requests from 2005 through 2008, produced in the Appendix as Exhibits 134. See Memo from Ballard to PACS File for an overview of Ballard's review of O'Shea's expense reimbursement requests, produced in the Appendix as Exhibit 135.

217 See DeAngelo Memo at 3 (Ex. 20); Osborn Memo at 1 (Ex. 36).

218 See Osborn Memo at 2 (Ex. 36).

219 *Id.*

220 The coordinators and the administrative staff reported that they rarely had meals with O'Shea. See Siegmann Memo at 6 (Ex. 39), Simmons Memo at 8-9 (Ex. 6); McGrody

Memo at 2 (Ex. 7); Lukas Memo at 2 (Ex. 8). None of the coordinators or administrative staff recalled staff meetings at restaurants. Siegmann Memo at 6; Simmons Memo at 8.

221 Simmons Memo at 8 (Ex. 6).

222 McGrody Memo at 2 (Ex. 7).

223 Lukas Memo at 2 (Ex. 8).

224 Siegmann Memo at 6 (Ex. 39).

225 *See* O'Shea's Expense Reimbursement Requests and PACS Payments Records (Ex. 133);
Spreadsheets of O'Shea's Expense Reimbursement Requests (Ex. 134).

226 *Id.*

227 *Id.* *See also* Long Beach Island, New Jersey Dining Guide, produced in the Appendix as
Exhibit 136.

228 *See* O'Shea's Expense Reimbursement Requests and PACS Payments Records (Ex. 133);
Spreadsheets of O'Shea's Expense Reimbursement Requests (Ex. 134). None of the
PACS faculty or staff whom we interviewed recalled receiving a \$400 gift card from
O'Shea.

229 *Id.*

230 *See* O'Shea's Expense Reimbursement Requests and PACS Payments Records (Ex. 133);
Spreadsheets of O'Shea's Expense Reimbursement Requests (Ex. 134).

231 *Id.*

232 *See* PACS Payment Record, and accompanying invoice from Light Age Art, produced in
the Appendix as Exhibit 137.

233 Dietz Memo at 3 (Ex. 33).

234 *Id.*

235 DiLacqua Memo at 10 (Ex. 9).

236 *See* April 4, 2007 Invoice from Colonial Electric, produced in the Appendix as Exhibit
138.

237 *See* Murray Feiss Model No. F2034/3BS, produced in the Appendix as Exhibit 139.

238 Palan Memo at 2, 4 (Ex. 30); Neveil Memo at 3 (Ex. 32); Dietz Memo at 4 (Ex. 33).

239 *See* October 18, 2007 Board Minutes, produced in the Appendix as Exhibit 140.

240 Neveil Memo at 3 (Ex. 32).

241 *See* Fuso Purchase Agreement and PACS Payment Record, produced in the Appendix as Exhibit 141. *See also* Palan Memo at 3 (Ex. 30); Neveil Memo at 3 (Ex. 32).

242 Simmons Memo at 3 (Ex. 6).

243 Simmons Memo at 3 (Ex. 6); Kester Memo at 2 (Ex. 26).

244 *See* Joscelyne Memo at 2 (Ex. 35). Based on the log book provided by Ms. Joscelyne (Ex. 35A), Ballard Spahr created spreadsheets of the Lunch, Vending Machine, and Dress Down Day monies Joscelyne received from the High School between September 2007 and June 3, 2008. *See* Lunch Money, Vending Machine Money, and Dress Down Day Money Spreadsheets, produced in the Appendix at Exhibits 142, 143, and 144.

245 Dress Down Day Money Spreadsheet (Ex. 144).

246 Kester Memo at 3 (Ex. 26).

247 Simmons Memo at 3-4 (Ex. 6).

248 *Id.*

249 *Id.*

250 *See* Fritz Memo at 2 (Ex. 27); Frost Memo at 1 (Ex. 28).

251 Frost Memo at 2 (Ex. 28).

252 Fritz Memo at 2 (Ex. 27).

253 *Id.*

254 *See* Lunch Money Spreadsheet (Ex. 142).

255 *Id.*

256 *Id.* PACS received more lunch money from the High School between April 17, 2008 and June 3, 2008 than it did between September, 2007 and November, 2007 (\$21,942) and between January, 2008 and March, 2008 (\$21,728).

257 Simmons Memo at 4 (Ex. 6); Kester Memo at 3 (Ex. 26).

258 *Id.*

259 *See* Vending Machine Money Spreadsheet (Ex. 143).

260 *Id.*

261 See DeAngelo Memo at 5 (Ex. 20); Sunoco Credit Card Statements; and Sunoco
Spreadsheet produced in the Appendix at Exhibits 145 and 146.

262 See Home Depot Credit Card Statements; Spreadsheet of Questionable Home Depot
Credit Card Purchases (“Home Depot Spreadsheets”), produced in the Appendix as
Exhibits 147 and 148; Lowe’s Credit Card Statements; Spreadsheet of Questionable
Lowe’s Credit Card Purchases (“Lowe’s Spreadsheets”), produced in the Appendix as
Exhibits 149 and 150.

263 See Palan Memo at 2-3 (Ex. 30); Reardon Memo at 2 (Ex. 46).

264 See Palan Memo at 3 (Ex. 30).

265 *Id.*

266 Vendetti Memo at 2 (Ex. 22); Feden Memo at 2 (Ex. 23); Rodgers Memo at 2 (Ex. 24).

267 Resta Memo at 2 (Ex. 15); Feden Memo at 2 (Ex. 23).

268 See *In re Eiben*, 04-002, produced in the Appendix as Exhibit 151

269 See PACS Employee Handbook at 7, produced in the Appendix as Exhibit 152.

270 *Id.* at 10.