This report is subject to disclosure under the South Carolina Freedom of Information Act, Chapter 4, Title 30 of the South Carolina Code of Laws. If a copy of the report is requested pursuant to the Freedom of Information Act, any information contained in the report that would be subject to Section 12-54-240 of the Code will be redacted prior to releasing the report.

Audit of Palmetto Kids First Scholarship Program, Inc.

I. INTRODUCTION

The South Carolina General Assembly passed Proviso 1.85 within H. 3710 for fiscal year 2013-2014 and Proviso 1.80 within H. 4701 for fiscal year 2014-2015, establishing Educational Tax Credits for Exceptional Needs Children and providing for tax-exempt charitable entities known as Scholarship Funding Organizations ("SFOs") to raise money and distribute scholarships to children with "exceptional needs." The South Carolina General Assembly has continued the Educational Credits for Exceptional Needs Children program for fiscal year 2015-2016, by enacting "within H. 4230 (R.130) of the state budget a provision that further refines the Educational Credit for Exceptional Needs Children (ECENC)."[1]

The South Carolina Department of Revenue (the "Department") initiated a review of one SFO, Palmetto Kids First Scholarship Program, Inc. ("PKF"), on October 8, 2014 due to reported improprieties in PKF's operations, as well as issues involving Jeff Davis, who filed for bankruptcy in 2011, and who is closely associated with PKF.

A public records search into Mr. Davis revealed multiple concerns including bankruptcy, interim suspension and eventual revocation of a professional designation, litigation involving embezzlement, use of client funds for personal and business expenses, forgery, as well as pleading the 5th Amendment against self-incrimination during deposition testimony in a lawsuit. *See* Exhibits (G), (H), and (J).[2] Given that PKF solicits charitable donations from the public and operates a charitable organization exempt from federal and state taxation under the tax laws, the Department initiated a review of the SFO to ensure the integrity and viability of the Educational Credits for Exceptional Needs Children program, and to protect the taxpayer and the public from possible impermissible actions by PKF.

PKF incorporated under the South Carolina Nonprofit Corporation Act on June 20, 2013. The Internal Revenue Service ("IRS") granted PKF nonprofit status on November 20, 2013, making PKF a 501(c) (3) organization (the IRS retroactively granted PKF 501(c)(3) status since June 20, 2013). The South Carolina Secretary of State Office recognized PKF as a charity under the South Carolina Solicitation of Charitable Funds Act on January 10, 2014.

---

[1] http://www.eoc.sc.gov/educredit4exceptionalneeds/Pages/default.aspx

[2] Exhibit (J) is an order issued in an adversary proceeding by the United States Bankruptcy Court for the District of South Carolina. *Taylor v. Davis*, 494 B.R. 842 (2013). The Fourth Circuit subsequently affirmed in a unanimous opinion. *Taylor v. Davis*, 607 Fed. Appx. 298 (2015).

Olga Lisinska is the Registered Agent and Director of Operations for PKF.[3] She is the wife of Mr. Davis, who also organized a similar nonprofit in Atlanta, Georgia and is actively involved in PKF's affairs.

PKF lists Jaroslaw Jasinski as its President on the entity's 2013 federal 990 tax return for nonprofit organizations (Exhibit Q). IRS Form 990s are publically available. David Owens is the Vice President, and Shawn Lifrage is the Secretary and Treasurer. These same individuals comprise the Governing Board of Directors for PKF.

Shawn Lifrage resides in Florida. David Owens currently lives in France. Jaroslaw Jasinski resides in Poland. The Director of Operations, Mrs. Lisinska, the Director of Operations, currently resides in South Carolina.

All known documents show that PKF specifies its office as 1985 Riviera Dr. 103 – 126, Mount Pleasant, South Carolina 29464. The address houses a PostNet franchise, a "neighborhood business center that offers business services,"[4] including secure mailbox and shipping services. PKF has no known established physical office.

Mrs. Lisinska is also the Registered Agent and sole Manager of Scholarship Services, LLC. Scholarship Services, LLC is a domestic South Carolina limited liability company registered with the South Carolina Secretary of State effective January 31, 2014. The company's office address is listed as: 1985 Riviera Dr. 103 – 126, Mount Pleasant, South Carolina 29464, the same address as listed for PKF. PKF contracted with Scholarship Services, LLC, and Mrs. Lisinska to manage its operations, effective as of February 1, 2014.

Pursuant to Section 9 of H. 4230, PKF applied to the Department for certification as an eligible organization for the 2015-2016 fiscal year.[5] The Department approved PKF on July 1, 2015.[6]

The Department examined PKF's practices from January 1, 2014 through December 31, 2014 (Audit Period), under applicable South Carolina and federal law, including but not limited to, Provisos 1.85 of H. 3710 and 1.80 of H. 4701, H. 4230, IRC 501(c)(3), the South Carolina Nonprofit Corporation Act, the South Carolina Solicitation of Charitable Funds Act, and the South Carolina Forgery, Larceny, Embezzlement, False Pretenses, and Cheats Act.

The structure of the report follows:

- Department's Duty and Authority Under Section 9 of H.4230 (Section II)
- Summary of the Department's Findings (Section III)

---

[3] https://palmettokidsfirst.org/about-us/board-staff/ (accessed 5/29/15).

[4] https://postnetfranchise.com/research-postnet/what-is-postnet/

[5] Section 9 of H.4230(H)(1). Previous Provisos did not require this administrative step.

[6] However, "[b]y receiving the application materials and approving the organization as an eligible organization pursuant to item [H](1), the Department is not determining that the organization meets all of the requirements of a qualified nonprofit scholarship funding organization, and the organization remains subject to examination as provided for pursuant to subsection (I)." §9 H. 4230(H)(2).

- Detailed Findings (Section IV)
- Department's Conclusion (Section V)
- Table of Contents for Exhibits A-R (p.16)

II. DEPARTMENT'S DUTY AND AUTHORITY UNDER H. 4230

Section 9 of H. 4230 (Exhibit P) provides that the Department has the authority to oversee, audit and examine the nonprofit scholarship funding organizations, including determining whether the nonprofit scholarship funding organization operates consistent with requirements for a tax-exempt organization.[7] Section 9 of H. 4230 further provides that:

> "if at any time during the year, the Department has evidence, through audit or otherwise, that a nonprofit scholarship funding organization is not being operated in a manner consistent with the requirements for operating an IRC 501(c)(3) organization or is not in compliance with any other provision of this proviso, the Department immediately may revoke the organization's participation in the program."

H. 4230 §9(I)(2)(a).

III. SUMMARY OF FINDINGS

Based on its review during the Audit Period, the Department has identified twenty (20) findings as violations or potential violations of Provisos 1.85 and 1.80, or the laws governing tax-exempt charitable organizations. Some of the violations occur under multiple bodies of law, which the summary below reflects. The twenty (20) findings are grouped into eight (8) broad categories as outlined below. Details of each violation are provided in Section IV.

A) PKF engages in quid pro quo arrangements with donors in violation of the Provisos. A number of PKF's donors have children who receive scholarships.

- 1 Violation, Section IV, pages 4-6

B) PKF fails to provide appropriate contemporaneous substantiation (as required by federal tax law) to donors whose children receive scholarships.

- 1 Violation, Section IV, page 6-7

C) Mr. Davis' involvement with PKF violated the express prohibition of Proviso 1.80, which bars the participation of anyone who filed for bankruptcy within the past seven (7) years.

- 1 Violation, Section IV, pages 7-8

---

[7] *H. 4230* §9(I)(1).

D) PKF's contractual relationship with Scholarship Services, LLC violates tax-exempt laws.

- 1 Violation, Section IV, pages 8-10

E) PKF's Board of Directors and officers failed to follow state laws governing its oversight and approval of PKF's actions and activities.

- 4 Violations, Section IV, page 10-11

F) PKF inaccurately completed IRS Form 990.

- 7 Violations, Section IV, pages 11-13

G) PKF and Scholarship Services, LLC, the entity purportedly soliciting donations from the public, failed to comply with the South Carolina Solicitation of Charitable Funds Act by not disclosing the relationship between the two organizations, as well as other information, to the South Carolina Secretary of State.

- 4 Violations, Section IV, pages 13-14

H) Despite specific instructions from the Department to cease the activity, PKF altered the Department's Form TC-57A and its instructions by superimposing its logo onto the form to give the appearance that the form was specific to PKF.

- 1 Violation, Section IV, page 14-15

IV. DETAILS OF FINDINGS

A. Quid Pro Quo Violations

1. Subsection B of the Provisos states that a person may receive a tax credit against income taxes for a contribution to a nonprofit scholarship funding organization, as long as the person does not designate a specific child or school as the beneficiary of the contribution. *Proviso 1.80*(B)(1)-(2); and *Proviso* 1.85(B)(1)-(2).[8]

The Department determined that PKF marketed the Educational Credits for Exceptional Needs Children program to tax professionals, as well as parents at certain private schools during an interview with Mrs. Lisinska on October 23, 2014. Additionally, in an interview with The State newspaper, Mr. Davis actually admitted that there is some connection between "donations and who gets scholarships…out of fairness to the schools [that generate the most parent participation in the program for PKF]" (Exhibit B).

An e-mail excerpt from a partnering school further confirmed the interaction between school officials and PKF. PKF asked schools to share mailing lists that included "Parent List, Alumni

[8]H.4701, Part 1B, §1, 1.80 and H.3710, Part 1B, §1, 1.85.

List, Board List, School Donor List, etc." It further states that, "We are building our own lists from parent applicants and the 'manual' route, but your help would greatly speed the process especially in light of the 'competition.'"[9]

The Department did not interview any of the parents who attended the above meetings held by PKF. However, an article in The State newspaper, published May 10, 2014 (Exhibit B), quoted a leader of one of the private schools who believed PKF insinuated quid pro quo arrangements to entice parents to donate.

Regarding parental donations, PKF is the only SFO that did not agree to sign the Access Opportunity of South Carolina Best Practices Pledge (Exhibit D). While there were several versions within the last two years, the most current Pledge has the following language:

> NO PARENTAL DONATIONS
>
> The SFO pledges to neither accept donations from the parents or guardians of applicant or awardee students, nor award grants to the children or dependents of donors, within the same financial, academic and/or tax year.

The Department learned that other SFOs refund all donations received from parents of scholarship recipients. Additionally, if another SFO received an application from a parent who also donated, that SFO would then forward that application to another SFO per an agreement. Consequently, the Department understands that the other SFOs would not have any quid pro quo arrangement among donors because of operational procedures and the best practices pledge.

The other SFOs have clear and distinct separation of duties. Each of the other SFOs has a committee that strictly solicits donations, and a separate scholarship committee to award the scholarships. Separate duties for members of separate committees clear those members of any conflict of interest in the scholarship process - and coordination between committees prevents unintended quid pro quo arrangements.

PKF fails to follow such procedures. Mrs. Lisinska receives the donations to PKF as Manager of Scholarship Services, LLC (Exhibit K). Mrs. Lisinska also asks PKF's Board to approve all of the scholarships in her capacity as the Director of Operations for PKF.

The Department ultimately determined that 100% of the children whose parents donated to PKF received scholarships, whereas the Department has some evidence that children with parents who did not donate to PKF did not receive scholarships. The child or children of 8.2% of PKF's total number of donors for part of fiscal year 2013-2014 received a grant valued at either $10,000, or the total cost of tuition (which includes tuition, transportation, or textbook expenses). *Proviso* 1.85(7)(b) and (C); *see* also *Proviso* 1.80(7)(b) and (C). The same is true of 14.41% of PKF's total number of donors for part of fiscal year 2014-2015. *Id.* The date range of January to June 2014 does not encompass the entire fiscal year of 2013-2014, nor does the date range of July to December 2014 encompass the entire fiscal year of 2014-2015. It is likely the Department would find more quid pro quo arrangements out of the total number of donors if the audit period encompassed the entirety of those fiscal years.

---

[9]E-mail between PKF and Einstein Academy dated February 28, 2014, provided by Einstein Academy (Exhibit R).

PKF's marketing strategy targets parents of private school students and knowingly accepts donations from parents of scholarship applicants. The marketing strategy, coupled with the grant of scholarships to the children of parents who donated to PKF, is evidence of quid pro quo arrangements. Quid pro quo arrangements violate the express prohibition of the Provisos by designating the donor's child and that child's school as the beneficiary of the contribution. Each designation violates the Provisos and bars a person or persons from claiming a tax credit based on their donations. *Proviso* 1.80(B)(1)-(2); and *Proviso* 1.85(B)(1)-(2). The same prohibitions continue under Section 9 of H.4230.[10]

Finally, the ECENC is subject to a cap on the amount of funds available for the tax credit. If individuals claim tax credits that they are not entitled to receive, the action potentially causes an eligible and qualified taxpayer to lose the tax benefit intended by the General Assembly.

Quid pro quo arrangements implicate PKF's status as an SFO.

B. Substantiation of Donations

As discussed in subsection A above, PKF engaged in quid pro quo arrangements in violation of the Provisos. One hundred percent (100%) of the qualifying children whose parents donated to PKF received scholarships. The child or children of 8.2% of PKF's total number of donors for part of fiscal year 2013-2014 received a grant valued at either $10,000, or the total cost of tuition (which includes tuition, transportation, or textbook expenses). *Proviso* 1.85(7)(b) and (C); see also *Proviso* 1.80(7)(b) and (C). The same is true of 14.41% of PKF's total number of donors for part of fiscal year 2014-2015. *Section 9* of H. 4230(B)(2) and (C).

Federal law imposes disclosure requirement on charitable organizations that receive quid pro quo contributions in excess of seventy-five dollars. The organization must provide a written statement that: 1) informs the donor that the amount of the contribution for federal income tax purposes is reduced by the amount of goods or services given by the organization, and 2) provides the donor with a good faith estimate of the value of such goods or services.[11] A quid pro quo contribution "means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the done organization."[12]

The Department received no evidence that PKF provided a disclosure document to the donors whose children received scholarships.

> "If an organization fails to meet the disclosure requirements of section 6115 with respect to quid pro quo contributions, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that that total penalty imposed...with respect to

---

[10] H.4230§9(B)(1)(b).

[11] 26 *U.S.C.* §6115(a)(1)-(2).

[12] 26 *U.S.C.* §6115(b).

a particular fundraising event or mailing shall not exceed $5,000.00."[13]

Operating a scholarship funding organization in a manner consistent with the operating requirements of an IRC Section 501(C)(3) organization is a requirement of Section 9 of H.4230, the ECENC for the 2015-2016 fiscal year.

Failing to comply with the substantiation requirements, as outlined herein, violates an operating requirement for a 501(C)(3) organization, and consequently implicates PKF's status under Section 9 of H.4230.

C. *Actions by Prohibited Persons*

1. For fiscal year 2013-2014, a "Nonprofit Scholarship funding organization" means a charitable organization that does not have as a member of its governing board a person who declared bankruptcy in the past seven years. *Proviso* 1.85(7)(f).

For fiscal year 2014-2015, a "Nonprofit Scholarship Funding Organization" means a charitable organization that does not have a member of its governing board or an employee, volunteer, contractor, consultant, or fundraiser who declared bankruptcy within the last seven years. *Proviso* 1.80(7)(f).[14]

Mr. Davis declared bankruptcy on December 5, 2011 (Exhibit J, p. 2). A review of e-mails and newspaper articles indicates that, notwithstanding his bankruptcy, Mr. Davis occupied many of the prohibited roles with PKF.

While Mr. Davis did not serve on PKF's Board of Directors, he did maintain an active role with PKF as both a "volunteer" and an "advisory board member" (Exhibit C). He also maintained a role in reaching out to parents and schools to solicit donations (Exhibit B). Evidence suggestions Mr. Davis continued to occupy these positions into fiscal year 2014-2015.

During meetings between PKF and the Department in Columbia, Mr. Davis answered the majority of the questions regarding the organization, despite the presence of the Director of Operations, Mrs. Lisinska. Mr. Davis answered the majority of the questions about PKF and its practices, also in the presence of the organization's legal counsel, attorneys from the McNair Law Firm. These attorneys did not seek to clarify that Mr. Davis was unaffiliated with PKF.

Additionally, the Department discovered a photo of Mr. Davis and Mrs. Lisinska jointly presenting a check from PKF's board to the Einstein Academy on March 13, 2015 (Exhibit F). PKF's Facebook page also listed that event date as March 13, 2015.

---

[13] 26 *U.S.C.* §6714(a).

[14] The prohibition regarding bankruptcy was removed in the 2015-2016 Proviso so that this discussion only pertains to PKF operations during the audit year, January 1, 2014 through December 31, 2014.

Mr. Davis invited an employee of the Department, via e-mail, to a PKF event after meeting with members of the Department about the audit of the SFO (Exhibit O). The event took place on March 21, 2015 in Ridgeway, SC (Exhibit O).

At that event in Ridgeway, Mr. Davis again participated with Mrs. Lisinska by jointly presenting a check on behalf of PKF's board to school officials (Exhibit I). Mr. Davis' response to questions, engagement in advocacy and participation in events on behalf of PKF provide clear evidence of his active involvement in PKF operations in violation of the Provisos.

D. Contractual Relationship Violating Tax-Exempt Laws

1. PKF engaged in an "excess benefit transaction" in violation of federal tax-exempt law when it contracted with Mrs. Lisinska at Scholarship Services, LLC.

PKF is not a private foundation,[15] government entity, or foreign organization that receives most of its support from outside the United States - so the prohibition against excess benefit transactions applies.[16]

An "excess benefit transaction" occurs when an applicable tax-exempt organization directly or indirectly provides an economic benefit to a disqualified person and that benefit exceeds the value of the consideration (including the performance of services) received for providing such a benefit.[17]

Scholarship Services, LLC is an "intermediary" for purposes of the "excess benefit transaction."[18] An "intermediary" is "any person (including an individual or a taxable or tax-exempt entity) who participates in a transaction with one or more disqualified persons of an applicable tax-exempt organization."[19] Scholarship Services, LLC is a limited liability company. Mrs. Lisinska is its sole Manager. The contract between Scholarship Services, LLC and PKF would necessarily provide economic benefit to Mrs. Lisinska,[20] and that fact could not fail to be understood before the parties signed the contract.[21]

---

[15]PKF is not a private foundation under 26 U.S.C. §509(a)(1) and 26 U.S.C. §170(b)(1)(A)(vi).

[16] 26 C.F.R. §53.4958-2(a)(1)-(2); *See* also http://www.irs.gov/irm/part7/irm_07-027-030.html (Section 7.27.30.2).

[17]26 *C.F.R.* §53.4958-4(a)(1).

[18]26 C.F.R. §53.4958-4(a)(2)(iii).

[19]*Id.*

[20]26 C.F.R. §53.4958-4(a)(2)(iii)(A).

[21]26 C.F.R. §53.4958-4(a)(2)(iii)(B)(1).

A "disqualified person" includes any person in a position to exercise substantial influence over the affairs of the organization.[22] The definition also includes a "family member" of a person in a position to exercise substantial influence over the affairs of the organization.[23] "Persons having substantial influence" include Presidents, Chief Executives, or Chief Operating Officers.[24] "Family members" of a disqualified person include "spouses of brothers or sisters (whether by whole or half-blood)."[25]

Mrs. Lisinska is the sister-in-law of Jarsolaw Jasinski, the President of PKF. Her familial relationship to someone who exercises "substantial influence" over the organization renders Mrs. Lisinska a "disqualified person."

Moreover, as PKF's Director of Operations, Mrs. Lisinska "manages a discrete segment or activity of the organization that represents a substantial portion of the activities, assets, income, or expenses of the organization, as compared to the organization as a whole."[26] The importance of Mrs. Lisinska' s managerial activities likely renders her a "disqualified person" under the "facts and circumstances" test for such an individual.[27] Finally, Mrs. Lisinska' s position as the Director of Operations for PKF may be equivalent to what would normally be thought of as a Chief Operating Officer because her duties involve the management of the organization's entire set of operations.[28] "The category of persons having substantial influence includes any person who, regardless of title, has ultimate responsibility for implementing the decisions of the governing body or for supervising the management, administration, or operation of the organization."[29] There is no other individual responsible for PKF's operations besides Mrs. Lisinska.

The value of the contract satisfies the second part of the excess benefit test.[30] The Department believes the contract Mrs. Lisinska obtained far exceeded the economic value of her services. The contract she obtained for management services garnered her over $132,000 in the four months between the signing of the contract (February 1, 2014) and the deadline of the 990 tax form (May 31, 2014). To facilitate comparison, the figure is almost $27,000 more than the

---

[22] 26 C.F.R. §53.4958-3(a)(1).

[23] *Id.*

[24] 26 C.F.R. §53.4958-3(c)(2).

[25] 26 C.F.R. §53.4958-3(b)(1)(iii).

[26] 26 C.F.R. §53.4958-3(e)(2)(v).

[27] *Id.*

[28] 26 C.F.R. §53.4958-3(c)(2).

[29] *Id.*

[30] *See* n. 17.

national average for a non-profit Chief Operating Officer's *annual* salary.[31] She continued to bill for contract services, and received an additional $50,000 by the end of the 2014 calendar year. Scholarship Services, LLC and Mrs. Lisinska received more than $182,000 in just 10 months. Scholarship Services, LLC may have billed PKF since the end of the audit period.

Compensation is not excessive when it is reasonable. Reasonable compensation is the value of services ordinarily paid for like services by like enterprises under like circumstances.[32] The standards for deducting business expenses (Section 162) apply in determining the reasonableness of compensation.[33]

While the fact that a compensation arrangement is subject to a cap, is a relevant factor in determining the reasonableness of compensation, the fact that a state or local legislative or agency body or court authorized or approved a particular compensation package is not determinative of the reasonableness of compensation for purposes of Section 4958.[34]

Therefore, the fact that the South Carolina General Assembly allows SFOs administrative expenses to equal 5% of contributions and revenue for a particular year,[35] does not determine whether the amount paid to a disqualified person is reasonable or excessive under federal law. Furthermore, the fact that the General Assembly seemingly gave no cap on the amount of administrative expenses during the SFOs first year of operation, is also indeterminate under federal law.[36]

The information the Department possesses regarding the value of the services provided by Mrs. Lisinska and Scholarshp Services, LLC leads to the conclusion that she received an excessive benefit when compared to compensation received by like enterprises giving like services under like circumstances.

Given all of the above, PKF engaged in an "excess benefit transaction" when it contracted with Mrs. Lisinska at Scholarship Services, LLC. An "excessive benefit transaction" violates an operating requirement of a 501(c)(3) organization, and implicates the SFO status of PKF.

E. Failure of Board of Directors and Officers

1. A corporation shall keep as permanent records minutes of all meetings of its board of directors, and a record of all actions taken by its board of directors without a meeting. *S.C. Code Ann.* §33-31-1601(a). "A corporation shall maintain its records in written form or in another

---

[31]The NonProfit Times, *NonProfit Organizations Salary and Benefit Report—Executive Summary*, p. 3 (2014) (Exhibit N).

[32]26 C.F.R. 53.4958-4(b)(1)(ii)(A)

[33]*Id.*

[34]*Id.*

[35]*Id.*; *See also* Proviso 1.85(7)(b); and Proviso 1.80(7)(b).

[36]*Id.*; *See* Proviso 1.85(7)(b); and Proviso 1.80(7)(b).

form capable of conversion into written form within a reasonable time." *S.C. Code Ann.* §33-31-1601(d). The Department found no evidence that PKF possess minutes of meetings or records of actions taken without a meeting, which violates Section 33-31-1601. *S.C. Code Ann.* §33-31-1601(a).

2. The direct responsibility for keeping minutes and authenticating records belongs to the Secretary of the corporation, *S.C. Code Ann.* §33-31-140(33), one of the required nonprofit corporate officers. *S.C. Code Ann.* §33-31-840(a). PKF's bylaws state, "The Secretary shall keep or cause to be kept the minutes of all meetings and actions of the Board of Directors" (Exhibit E). The inclusion of this language gives rise to a legal duty, *S.C. Code Ann.* §33-31-841, a duty that PKF's Secretary failed to perform.

3. The Secretary's failure to perform his legal duty violates Section 33-31-842, the legal standard of conduct for officers. *S.C. Code Ann.* 33-31-842. Specifically, the Secretary failed "to discharge his duties with the care an ordinarily prudent person in a like position would exercise under similar circumstances...and in a manner the officer reasonably believes to be in the best interests of the corporation, and its members." *S.C. Code Ann.* §33-31-842(a)(2) and (3).

4. As seen above and throughout this audit, PKF's Board of Directors repeatedly failed to oversee the activities and decisions of both its officers and the corporation, generally. These issues include, but are not limited to, failures to maintain adequate corporate records, to avoid "excess benefits transactions," to adequately monitor PKF's operations so as to prevent Mr. Davis' prohibited involvement, and as will be discussed below, to ensure that the federal tax form 990 was completed accurately. "A director shall discharge his duties as a director in good faith, with the care an ordinarily prudent person in a like situation would exercise such duties under similar circumstances, and in a manner the director reasonably believes to be in the best interest of the corporation." *S.C. Code Ann.* §33-31-830(a)(1)-(3). Moreover, PKF's directors did not discharge their duties with the care that ordinarily prudent persons in similar positions would exercise under like circumstances. *S.C. Code Ann.* §33-31-830(a)(2).

F. Inaccurate Federal Tax Filings

1. PKF inaccurately stated on its Form 990 that it did not engage in any excess benefit transaction with a disqualified person during the year. (IRS Form 990, Part IV, Question 25(a)).

2. PKF failed to list Mrs. Lisinska as its Director of Operations on its IRS Form 990 (IRS Form 990, Part VII, Section A).

3. PKF inaccurately stated on its Form 990 that it contemporaneously documented meetings (IRS Form 990, Part VI, Section A., question 8).

4. PKF inaccurately stated on its Form 990 that the organization regularly and consistently monitored and enforced compliance with the conflict of interest policy (IRS Form 990, Part VI, Section B., question 12(c)). The Department found no evidence to substantiate that PKF monitored or enforced compliance with its conflict of interest policy.

5. PKF inaccurately stated on its Form 990 that the organization was not a party to a business transaction with a current or former officer, director, trustee, or key employee. Mrs. Lisinska is the Director of Operations for PFK; she is also the sole Manager of Scholarship Services, LLC, which PKF contracts with to obtain various services (IRS Form 990, Part IV, Question 28(a)).

6. PKF inaccurately stated on its Form 990 that the organization was not a party to a business transaction with a family member of a current or former officer, director, trustee, or key employee. Mrs. Lisinska, the Manager of Scholarship Services, LLC, is the sister-in law of Jarsolaw Jasinski, PFK's President (IRS Form 990, Part IV, Question 28(b)).

7. PKF inaccurately stated on its Form 990 that the organization was not a party to a business transaction with an entity of which a current or former officer, director, trustee, or key employee was an officer, director, trustee, or direct or indirect owner (IRS Form 990, Part IV, Question 28(c)).[37]

A 501(c)(3) organization has annual reporting requirements.[38] The failure to include or to list accurately all of the above information within annual return results in a fine of $100 for each day an organization with gross receipts in excess of one million dollars fails to complete its return with the required information. The maximum penalty is $50,000.00.[39] A willful submission of a return that the corporation knows to be fraudulent or false in any material matter results in a maximum fine of $50,000.00.[40]

Operating a scholarship funding organization in a manner consistent with the operating requirements of an IRC Section 501(C)(3) organization is a requirement of Section 9 of H.4230, the ECENC for the 2015-2016 fiscal year.

---

[37]An interested person is a family member of an officer or director. *Instructions for Schedule L (Form 990 or 990-EZ)*, Part IV, Business Transactions Involving Interested Persons, p. 1. Jarsilaw Jasinski is the brother-in-law of Olga Lisinska. Jarsilaw Jasinski is an officer and member of the board of directors. Olga Lisinska is the Director of Operations for PKF, as well as the Manager of Scholarship Services, LLC. PKF paid Olga Lisinska more than $10,000 via its contract with Scholarship Services, LLC. The instructions for Schedule L of Form 990 direct PKF to report this business transaction. *Instructions for Schedule L (Form 990 or 990-EZ)*, Part IV, Business Transactions Involving Interested Persons, p. 3-4. In addition, all payments during the tax year between the organization and Olga Lisinska exceeded $100,000. *Instructions for Schedule L (Form 990 or 990-EZ)*, Part IV, Business Transactions Involving Interested Persons, p. 3-4.

[38]26 C.F.R. §1.6033—2(a).

[39]http://www.irs.gov/irm/part21/irm_21-007-007r-cont03.html (27.7.7.4.23.1) (Daily Delinquency Penalty); and http://www.irs.gov/Charities-&-Non-Profits/Exempt-Organizations-Annual-Reporting-Requirements-Filing-Procedures:-Incomplete-Returns; *and* 26 *U.S.C.* §6652(C)(1)(A)(i)-(ii).

[40]26 *U.S.C.* §7207.

Failure to comply with reporting requirements, as outlined herein, violates an operating requirement for a 501(C)(3) organization, and consequently implicates PKF's status under Section 9 of H.4230.

G. *Violations of the South Carolina Solicitation of Charitable Funds Act*

1. PKF is a South Carolina nonprofit corporation and qualified under federal §501(c)(3); PKF has also registered as a South Carolina charity.

Charities under the South Carolina Solicitation of Charitable Funds Act solicit donations either through their own personnel or through third parties. Some of these third parties are "professional solicitors" and "professional fundraising counsels." The law requires a charity to file a registration statement with the South Carolina Secretary of State Office that includes whether the charity intends to use a "professional solicitor," along with the name and contact information. *S.C. Code Ann.* §33-56-30(B)(7).

A "professional solicitor" includes someone who, "for monetary or other consideration, solicits contributions for or on behalf of a charitable organization." *S.C. Code Ann.* §33-56-20(9).

While the Scholarship Services, LLC contract with PKF (Exhibit K) stipulates that Scholarship Services, LLC "will specifically not provide...donor solicitation services to Palmetto Kids FIRST,"[41] that is precisely what the Scholarship Service, LLC managed website and Facebook page ask a visitor to do: "PLEASE DONATE TODAY!!!"[42] For purposes of the Solicitation of Charitable Funds Act, "solicitation" includes the request for "money, credit, property, financial assistance, or other thing of value, or a portion of it, to be used for a charitable purpose or to benefit a charitable organization" and a solicitation has taken place "whether or not the person making the request receives a contribution." *S.C. Code Ann. §33-56-20(20).*

Per the contract (Exhibit K), PKF gave full management and, thereby, control of the website and other electronic mediums to Scholarship Services, LLC, which means that electronic solicitations occur via Mrs. Lisinska in her capacity as sole Manager of Scholarship Services, LLC. PKF utilizes the solicited funds, so Scholarship Services, LLC is soliciting for PKF.

Regarding PKF's intent to use a "professional solicitor," the following timeline is informative:

- January 10, 2014 - South Carolina Secretary of State Office recognizes PKF as a charity
- January 31, 2014 - South Carolina Secretary of State recognizes Scholarship Services, LLC as a "for profit" corporation
- February 1, 2014 - Contract between PKF and Scholarship Services, LLC

---

[41](Exhibit K).

[42]https://palmettokidsfirst.org/ (accessed on 07/20/2015); and *see* Palmetto Kids First Facebook post (July 11 at 4:41 am), "WE NEED DONORS!!!" https://www.facebook.com/palmettokidsFIRST (accessed on 07/20/2015); and *see* Palmetto Kids First Facebook post (July 6 at 4:19am), "PLEASE DONATE TODAY...and REFER A FRIEND!!!" https://www.facebook.com/palmettokidsFIRST (accessed on 07/21/2015).

The brief timeline between the designation as a charity, the incorporation of Scholarship Services, LLC and the effective date of the contract one day later, indicates that PKF intended to hire Scholarship Services, LLC as its "professional solicitor" prior to the filing of its registration statement with the South Carolina Secretary of State Office.

Scholarship Services, LLC qualifies as a "professional solicitor," and the South Carolina Solicitation of Charitable Funds Act requires PKF to include its intent to use a "professional solicitor" along with their names and contact information within its registration statement. The failure to do so violates Section 33-56-30. *S.C. Code Ann.* §33-56-30(B)(7).

2. A charity must file a contract between it and a "professional solicitor" with the Secretary of State "at least ten days before the...professional solicitor...begins any solicitation activity or any other activity contemplated by the contract or agreement in this State." *S.C. Code Ann.* §33-56-70(A).

PKF did not file a contract within the prescribed deadline, nor did it file one afterward. PKF's failure to file violates Section 33-56-70(A). *S.C. Code Ann.* §33-56-70(A).

3. PKF should have included within its registration form any relationship between its officers, directors, or board members (by blood, marriage, or adoption) to each other. *S.C. Code Ann.* §33-56-30(B)(16)(b).

Mrs. Lisinska is the Director of Operations for PKF, and Jaroslaw Jasinski is Mrs. Lisinska' s brother-in-law. Jarsolaw Jasinski is the President, a member of the Board of Directors, and the Chief Executive for PKF. PKF did not disclose or update its registration to reflect their relationship, which violates Section 33-56-30. *S.C. Code Ann.* §33-56-30(B)(16)(a).

4. In addition to disclosing any familial relationship between its officer, directors, or board members, a filing charity must disclose any familial relationship between its officers, directors, or board members, and a director or an officer of a professional solicitor under contract with the charitable organization.

Mrs. Lisinska is the sole Manager of Scholarship Services, LLC, the organization acting in the capacity of a professional solicitor for PKF. PKF did not disclose or update its registration to reflect the relationship between Jaroslaw Jasinski and Mrs. Lisinska, which violates Section 33-56-30. *S.C. Code Ann.* §33-56-30(B)(16)(b).

H. Alteration of Department of Revenue Form

1. The Department received and reviewed applications for the tax credit from donors of PKF. The donors submit their application for the tax credit, via the Department's TC-57A form. The Department discovered that PKF had altered the Department's form and instructions (Exhibit L). Bob Thomas of the Department instructed PKF in a string of e-mails to cease providing donors with forms that the Department did not design or approve (Exhibit M).

As Mr. Thomas wrote in the September 26, 2014 and October 17, 2014 e-mails, "We insist that you not provide a download or other version of TC-57A, but rather that you link directly to the TC-57A application on our (the Department's) website."

As of June 2015, the altered form was on PKF's website. PKF had inserted its logo on the top of each page of that form. In addition, PKF had inserted promotional information on the last page of the Department's instructions. PKF finally corrected the violation in July of 2015; the correction occurred nearly ten months after the initial request to cease altering the Department's form.

Sections 16-13-10(A)(1) and (3) define "forgery" in the following ways:

> (1)"falsely make, forge, or counterfeit; cause or procure to be falsely made, forged, or counterfeited; or willfully act or assist in the false making, forging, or counterfeiting of any writing or instrument of writing;
>
> ***
>
> (3) "falsely make, forge, counterfeit, alter, change, deface, or erase; or cause or procure to be falsely made, forged, counterfeited, altered, changed, defaced, or erased any record."

S.C. Code Ann. §16-13-10(A)(1),(3).

PKF altered the Department's TC-57A form and instructions. PKF supplied a variation of this form to its donors on its website, a form that the Department did not design or approve. PKF ignored the Department's commands to cease publishing and providing the altered form.

PKF violated Section 16-13-10(A)(1) and (3) of the Forgery, Larceny, Embezzlement, False Pretenses and Cheats Act. *S.C. Code Ann.* §16-13-10(A)(1) and (3).

The Department only offers this alteration as an example of PKF's business operations and practices.

V. CONCLUSION

The current Proviso, H. 4230, gives the Department the authority to immediately revoke an SFO's participation in the ECENC program if there is evidence that the SFO "is not being operated in a manner consistent with the requirements for operating an IRC 501(c)(3) organization or is not in compliance with any other provision of this proviso." The Department believes that the multiple violations or potential violations demonstrated within this review are sufficient to immediately revoke PKF's participation in the program. Nevertheless,the Department's overriding concern is to achieve participants' compliance with the requirements of the ECENC program, to ensure its integrity for the South Carolina citizens the program was designed to benefit and to protect South Carolina taxpayers. Accordingly, PKF will be given a period of thirty (30) days from the date of issuance of this report to provide the Department with evidence that it has corrected the noted deficiencies and violations.

The Department invites PKF to work to bring its practices and procedures into compliance with federal and state law. However, in the event PKF does not demonstrate to the Department within the designated time frame (30 days) that it has taken corrective action, the Department will revoke PKF's participation in the ECENC program in accord with the procedures outlined in H.4230 (I)(2)(a)-(d).

Table of Contents

A) Budget Provisos, 1.85 & 1.80

B) May 10, 2014 article on PKF (The State)

C) March 16, 2014 article on PKF (The State)

D) Access Opportunity of South Carolina Best Practices Pledge

E) PKF Bylaws

F) Photo of the March 13, 2015 joint presentation by Mr. Davis and Mrs. Lisinska on behalf of PKF board

G) Certified Financial Planner (CFP) Certification Revocation

H) Certified Financial Planner (CFP) Interim Suspension

I) Photo of the March 21, 2015 joint presentation by Mr. Davis and Mrs. Lisinska on behalf of PKF board

J) *Taylor v. Davis*, 494 B.R. 842 (2013).

K) Contract between PKF and Scholarship Services, LLC

L) Altered version of the Department's TC-57A form

M) Email exchange between Bob Thomas of the Department and Mrs. Lisinska

N) The NonProfit Times, *NonProfit Organizations Salary and Benefit Report—Executive Summary* (2014)

O) Email invitation from Mr. Davis to Department employee

P) H.4230

Q) PKF's IRS Form 990

R) Email between PKF and Einstein Academy dated February 28, 2014, which the Einstein Academy provided to the Department

EXHIBIT A

2013-2014 Budget Proviso 1.85.

SDE: Educational Credit for Exceptional Needs Children

(A) As used in this proviso:

(1) 'Independent school' means a school, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met and that does not discriminate based on the grounds of race, color, religion, or national origin.

(2) 'Parent' means the natural or adoptive parent or legal guardian of a child.

(3) 'Qualifying student' means a student who is a South Carolina resident and who is eligible to be enrolled in a South Carolina secondary or elementary public school at the kindergarten or later year level for the current school year.

(4) 'Resident public school district' means the public school district in which a student resides.

(5) 'Tuition' means the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not limited to, fees for attending the school and school-related transportation.

(6) 'Eligible school' means an independent school including those religious in nature, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met, that:

(a) offers a general education to primary or secondary school students;

(b) does not discriminate on the basis of race, color, or national origin;

(c) is located in this State;

(d) has an educational curriculum that includes courses set forth in the state's diploma requirements and where the students attending are administered national achievement or state standardized tests, or both, at progressive grade levels to determine student progress;

(e) has school facilities that are subject to applicable federal, state, and local laws; and

(f) is a member in good standing of the Southern Association of Colleges and Schools, the South Carolina Association of Christian Schools or the South Carolina Independent Schools Association.

(7) 'Nonprofit scholarship funding organization' means a charitable organization that:

(a) is exempt from federal tax under Section 501(a) of the Internal Revenue Code by being listed as an exempt organization in Section 501(c)(3) of the Code;

(b) allocates, after its first year of operation, at least ninety-five percent of its annual contributions and

revenue received during a particular year to provide grants for tuition, transportation, or textbook expenses (collectively hereinafter referred to as tuition) or any combination thereof to children enrolled in an eligible school meeting the criteria of this section, and incurs administrative expenses annually, after its first year of operation, of not more than five percent of its annual contributions and revenue for a particular year;

(c) allocates all of its funds used for grants on an annual basis to children who are 'exceptional needs' students as defined herein;

(d) does not provide grants solely for the benefit of one school, and if the Department of Revenue determines that the nonprofit scholarship funding organization is providing grants to one particular school, the tax credit allowed by this section may be disallowed;

(e) does not have as a member of its governing board any parent, legal guardian, or member of their immediate family who has a child or ward who is currently receiving or has received a scholarship grant authorized by this section from the organization within one year of the date the parent, legal guardian, or member of their immediate family became a board member; and

(f) does not have as a member of its governing board any person who has been convicted of a felony, or who has declared bankruptcy within the last seven years.

(8) 'Person' means an individual, partnership, corporation, or other similar entity.

(9) 'Transportation' means transportation to and from school only.

(B) A person is entitled to a tax credit for the amount of money the person contributes to a nonprofit scholarship funding organization up to the limits of this proviso if:

(1) the contribution is used to provide grants for tuition, transportation, or textbook expenses or any combination thereof to exceptional needs children enrolled in eligible schools who qualify for these grants under the provisions of this proviso; and

(2) the person does not designate a specific child or school as the beneficiary of the contribution.

(C) Grants may be awarded by a scholarship funding organization in an amount not exceeding ten thousand dollars or the total cost of tuition, whichever is less, for students with 'exceptional needs' to attend an independent school. An 'exceptional needs' child is defined as a child who has been designated by the South Carolina Department of Education to meet the requirements of CFR Part A Section 300.8 and the child's parents or legal guardian believe that the services provided by the school district of legal residence do not sufficiently meet the needs of the child.

(D) (1) The tax credits authorized by subsection (B) may not exceed cumulatively a total of eight million dollars for contributions made on behalf of 'exceptional needs' students. If the Department of Revenue determines that the total of such credits claimed by all taxpayers exceeds this amount, it shall allow credits only up to those amounts on a first come, first serve basis.

(2) A taxpayer may not claim more than sixty percent of their total tax liability for the year in contribution towards the tax credit authorized by subsection (B). This credit is not refundable.

(3) If a husband and wife file separate returns, they each may only claim one-half of the tax credit that would have been allowed for a joint return for the year.

(4) The person shall apply for a credit under subsection (B) on or with the tax return for the period for which the credit is claimed.

(5) The Department of Revenue shall prescribe the form and manner of proof required to obtain the credit authorized by subsection (B). Also, the department shall develop a method of informing taxpayers if either of the credit limits are met at any time during the 2013 tax year.

(6) A person may claim a credit under subsection (B) for contributions made on or after January 1, 2014.

(E) A corporation or entity entitled to a credit under subsection (B) may not convey, assign, or transfer the deduction or credit authorized by this section to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

(F) Except as otherwise provided, neither the Department of Education, the Department of Revenue, nor any other state agency may regulate the educational program of an independent school that accepts students receiving scholarship grants pursuant to this proviso.

(G) (1) The Education Oversight Committee, as established in Chapter 6, Title 59, is responsible for determining if an eligible school meets the criteria established by subsection (A)(6), and shall publish an approved list of such schools meeting this criteria below. For this purpose, it also shall promulgate regulations further enumerating the specifics of this criteria. In performing this function, the Education Oversight Committee shall establish an advisory committee made up of not more than nine members including parents, and representatives of independent schools and independent school associations. The advisory committee shall provide recommendations to the Education Oversight Committee on the content of these regulations and any other matters requested by the Education Oversight Committee.

(2 (a) By the first day of August for the current fiscal year, the Education Oversight Committee, on its website available to the general public, shall provide a list with addresses and telephone numbers of nonprofit scholarship funding organizations in good standing which provide grants under this proviso, and a list of approved independent schools which accept grants for eligible students and which in its determination are in compliance with the requirements of subsection (A)(6).

(b) Student test scores, by category, on national achievement or state standardized tests, or both, for all grades tested and administered by an eligible school receiving or entitled to receive scholarship grants under this proviso must be transmitted to the Education Oversight Committee which in turn shall publish this information on its website with the most recent scores by category included.

(3) Any independent school not determined to be an eligible school under the provisions of this proviso may seek review by filing a request for a contested case hearing with the Administrative Law Court in accordance with the court's rules of procedure.

(4) The Education Oversight Committee, after consultation with its nine-member advisory committee, may exempt an independent school having students with exceptional needs who receive scholarship grants pursuant to this proviso from the curriculum requirements of subsection (A)(6)(d).

(H) (1) Every nonprofit scholarship funding organization providing grants under subsection (C), shall cause an outside auditing firm to conduct a comprehensive financial audit of its operations in conformity with generally accepted accounting principles and shall furnish the same within thirty days of its completion and acceptance to the Secretary of State and Department of Revenue which must be made available by them on their website for public review.

(2) Every independent school accepting grants for eligible students shall cause to be conducted a compliance audit by an outside entity or auditing firm examining its compliance with the provisions of this proviso, and shall furnish the same within thirty days of its completion and acceptance to the Secretary of State and Department of Revenue which must be made available by them on their website for public review.

Proviso 1.80 of the 2014-15 General Appropriation

Act as Ratified

1.80. (SDE: Educational Credit for Exceptional Needs Children) (A) As used in this proviso:
(1) 'Independent school' means a school, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met and that does not discriminate based on the grounds of race, color, religion, or national origin.
(2) 'Parent' means the natural or adoptive parent or legal guardian of a child.
(3) 'Qualifying student' means a student who is a South Carolina resident and who is eligible to be enrolled in a South Carolina secondary or elementary public school at the kindergarten or later year level for the current school year.
(4) 'Resident public school district' means the public school district in which a student resides.
(5) 'Tuition' means the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not limited to, fees for attending the school and school-related transportation.
(6) 'Eligible school' means an independent school including those religious in nature, other than a

public school, at which the compulsory attendance requirements of Section 59-65-10 may be met, that:
(a) offers a general education to primary or secondary school students;
(b) does not discriminate on the basis of race, color, or national origin;
(c) is located in this State;
(d) has an educational curriculum that includes courses set forth in the state's diploma requirements and where the students attending are administered national achievement or state standardized tests, or both, at progressive grade levels to determine student progress;
(e) has school facilities that are subject to applicable federal, state, and local laws; and
(f) is a member in good standing of the Southern Association of Colleges and Schools, the South Carolina Association of Christian Schools or the South Carolina Independent Schools Association.
(7) 'Nonprofit scholarship funding organization' means a charitable organization that:
(a) is exempt from federal tax under Section 501(a) of the Internal Revenue Code by being listed as an exempt organization in Section 501(c)(3) of the Code;
(b) allocates, after its first year of operation, at least ninety-five percent of its annual contributions and gross revenue received during a particular year to provide grants for tuition, transportation, or textbook expenses (collectively hereinafter referred to as tuition) or any combination thereof to children enrolled in an eligible school meeting the criteria of this section, and incurs administrative expenses annually, after its first year of operation, of not more than five percent of its annual contributions and revenue for a particular year;
(c) allocates all of its funds used for grants on an annual basis to children who are 'exceptional needs' students as defined herein;
(d) does not provide grants solely for the benefit of one school, and if the Department of Revenue determines that the nonprofit scholarship funding organization is providing grants to one particular school, the tax credit allowed by this section may be disallowed;
(e) does not have as a volunteer, contractor, consultant, fundraiser or member of its governing board any parent, legal guardian, or member of their immediate family who has a child or ward who is currently receiving or has received a scholarship grant authorized by this section from the organization within one year of the date the parent, legal guardian, or member of their immediate family became a board member; and
(f) does not have as a member of its governing board or an employee, volunteer, contractor, consultant, or fundraiser who has been convicted of a felony, or who has declared bankruptcy within the last seven years ;
(g) does not release personally identifiable information pertaining to students or donors or use information collected about donors, students or schools for financial gain; and
(h) must not place conditions on schools enrolling students receiving scholarships to limit the ability of the schools to enroll students accepting grants from other nonprofit scholarship funding organizations.
(8) 'Person' means an individual, partnership, corporation, or other similar entity.
(9) 'Transportation' means transportation to and from school only.

(B) A person is entitled to a tax credit against income taxes imposed pursuant to Chapter 6, Title 12 or bank taxes imposed pursuant to Chapter 11, Title 12 for the amount of money the person contributes to a nonprofit scholarship funding organization up to the limits of this proviso if:
(1) the contribution is used to provide grants for tuition, transportation, or textbook expenses or any combination thereof to exceptional needs children enrolled in eligible schools who qualify for these grants under the provisions of this proviso; and
(2) the person does not designate a specific child or school as the beneficiary of the contribution.
(C) Grants may be awarded by a scholarship funding organization in an amount not exceeding ten thousand dollars or the total cost of tuition, whichever is less, for qualifying students with 'exceptional needs' to attend an independent school. Prior to awarding any grant, a scholarship funding organization must receive written documentation from the parent documenting that the qualifying student is an exceptional needs child. Upon approving the application, the scholarship funding organization must issue a check to the eligible school in the name of the qualifying student. In the event that the qualifying student leaves or withdraws from the school for any reason prior to the end of the semester or school year and does not re-enroll within thirty days, then the eligible school must return a prorated amount of the grant to the scholarship funding organization based on the number of days the qualifying student was enrolled in the school during the semester or school year within sixty days of the qualifying student's departure. An 'exceptional needs' child is defined as a child:
(1) (a) who has been evaluated in accordance with South Carolina's evaluation criteria, as set forth in S.C. Code Ann. Regs. 43-243.1, and determined eligible as a child with a disability who needs special education and related services, in accordance with the requirements of Section 300.8 of the Individuals with Disabilities Education Act; or
(b) who has been diagnosed within the last three years by a licensed speech-language pathologist, psychiatrist, or medical, mental health, psycho-educational, or other comparable licensed healthcare provider as having a neurodevelopmental disorder; a substantial sensory or physical impairment (such as deaf, blind, or orthopedic disability); or some other disability or acute or chronic condition that significantly impedes the student's ability to learn and succeed in school without specialized instructional and associated supports and services tailored to the child's unique needs; and
(2) the child's parents or legal guardian believes that the services provided by the school district of legal residence do not sufficiently meet the needs of the child.
(D) (1) (a) The tax credits authorized by subsection (B) may not exceed cumulatively a total of eight million dollars for contributions made on behalf of 'exceptional needs' students. If the Department of Revenue determines that the total of such credits claimed by all taxpayers exceeds this amount, it shall allow credits only up to those amounts on a first come, first serve basis.
(b) The department shall establish an application process to determine the amount of credit available to be claimed. The receipt of the application by the department will determine priority for the credit. Subject to the provisions of item (5), contributions must be made on or before June 30, 2015, in order to claim the credit. The credit must be claimed on the return for tax year that the contribution is made.

(2) A taxpayer may not claim more than sixty percent of their total tax liability for the year in contribution towards the tax credit authorized by subsection (B). This credit is not refundable.
(3) The Department of Revenue shall prescribe the form and manner of proof required to obtain the credit authorized by subsection (B). Also, the department shall develop a method of informing taxpayers if either of the credit limits is met at any time during the current fiscal year.
(4) A person may claim a credit under subsection (B) for contributions made between July 1, 2014 and June 30, 2015.
(E) A corporation or entity entitled to a credit under subsection (B) may not convey, assign, or transfer the deduction or credit authorized by this section to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.
(F) Except as otherwise provided, neither the Department of Education, the Department of Revenue, nor any other state agency may regulate the educational program of an independent school that accepts students receiving scholarship grants pursuant to this proviso.
(G) (1) The Education Oversight Committee, as established in Chapter 6, Title 59, is responsible for determining if an eligible school meets the criteria established by subsection (A)(6), and shall publish an approved list of such schools meeting this criteria below. For this purpose, it also shall promulgate regulations further enumerating the specifics of this criteria. In performing this function, the Education Oversight Committee shall establish an advisory committee made up of not more than nine members including parents, and representatives of independent schools and independent school associations. The advisory committee shall provide recommendations to the Education Oversight Committee on the content of these regulations and any other matters requested by the Education Oversight Committee.
(2) (a) By the first day of August for the current fiscal year, the Education Oversight Committee, on its website available to the general public, shall provide a list with addresses and telephone numbers of nonprofit scholarship funding organizations in good standing which provide grants under this proviso, and a list of approved independent schools which accept grants for eligible students and which in its determination are in compliance with the requirements of subsection (A)(6).
(b) Student test scores, by category, on national achievement or state standardized tests, or both, for all grades tested and administered by an eligible school receiving or entitled to receive scholarship grants under this proviso must be transmitted to the Education Oversight Committee which in turn shall publish this information on its website with the most recent scores by category included.
(3) Any independent school not determined to be an eligible school under the provisions of this proviso may seek review by filing a request for a contested case hearing with the Administrative Law Court in accordance with the court's rules of procedure.
(4) The Education Oversight Committee, after consultation with its nine-member advisory committee, may exempt an independent school having students with exceptional needs who receive scholarship grants pursuant to this proviso from the curriculum requirements of subsection (A)(6)(d).
(H) (1) Every nonprofit scholarship funding organization providing grants under subsection (C),

shall cause an outside auditing firm to conduct a comprehensive financial audit of its operations in conformity with generally accepted accounting principles and shall furnish the same within thirty days of its completion and acceptance to the Secretary of State and Department of Revenue which must be made available by them on their website for public review. The audit must also document, at a minimum, the total number of grants awarded, the total amount of each grant, and the names of the eligible schools receiving grants on behalf of the eligible students.

(2) Every independent school accepting grants for eligible students shall cause to be conducted a compliance audit by an outside entity or auditing firm examining its compliance with the provisions of this proviso, and shall furnish the same within thirty days of its completion and acceptance to the Secretary of State and Department of Revenue which must be made available by them on their website for public review.

(3) A nonprofit scholarship funding organization may transfer funds to another nonprofit scholarship funding organization, especially in the event that the organization cannot distribute the funds in a timely manner or if the organization ceases to exist. None of the funds that are transferred by one nonprofit scholarship funding organization to another may be considered by the former organization when calculating its administrative expenses.

EXHIBIT B

Politics & Government

MAY 10, 2014

EXCLUSIVE: SC parents pressured to donate to scholarship group

The leader of a West Columbia private school says her students' parents are being pressured to donate to the new private-school choice program, created to help parents of children with disabilities afford private school.

By JAMIE SELF - jself@thestate.com

The leader of a West Columbia private school says her students' parents are being pressured to donate to the new private-school choice program, created to help parents of children with disabilities afford private school.

The pressure, said Susan Thomas, head of Glenforest School, is coming from Jeff Davis with Palmetto Kids First – one of five nonprofits set up this year to grant private-school scholarships made possible through a new state tax credit.

Emails to parents leave the impression – without directly offering a quid pro quo – that if the parents donate to Palmetto Kids, it will grant them a scholarship, Thomas said.

That quid-pro-quo arrangement is illegal, under the new S.C. private-school choice law, which says donors to scholarship-granting organizations cannot designate the students or schools that will benefit from their contributions. That controversial one-year law is up for renewal this spring before the Legislature.

Lawmakers included that rule to prevent the scholarship program from becoming, in practice, primarily a way for parents to get a tax break on the money they already are paying for private-school tuition.

That donate-for-a-tax-break and, then, get your money back in the form of a grant two-step was happening in Georgia after a broader tax-credit program in that state passed, a Southern Education Foundation report found.

In Georgia, where the state has forgone hundreds of millions in tax revenues for the scholarship program, donors could specify what schools, but not students, their money would benefit. The result, the report found, was very little growth in private-school enrollment among the needy children that the Georgia program – like the S.C. program – supposedly was to benefit. Instead, children already going to private schools were getting most of the scholarships.

Thomas said she wants to make sure her parents are following the law in giving, if they choose to donate. But Davis' appeals make her wonder if he intends for parents to think they will get a scholarship for donating.

In an April email to parents, Davis, who helped set up a private-school scholarship organization in Georgia, wrote to Glenforest parents: "We have a very short timeframe and we want to provide scholarships to all of our remaining Glenforest School families. ... We can do it as evidenced by the fact Georgia raised $58 million ... in just 22 days. With S.C. tax credits, a $175,000 goal should be very easy for a school like Glenforest."

The impression parents got from the email, Thomas said, is: "You get your donors – your parents, whoever – to give, and they are going to get this free money, and they will get a scholarship.

"When I read the (S.C. law governing the program), it was pretty clear to me that the money could not be earmarked for a school or a student," Thomas said. "It has become ever clearer to me that it seems as if there's a hint of tit for tat."

Davis said he has made clear that donations cannot be designated for students or schools but few people – parents, schools, even accountants – clearly understand the tax-credit program.

"We preach that all day long. There is no quid pro quo," meaning something for something, he said, adding in the first year of the new scholarship program it is inevitable that, "People are going to get confused."

In practice, Davis – who S.C. law bars from serving on the board of Palmetto Kids because of his recent bankruptcy, stemming from a failed Georgia investment deal – said his goal is to identify students in the greatest need and give them scholarships first.

But Davis said he also considers in awarding scholarships – without direction from donors, which the law prohibits – how much a private school has "embraced" the scholarship program through donating to it, spreading the word or identifying potential donors.

Nothing in the law prohibits that, Davis said.

'What's best for the child'

Lawmakers and other education and private-school choice advocates say that pressuring parents to give goes against the spirit of why the law was passed.

"I'm disappointed that the focus isn't on, 'Let's find a child with the most need and get him or her the scholarship,' " said state Sen. Kevin Bryant, R-Anderson, whose legislation led to the program.

Bryant said lawmakers, now considering whether to approve the tax-credit scholarship program for another year, are looking into ways to improve the best practices required of organizations that grant scholarship money.

S.C. law does not require that the scholarship programs disclose their donors or the recipients of scholarships. Instead, it relies on a honor system so that donors will not illegally dictate scholarship recipients.

But state Sen. Wes Hayes, R-York, said any changes in the S.C. program may need to wait until next year, when the program comes up again for reauthorization. Hayes added whether parents or schools donate to a nonprofit should not be a factor in who gets scholarships.

"It should be solely based on what's best for the child," he said.

'Donations to a good cause'

Thomas said she grew concerned when emails from Davis were urging Glenforest parents to contribute in a way that suggested that receiving a scholarship was dependent on the school's giving.

In April emails to Glenforest parents and school officials, Davis paired the school's scholarship requests with a pitch for donations.

To school leaders, Davis said applications from students at the school had reached $200,000.

"Doable, but we have to somehow get past whatever hurdle the board especially might have. They are typically our best source of donor referrals (without having to go to parents to spread the word as well – which we have already had to do)," Davis wrote.

To parents, Davis wrote he had paperwork for 14 second-semester scholarships, then added in bold print, "Now we just need to get the tax credit donations. As of today the number of Glenforest families ... who have donated to the program is approximately ... ZERO?"

Thomas said the tone of the emails implied parents and schools are required to participate if they want to benefit. Davis also asked for a list of the school's donors, which Thomas said she declined to provide.

Thomas said she worried about Glenforest's donors donating to Davis' Palmetto Kids.

"It could actually be a losing proposition for us," she said. "Suppose our donors give to his organization, instead of us, and our families do not benefit?"

The exchange between Davis and the school ran counter to how Thomas thought the scholarship program would run. Thomas said she "was thinking corporate people, making donations to a good cause" were going to be the main contributors to the program, which would then identify students in need for scholarships.

Helping those most in need

Last year, when the General Assembly adopted the program, private-school choice advocates said the program would help children with disabilities move from schools that did not meet their

needs into private schools that did. Advocates also said it would provide relief to parents who choose to pay private-school tuition for their special-needs children.

Focusing narrowly on children with disabilities – as opposed to all students – helped the program pass, despite hesitation from private-school choice detractors.

Through the program, nonprofits like Davis' Palmetto Kids give scholarships to students with disabilities to help them pay for private-school tuition. Taxpayers who donate to the nonprofits can claim a dollar-for-dollar tax credit eliminating up to 60 percent of their tax liability. Up to $8 million in credits are available on a first-come, first-served basis.

Parents who donate can get the tax credit. They also can apply for a scholarship. If their child is awarded a scholarship, they get a credit, lowering their state taxes, and help paying part of the cost of private-school tuition.

Davis said about $100,000 of the $1.1 million his organization has raised has come from parents whose children attend private schools where students receive scholarships. Davis would not say how many of those donations have gone directly back to the donor-parents in the form of scholarships.

Donors cannot designate their contributions for any school or student. But there is some connection between donations and who gets scholarships, Davis said, out of fairness to the schools.

It would be unfair to take money raised by schools that generate the most participation in the program – through supportive board members that help with fundraising and parents who give whatever they can – and give that money to schools where board members do not return his phone calls, he said.

Instead, schools must help get the word out and encourage others to take advantage of the tax credits that make the scholarships possible, he said.

Other schools have been more receptive to Davis' appeals.

Anne Vickers, head of the Sandhills School in Columbia, said her school would love to help Davis raise more money for the program if it could.

The Barclay School, a small school with about six special-needs students on the Columbia College campus, has received four scholarships and has two more in the works, Davis said.

While the school does not have a strong donor base that can give a lot of support to the scholarship program, Davis said the schools' leaders have embraced the program and do whatever he asks to promote it.

Gillian Barclay, the school's leader, said Davis' organization has been "life-changing," allowing her school to worry less about fundraising and focus its efforts on doing what they do best: teach.

'No clue who has written checks'

Another S.C. nonprofit scholarship organization approaches soliciting donations differently.

Phillip Cease – who is leading a new scholarship nonprofit, Donors Enriching Students' Knowledge, formerly known as South Carolinians for Responsible Government – said private schools are "not responsible for fundraising."

While he and other private-school choice advocates want schools to notify parents and donors about the program, "I'm not going to schools asking them to send donors to me," Cease said.

Cease, the fundraiser for Donors Enriching, said there is a conflict of interest in having the fundraising and grant-giving sides of a nonprofit closely aligned. To separate the two, Cease said his group has formed a small board to review applications.

"I don't want to have any part in making decisions (about who gets scholarships), just to remove any possibility or any appearances" of a conflict of interest, he said. "The people who will be looking at the applications will have no clue who has written checks."

Davis said, ideally, he would like to have a "Chinese wall" between the fundraising and grant-giving sides of Palmetto Kids First. Eventually, he said, that is his plan.

But for now, he said he wants to get the program going, by encouraging donations and granting scholarships.

Davis' nonprofit has raised more money than any other nonprofits – surpassing $1 million in donations as of Friday, he announced on his Facebook page.

S.C. Private-School Choice

Palmetto Kids First Scholarship Program has raised the most money of any nonprofit participating in the state's new private-school choice program. A look, by the numbers, at how the nonprofit is doing:

$1.1 million - Amount raised so far from 132 donors

$102,000 - Amount raised in the week before May 6

$100,000 - Amount of donations coming from parents whose children attend private school

$870,844 - Amount in scholarships granted to 16 different private schools

$192,274 - Money left to spend

$1.5 million - Amount the nonprofit hopes to raise in three weeks, so it can give a scholarship to all applicants

EXHIBIT C

Education

MARCH 16, 2014

EXCLUSIVE: Financial, legal troubles dog SC school-choice advocate

By JAMIE SELF - jself@thestate.com

The unofficial leader of one of the new S.C. nonprofits created to help students with disabilities pay for private school has a bankruptcy that disqualifies him from being on that group's board of directors.

Palmetto Kids First has avoided any impact because of Jeff Davis' 2011 bankruptcy, following a failed business deal and a lawsuit, because Davis has assumed the role of volunteer and advisory board member with the group.

Davis said he took those roles, in part, because of his financial history. He said, eventually, he hopes to move on to other endeavors, handing the reigns of Palmetto Kids First entirely to his wife, the nonprofit's operations director.

News of Davis' bankruptcy surfaces as state lawmakers debate whether to renew for one year the temporary state-sponsored, private-school scholarship program, which expires June 30, or make it permanent law.

Davis formed the Mount Pleasant nonprofit last year when the state launched its first private-school choice program. The program offers state tax credits for donations made to nonprofits, including Palmetto Kids First, that are formed exclusively to offer private-school tuition grants to students with disabilities. Supporters of the program say that private schools offer smaller class sizes and individualized learning that allow students with disabilities to excel.

However, the state law governing the scholarship program prohibits the nonprofits' governing boards from having members who have declared bankruptcy in the last seven years.

Two state senators who have offered ideas for improving the scholarship program said Friday that Davis' financial history warrants a closer look, but neither sounded alarms.

Sen. Wes Hayes, R-York, said the program was adopted quickly on the Senate floor last year in the heat of budget negotiations.

"Often when that happens, you've got to come in (the) next year and really make some changes," Hayes said, adding the rules governing who can participate in the nonprofits could be re-evaluated. But, he added, "I hesitate to pass judgment too quickly. It's certainly something that the committee needs to consider."

Sen. Joel Lourie, D-Richland, said he would withhold judgment about Davis until he had more information. But he wants lawmakers to continue to reauthorize the program each year, a process that would force an annual re-evaluation.

Davis said Palmetto Kids First's board members and other staff have "long known" about his financial history. As a volunteer with the organization, Davis takes no salary — distance he said he intentionally wanted to create. In part, that was because of his financial past, but more so because, eventually, he wants to pursue other endeavors when his wife, Olga Lisinska, can run the program on her own.

Now, no one associated with a Palmetto First takes a salary, he added.

Lisinska, who helped Davis run a similar program in Georgia, said Davis' communication skills and knowledge of how scholarship programs work have made him key to the nonprofit's success so far.

The S.C. nonprofit has raised more than $820,000 since launching in January. It has awarded 87 tuition grants to students who go to 14 private schools, totaling more than $620,000.

About $825,600 has been claimed in state tax credits for the scholarship program, according to the S.C. Department of Revenue. That leaves more than $7.1 million in unclaimed tax credits that can reduce a company's or individual's tax bill by up to 60 percent.

Failed investment deal

Davis has been dogged by an ongoing legal matter related to his bankruptcy.

A couple, who Davis advised financially, sued him in 2009, accusing him of misleading them on how $950,000 they invested in 2008 to buy stock in a bank would be used. The stock, which Davis purchased with a $5 million loan, became worthless in 2009 when the bank failed.

The couple, who Davis said were like family, sued when a bank began efforts to collect on the $5 million loan from them. The litigation has been "nasty" and personal, Davis said, with the parties suing each other.

The investors said Davis did not make it clear to them that their liability was for the $5 million loan, not the $950,000 they invested. According to court proceedings, some of the couple's money went to Davis' business and personal expenses.

Davis told The State he made mistakes in the way he structured the loan, making the couple liable along with him for the $5 million loan. He also erred, he said, in using a personal home-equity bank account to deposit their money. He chose that route, he said, because he did not have a bank account set up for one of the companies he used to buy the bank stock.

In July, S.C. Chief U.S. Bankruptcy Judge David Duncan ordered the debt that Davis owed the couple would not be dissolved in Davis' bankruptcy proceedings because he misrepresented aspects of the deal and the couple's liability.

Davis' appealed of that order is pending, as is the couple's original lawsuit in Georgia, which would determine the amount of the debt that Davis, a tax attorney, owes them.

'Very good person'

On Thursday, after The State asked Davis about his financial history, he emailed the directors of private schools around the state, informing them of what he called a "single isolated event in my personal and professional life."

Asked for their reaction, two private-school directors said Davis' background has raised concerns, but they also praised his work for the school-choice program. Palmetto Kids First's board members, not its volunteers or staff members, ultimately will be liable for that organization, they said.

Anne Vickers, chief of Sandhills School in Columbia, said 12 of that school's students have tuition grants because of Palmetto Kids First, the only scholarship organization that has given grants to her students. One grant allowed parents to enroll their daughter for the first time this year, something they had wanted to do before but could not afford.

Vickers said she was surprised to learn of Davis' bankruptcy but respects his "transparency" in contacting school leaders.

Vickers said Davis is a "very good person, and I truly think that he has the interest of students with special needs as his first priority."

Dan Blanch, chief of Camperdown Academy in Greenville, said he did some research on his own when he first heard about Davis' bankruptcy.

"I was walking on eggshells, I was a little hesitant" to work with Davis, he said. "(But) he hasn't misled me, hasn't provided any false hope."

Blanch said Palmetto Kids First has provided 26 grants totaling $250,000 to students at Camperdown, which has about 100 students with learning disabilities and 33 teachers. The grants have allowed those students to cut their $20,000 annual tuition in half.

"I take credit for all Jeff's work," Blanch added. "He's the one really pushing the program."

School choice in S.C.

South Carolina approved its first private-school choice program last year. The program offers tax credits for donations that support private-school tuition grants for students with disabilities. A look at the program, by the numbers:

$8 million: Money the state will grant in tax credits this fiscal year

$7.1 million: Credits that remain unclaimed

$10,000: Highest tuition grant available

65: Number of schools now eligible to accept tuition grants from students

5: Number of nonprofits cleared by the state to accept donations and make tuition grants

EXHIBIT D

AOSC Best Practices Pledge

SPIRIT OF THE LAW

The Scholarship Funding Organization (SFO) pledges to adhere to both the letter of the proviso, law and regulations that govern the tax credit funded scholarship program(s) of South Carolina, as well as the often broader legislative intent and spirit of those legal and regulatory requirements.

SIMPLICITY

The SFO pledges to develop and administer a family-driven grant application process that places a minimal burden on the parents or guardians of an applicant student and does not unnecessarily delegate responsibilities or burdens assigned to the SFO onto applicant families, participating schools, or SFO donors.

The SFO further pledges to:

-Never use information collected about donors, students and/or schools for financial gain; never to provide such information to others seeking financial gain; and never release personally identifiable information on students or donors while maintaining appropriate security data measures

-Allocate 95 percent of revenues collected each and every year for grants, and, disperse those allocated funds within two years to specific eligible students at specific eligible schools;

-Refrain from contracting with any third parties with whom the SFO employees or directors have a personal or financial relationship;

-Never place conditions on schools enrolling students receiving SFO grants, which might limit their ability to enroll students accepting grants from other SFOs;

-Operate an efficient, effective and ethical organization that provides parents, schools, donors, and the public at large with a detailed and present account of how money is being spent and by whom.

EXHIBIT E

Palmetto Kids FIRST

Scholarship Program, Inc.

BYLAWS

OF

PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM, INC.
(a South Carolina nonprofit corporation)
(Adopted effective June 20th, 2013)

ARTICLE I

NAME

1.01 Name

The name of this corporation shall be Palmetto Kids FIRST Scholarship Program, Inc. (the "Palmetto Kids FIRST"). The business of the corporation may be conducted as Palmetto Kids FIRST Scholarship Program, Inc.

ARTICLE II

PURPOSES, POWERS and DISSOLUTION

2.01 Purpose

Palmetto Kids FIRST is a nonprofit corporation and shall be operated exclusively for educational and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, or the corresponding section of any future Federal tax code, including for these purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code.

Notwithstanding the general educational and charitable purposes of Palmetto Kids FIRST, Palmetto Kids FIRST shall make grants, or otherwise accomplish its educational and charitable purpose by providing educational scholarships and tuition grants for students attending private primary or secondary school in the State of South Carolina to the extent necessary to acquire and maintain the status as a "Scholarship Funding Organization" as defined in the 2013 South Carolina Budget Proviso 1.85, or any correspondingly similar future South Carolina legislation. All scholarship grants must be made in a manner that maintains Palmetto Kids FIRST's status as an organization described in Section 501(c)(3) of the Internal Revenue Code.

2.02 Powers

The corporation shall have the power, directly or indirectly, alone or in conjunction or cooperation with others, to do any and all lawful acts which may be necessary or convenient to affect the charitable purposes, for which the corporation is organized, and to aid or assist other organizations or persons whose activities further accomplish, foster, or attain such purposes. The powers of the corporation may include, but not be limited to, the acceptance of contributions from the public and private sectors, whether financial or in-kind contributions.

2.03 Nonprofit Status and Exempt Activities Limitation

(a) Nonprofit Legal Status. Palmetto Kids FIRST is a South Carolina nonprofit public benefit corporation, recognized as tax exempt under Section 501(c)(3) of the United States Internal Revenue Code.

(b) Exempt Activities Limitation. Notwithstanding any other provision of these Bylaws, no director, officer, employee, member, or representative of this corporation shall take any action or carry on any activity by or on behalf of the corporation not permitted to be taken or carried on by an organization exempt under Section 501(c)(3) of the Internal Revenue Code as it now exists or may be amended, or by any organization contributions to which are deductible under Section 170(c)(2) of such Code and Regulations as it now exists or may be amended. No part of the net earnings of the corporation shall inure to the benefit or be distributable to any director, officer, member, or other private person, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the Articles of Incorporation and these Bylaws.

2.04 Termination of Corporation

Palmetto Kids FIRST shall have a perpetual term, unless terminated or dissolved by a two-thirds (2/3) vote of all members of the board of directors.

Distribution Upon Dissolution. Upon termination or dissolution of Palmetto Kids FIRST, any assets lawfully available for distribution shall be distributed to one (1) or more qualifying organizations described in Section 501(c)(3) of the 1986 Internal Revenue Code (or described in any corresponding provision of any successor statute) which organization or organizations have a charitable purpose which, at least generally, includes a purpose similar to the terminating or dissolving corporation, giving preference if practicable to organizations located within the State of South Carolina.

The organization to receive the assets of Palmetto Kids FIRST hereunder shall be selected in the discretion of a majority of the board of directors of the corporation, and if its members cannot so agree, then the recipient organization shall be selected pursuant to a verified petition in equity filed in a court of proper jurisdiction against Palmetto Kids FIRST by one (1) or more of its board of directors which verified petition shall contain such statements as reasonably indicate the

applicability of this section. The court upon a finding that this section is applicable shall select the qualifying organization or organizations to receive the assets to be distributed, giving preference if practicable to organizations located within the State of South Carolina.

ARTICLE III

MEMBERSHIP

3.01 No Membership Classes

The corporation shall have no members who have any right to vote or title or interest in or to the corporation, its properties and franchises.

ARTICLE IV

BOARD OF DIRECTORS

4.01 Number of Directors

Palmetto Kids FIRST shall have a board of directors consisting of at least 3 and no more than 5 directors. Within these limits, the board may increase or decrease the number of directors serving on the board, including for the purpose of staggering the terms of directors.

4.02 Powers

All corporate powers shall be exercised by or under the authority of the board and the affairs of Palmetto Kids FIRST shall be managed under the direction of the board, except as otherwise provided by law.

4.03 Terms

(a) All directors shall be elected to serve a five-year term, however the term may be extended until a successor has been elected.

(b) Directors may serve terms in succession and may be re-elected to any number of consecutive terms.

(c) The term of office shall expire with the applicable Palmetto Kids FIRST fiscal tax year, unless the term is extended until such time as a successor has been elected.

4.04 Qualifications and Election of Directors

In order to be eligible to serve as a director on the board of directors, the individual must be 18 years of age and an affiliate within affiliate classifications created by the board of directors. Directors may be elected at any board meeting by the majority vote of the existing board of directors. The election of directors to replace those who have fulfilled or are fulfilling their term of office shall take place in May of applicable years.

Notwithstanding the general eligibility requirements to serve as a director on the board of directors, all directors must also satisfy any eligibility requirements necessary for Palmetto Kids FIRST to acquire and maintain the status of a "Scholarship Funding Organization" as defined in the 2013 South Carolina Budget Proviso 1.85, or any correspondingly similar future South Carolina legislation. Any director failing to meet such additional requirements shall immediately resign or otherwise be immediately removed from the board.

4.05 Vacancies

The board of directors may fill vacancies due to the expiration of a director's term of office, resignation, death, or removal of a director or may appoint new directors to fill a previously unfilled board position, subject to the maximum number of directors under these Bylaws.

(a) Unexpected Vacancies. Vacancies in the board of directors due to resignation, death, or removal shall be filled by the board for the balance of the term of the director being replaced.

4.06 Removal of Directors

A director may be removed by two-thirds (2/3) vote of the board of directors then in office, if:

(a) the director is absent and unexcused from two or more meetings of the board of directors in a twelve month period. The board president is empowered to excuse directors from attendance for a reason deemed adequate by the board president. The president shall not have the power to excuse him/herself from the board meeting attendance and in that case, the board vice-president shall excuse the president. Or:

(b) for cause or no cause, if before any meeting of the board at which a vote on removal will be made the director in question is given electronic or written notification of the board's intention to discuss her/his case and is given the opportunity to be heard at a meeting of the board.

4.07 Board of Directors Meetings

(a) Regular Meetings. The board of directors shall have a minimum of one (1) regular meeting each calendar year at a time and place fixed by the board. Board meetings shall be held upon four (4) days' notice by first-class mail, electronic mail, or facsimile transmission or forty-eight (48) hours' notice delivered personally or by telephone. If sent by mail, facsimile transmission, or electronic mail, the notice shall be deemed to be delivered upon its deposit in the mail or transmission system. Notice of meetings shall specify the place, day, and hour of meeting. The purpose of the meeting need not be specified.

(b) Special Meetings. Special meetings of the board may be called by the president, vice-president, secretary, treasurer, or any two (2) other directors of the board of directors. A special meeting must be preceded by at least two (2) days' notice to each director of the date, time, and place, but not the purpose, of the meeting.

(c) Waiver of Notice. Any director may waive notice of any meeting, in accordance with South Carolina law.

(d) Actions Without a Meeting. Any action required or permitted to be taken by the board of directors at a meeting may be taken without a meeting if consent in writing, setting forth the action so taken, shall be agreed by the consensus of a quorum. For purposes of this section an e-mail transmission from an e-mail address on record constitutes a valid writing. The intent of this provision is to allow the board of directors to use email to approve actions, as long as a quorum of board members gives consent.

4.08 Manner of Acting

(a) Quorum. A majority of the directors in office immediately before a meeting shall constitute a quorum for the transaction of business at that meeting of the board. No business shall be considered by the board at any meeting at which a quorum is not present.

(b) Majority Vote. Except as otherwise required by law or by the Articles of Incorporation, the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board.

(C) Hung Board Decisions. On the occasion that directors of the board are unable to make a decision based on a tied number of votes, the president or treasurer in the order of presence shall have the power to swing the vote based on his/her discretion.

(d) Participation. Except as required otherwise by law, the Articles of Incorporation, or these Bylaws, directors may participate in a regular or special meeting through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting, including in person, internet video meeting or by telephonic conference call.

4.09 Compensation for Board Service

Directors shall receive no compensation for carrying out their duties as directors. The board may adopt policies providing for reasonable reimbursement of directors for expenses incurred in conjunction with carrying out board responsibilities, such as travel expenses to attend board meetings.

4.10 Compensation for Professional Services by Directors

Directors are not restricted from being remunerated for professional services provided to the corporation. Such remuneration shall be reasonable and fair to the corporation and must be reviewed and approved in accordance with the board Conflict of Interest policy and state law.

4.11 Initial Board of Directors

The initial directors of Palmetto Kids FIRST shall be Shawn Lifrage, David Owens, and Jaroslaw Jasinski. Each initial director shall hold office for a five-year term ending

contemporaneously with the applicable fiscal year-end of Palmetto Kids FIRST on May 31St, 2018.

ARTICLE V

OFFICERS

5.01 Board Officers

The officers of the corporation shall be a board president, vice-president, secretary, and treasurer, all of whom shall be chosen by, and serve at the pleasure of, the board of directors. Each board officer shall have the authority and shall perform the duties set forth in these Bylaws or by resolution of the board or by direction of an officer authorized by the board to prescribe the duties and authority of other officers. The board may also appoint additional vice presidents and such other officers as it deems expedient for the proper conduct of the business of the corporation, each of whom shall have such authority and shall perform such duties as the board of directors may determine.

5.02 Two or More Offices

One person may hold two or more board offices, except that the President and Secretary shall not be the same person. No board officer may act in more than one capacity where action of two or more officers is required.

5.03 Term of Office

Each elected officer of Palmetto Kids FIRST shall hold office until such officer's successor is chosen and qualified in such officer's stead or until such officer's earlier death, resignation, retirement, disqualification or removal from office. Each officer shall serve at the pleasure of the board of directors without the necessity of periodic reappointment.

5.04 Removal and Resignation

The board of directors may remove an officer at any time, with or without cause. Any officer may resign at any time by giving written notice to the corporation without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party. Any resignation shall take effect at the date of the receipt of the notice or at any later time specified in the notice, unless otherwise specified in the notice. The acceptance of the resignation shall not be necessary to make it effective.

5.05 Vacancies

If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the board of directors.

5.06 Board President

The board president shall be the chief volunteer officer of the corporation. The board president shall lead the board of directors in performing its duties and responsibilities, including, if present, presiding at all meetings of the board of directors, and shall perform all other duties incident to the office or properly required by the board of directors.

5.07 Vice-President

In the absence or disability of the board president, the ranking vice-president or vice-president designated by the board of directors shall perform the duties of the board president. When so acting, the vice-president shall have all the powers of and be subject to all the restrictions upon the board president. The vice-president shall have such other powers and perform such other duties prescribed for them by the board of directors or the board president. The vice-president shall normally accede to the office of board president upon the completion of the board president's term of office.

5.08 Secretary

The secretary shall keep or cause to be kept a book of minutes of all meetings and actions of directors and committees of directors. The minutes of each meeting shall state the time and place that it was held and such other information as shall be necessary to determine the actions taken and whether the meeting was held in accordance with the law and these Bylaws. The secretary shall cause notice to be given of all meetings of directors and committees as required by the Bylaws. The secretary shall have such other powers and perform such other duties as may be prescribed by the board of directors or the board president. The secretary may appoint, with approval of the board, a director to assist in performance of all or part of the duties of the secretary.

5.09 Treasurer

The treasurer shall be the lead director for oversight of the financial condition and affairs of the corporation. The treasurer shall oversee and keep the board informed of the financial condition of the corporation and of audit or financial review results. In conjunction with other directors or officers, the treasurer shall oversee budget preparation and shall ensure that appropriate financial reports, including an account of major transactions and the financial condition of the corporation, are made available to the board of directors on a timely basis or as may be required by the board of directors. The treasurer shall perform all duties properly required by the board of directors or the board president. The treasurer may appoint, with approval of the board a qualified fiscal agent or member of the staff to assist in performance of all or part of the duties of the treasurer.

5.10 Non-Director Officers

The board of directors may designate additional officer positions of the corporation and may appoint and assign duties to other non-director officers of the corporation.

5.11 Compensation for Officers

The compensation, if any, of all officers of Palmetto Kids FIRST shall be fixed from time to time by unanimous consent of the board of directors.

5.12 Initial Officers

The initial officers of Palmetto Kids FIRST shall be Shawn Lifrage (Secretary/Treasurer), David Owens (Vice-President), and Jaroslaw Jasinski (President).

ARTICLE VI

CONTRACTS, CHECKS, LOANS, INDEMNIFICATION AND RELATED MATTERS

6.01 Contracts and other Writings

Except as otherwise provided by resolution of the board or board policy, all contracts, deeds, leases, mortgages, grants, and other agreements of the corporation shall be executed on its behalf by the treasurer or other persons to whom the corporation has delegated authority to execute such documents in accordance with policies approved by the board.

6.02 Checks, Drafts

All checks, drafts, or other orders for payment of money, notes, or other evidence of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents, of the corporation and in such manner as shall from time to time be determined by resolution of the board.

6.03 Deposits

All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depository as the board or a designated committee of the board may select.

6.04 Loans

No loans shall be contracted on behalf of the corporation and no evidence of indebtedness shall be issued in its name unless authorized by resolution of the board. Such authority may be general or confined to specific instances.

6.05 Liability and Indemnification

No director shall be liable for the debts, liabilities, and other obligations of the corporation.

(a) Mandatory Indemnification. The corporation shall indemnify a director or former director, who was wholly successful, on the merits or otherwise, in the defense of any proceeding to

which he or she was a party because he or she is or was a director of the corporation against reasonable expenses incurred by him or her in connection with the proceedings.

(b) Permissible Indemnification. The corporation shall indemnify a director or former director made a party to a proceeding because he or she is or was a director of the corporation, against liability incurred in the proceeding, if the determination to indemnify him or her has been made in the manner prescribed by the law and payment has been authorized in the manner prescribed by law.

(c) Advance for Expenses. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding, as authorized by the board of directors in the specific case, upon receipt of (i) a written affirmation from the director, officer, employee or agent of his or her good faith belief that he or she is entitled to indemnification as authorized in this article, and (ii) an undertaking by or on behalf of the director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the corporation in these Bylaws.

(d) Indemnification of Officers, Agents and Employees. An officer of the corporation who is not a director is entitled to mandatory indemnification under this article to the same extent as a director. The corporation may also indemnify and advance expenses to an employee or agent of the corporation who is not a director, consistent with South Carolina Law and public policy, provided that such indemnification, and the scope of such indemnification, is set forth by the general or specific action of the board or by contract.

ARTICLE VII

MISCELLANEOUS

7.01 Books and Records

The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of all meetings of its board of directors, a record of all actions taken by board of directors without a meeting, and a record of all actions taken by committees of the board. In addition, the corporation shall keep a copy of the corporation's Articles of Incorporation and Bylaws as amended to date.

7.02 Fiscal Year

The fiscal year of the corporation shall be from June 1St to May 31St of each year. The initial fiscal year-end will be May 31St, 2014.

7.03 Conflict of Interest

The board shall initially adopt the Sample Conflict of Interest Policy contained in Appendix A to the Form 1023 Instructions as its own conflict of interest policy. The board shall periodically review, and if necessary amend, the conflict of interest policy to protect the corporation's interest when it is contemplating any transaction or arrangement which may benefit any director, officer, employee, affiliate, or member of a committee with board-delegated powers.

7.04 Nondiscrimination Policy

The officers, directors, committee members, employees, and persons served by this corporation shall be selected entirely on a nondiscriminatory basis with respect to age, sex, race, religion, national origin, and sexual orientation. It is the policy of Palmetto Kids FIRST not to discriminate on the basis of race, creed, ancestry, marital status, gender, sexual orientation, age, physical disability, veteran's status, political service or affiliation, color, religion, or national origin.

7.05 Bylaw Amendment

These Bylaws may be amended, altered, repealed, or restated by a vote of the majority of the board of directors then in office at a meeting of the Board, provided, however,

(a) that no amendment shall be made to these Bylaws which would cause the corporation to cease to qualify as an exempt corporation under Section 501(c)(3) of the Internal Revenue Code of 1986, or the corresponding section of any future Federal tax code; and,

(b) that an amendment does not affect the voting rights of directors. An amendment that does affect the voting rights of directors further requires ratification by a two-thirds (2/3) vote of a quorum of directors at a Board meeting.

(c) that all amendments be consistent with the Articles of Incorporation.

Furthermore, these Bylaws may be amended, altered, repealed, or restated by a vote of the majority of the board of directors then in office at a meeting of the Board in any manner required for the purpose of insuring that Palmetto Kids FIRST qualifies at all times as an exempt corporation under Section 501(c)(3) of the Internal Revenue Code of 1986, or the corresponding section of any future Federal tax code, and to the extent necessary to acquire and maintain the status as a "Scholarship Funding organization" as defined in the 2013 South Carolina Budget Proviso 1.85, or any correspondingly similar future South Carolina legislation.

7.06 Articles of Incorporation Amendment

Any amendment to the Articles of Incorporation may be adopted by approval of two-thirds (2/3) of the board of directors.

CERTIFICATE OF ADOPTION OF BYLAWS

The undersigned hereby certifies that the foregoing initial Bylaws of Palmetto Kids FIRST were duly adopted by the board of directors as of June 20th, 2013 and constitute a complete copy of the Bylaws of the corporation.

Shawn Lifrage, Secretary/Treasurer

EXHIBIT F

Palmetto Kids FIRST:

Palmetto Kids FIRST Director of Operations, Olga Lisinska, and Jeff Davis presented Einstein Academy with a check for $263.500.00 that represents the 39 scholarships that benefit Einstein students.

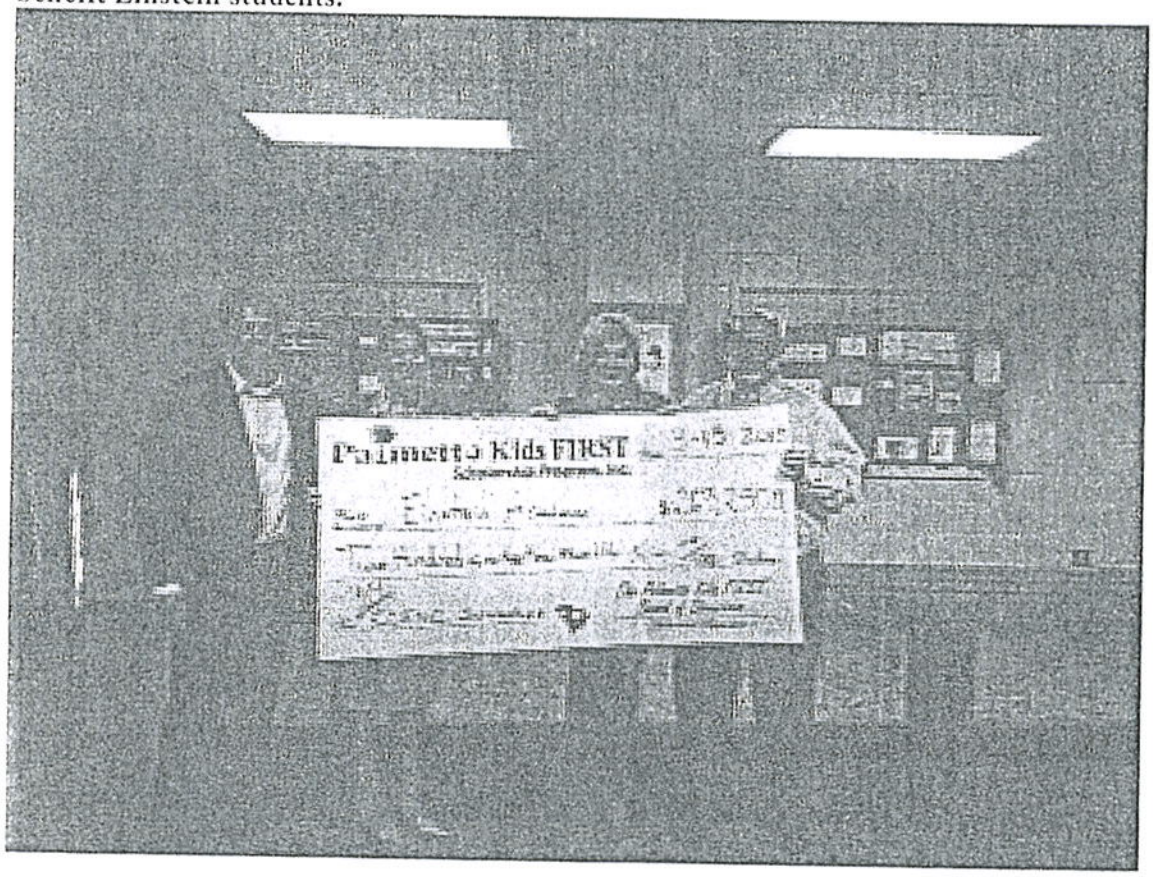


EXHIBIT G

Verify an Individual's CFP® Certification and Background

More than 70,000 individuals in the United States currently meet CFP Board's initial and ongoing certification requirements for CFP® certification.

The verification function below will allow you to verify an individual's certification status. The search results will identify individuals who currently hold CFP® certification as well as individuals who are not currently certified but who held CFP® certification at one time.

If you search for an individual who has been disciplined publicly by CFP Board, or who has a bankruptcy filing within the past 10 years, information about the discipline and/or bankruptcy will be indicated in the search results.

R. Jefferson Davis

Certification Status: ***Revoked***
Company:
Apogee Family Office, LLC

Address:

1985 Riviera Dr # 103-126
Mt Pleasant, SC 29464-7582

CFP Board Disciplinary History: Yes
Bankruptcy Disclosure in Last 10 Years: No

CFP Board does not provide referrals. Use of this information by business organizations wishing to solicit CFP® professionals is expressly prohibited by Certified Financial Planner Board of Standards Inc.

If you are the CFP® professional and the information above is incorrect, login and update your contact information.

CFP Board Public Disciplinary History

Effective Date: 8/14/2014

In August 2014, CFP Board issued an order permanently revoking Mr. Davis' right to use the CFP® certification marks. This discipline followed Mr. Davis' entry into a settlement agreement with CFP Board in which he consented to CFP Board's findings that he told clients that they were purchasing a stock while failing to tell them about a $5 million dollar liability, told clients that their $950,000 was being used to purchase a stock when he was really using it to pay interest

on the loan as well as business and personal expenses, told clients that he was indicating to the bank to change the guarantors of the loan when he did not, informed the clients that the loan was current when it was not and filed bankruptcy after promising to have the clients released as guarantors on the $5 million dollar loan. The Commission found that Mr. Davis' conduct violated Rules 102, 103(d), 202, 401(a), 501, 606(b) and 607 of CFP Board's Code of Ethics and Rules 1.4 and 6.5 of CFP Board's Rules of Conduct as well as Practice Standards 400-3 and 500-2, providing grounds for discipline under Articles 3(a) and 3(b) of CFP Board's Disciplinary Rules and Procedures. In accordance with Article 4.4 of the Disciplinary Rules, CFP Board issued a Revocation of Mr. Davis' CFP® certification. Mr. Davis' revocation is effective as of August 14, 2014.

About CFP Board's Disciplinary Process

Ethical conduct is a central requirement of the CFP® certification, and CFP Board actively enforces its ethical standards. All individuals who hold the CFP® certification agree to abide by the rigorous ethics and practice standards contained in CFP Board's *Standards of Professional Conduct* (*Standards*). In situations where CFP Board learns that a CFP® professional's conduct may be in violation of the *Standards*, it conducts an investigation following the process outlined in CFP Board's *Disciplinary Rules and Procedures*.

The Disciplinary and Ethics Commission (formerly known as the Board of Professional Review) is responsible for interpreting and applying CFP Board's *Code of Ethics and Professional Responsibility*, *Rules of Conduct* and *Financial Planning Practice Standards* to specific fact situations involving professionals and imposing, where necessary, the appropriate discipline. The Commission may impose several types of discipline, up to the permanent revocation of an individual's right to use the CFP® certification marks.

Individuals who are listed above with indication of a CFP Board public disciplinary history have received a public discipline – either a public letter of admonition, suspension of CFP® certification, or permanent revocation of CFP® certification. Individuals may also be disciplined privately with a cautionary letter or private censure; a private discipline is confidential and not available to the public through this search function or other means.[43]

[43] http://www.cfp.net/utility/verify-an-individual-s-cfp-certification-and-background/Details/?key=3f99a870-e0a6-47bb-b2ee-407d94185c2a&FirstName=R.&LastName=Davis&Page=1

EXHIBIT H

INTERIM SUSPENSION

SOUTH CAROLINA

Ronald Jefferson Davis (Mt. Pleasant): In April 2012, CFP Board issued Mr. Davis an interim suspension of his right to use the CFP® certification marks. CFP Board received notice of allegations that Mr. Davis misappropriated client funds that were intended to be used in the purchase of stock and that Mr. Davis forged the client's named on loan guarantees. When questioned by the Commission regarding these allegations, Mr. Davis declined to respond, citing his Fifth Amendment rights. Pursuant to Article 5.7 of the *Disciplinary Rules and Procedures*, CFP Board issued an Automatic Interim Suspension because Mr. Davis failed to meet his burden to demonstrate that he did not pose an immediate threat to the public and that his conduct did not impinge upon the stature and reputation of the CFP® certification marks. Under the interim suspension order, Mr. Davis's right to use the CFP® certification marks is suspended pending CFP Board's completed investigation, and possible further disciplinary proceedings. The interim suspension order became effective on April 6, 2012.[44]

[44] http://www.cfp.net/news-events/latest-news/2013/01/22/cfp-board-censures-improper-cfp-professional-conduct

EXHIBIT I

PHOTO OF DAVIS AND SCHOOL OFFICIALS





Palmetto Kids FIRST Scholarship Program
With Michelle Hill Perakis, David Owens, Kathi Henderson Owens, Jason Emmett Perakis, Jarosław Jasiński, Olga Lisinska, Tom Hall, Jeff Davis and Michael Shawn Lifrage at The Barclay School at Columbia College

Photos from Palmetto Kids FIRST Scholarship Program's post in Timeline Photos · Mar 22 · View Full Size · Send as Message · Report Photo

EXHIBIT J

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re, Ronald Jefferson Davis, Jr., Debtor.	C/A No. 11-07525-dd Adv. Pro. No. 12-80034-dd Chapter 7
Andrew Taylor and Naomi Taylor, Plaintiffs, v. Ronald Jefferson Davis, Jr., Defendant.	**ORDER**

This adversary proceeding comes before the Court on the amended complaint of the plaintiffs, Andrew Taylor and Naomi Taylor ("Plaintiffs"), seeking a determination that a debt owed to them by the debtor and defendant, Ronald Jefferson Davis, Jr. ("Defendant") is nondischargeable under 11 U.S.C. §§ 523(a)(2)(A), (a)(4), and (a)(6). Jurisdiction for this proceeding is premised upon 28 U.S.C. §§ 1334 and 157(a). This adversary proceeding is a core proceeding under 28 U.S.C. § 157(b)(2)(I). Venue of this adversary proceeding is proper pursuant to 28 U.S.C. § 1409.

Defendant, proceeding *pro se*, answered the complaint and counterclaimed. At a hearing on October 9, 2012, the parties agreed the counterclaims asserted by Defendant were not compulsory in this case. The counterclaims were thus stricken from Defendant's answer and not pursued as part of this adversary proceeding. (Docket # 131). A trial was held on the 26th, 27th, and 28th of March 2013. After careful consideration of the applicable law, arguments of the parties, and evidence submitted, the Court issues the following findings of fact and conclusions

of law under Federal Rule of Civil Procedure 52(a), made applicable by Federal Rule of Bankruptcy Procedure 7052.[1]

FINDINGS OF FACT

A. Background

1. Plaintiffs are residents of the State of Georgia.

2. Defendant is a resident of Charleston County, South Carolina.

3. On December 5, 2011, Defendant, proceeding *pro se*, filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code. Defendant's bankruptcy case is captioned *In re Ronald Jefferson Davis, Jr.*, Case No. 11-07525-dd, and is pending in the United States Bankruptcy Court for the District of South Carolina.

4. Defendant received a discharge in his bankruptcy case on October 10, 2012. However, this discharge does not apply to debts that this Court determines are excepted from discharge.

5. Defendant is a licensed attorney in Georgia.

6. Naomi Taylor is a professor of radiology and nuclear medicine at a university in Atlanta, Georgia and chief of nuclear medicine at a Veterans Administration medical center. Andrew Taylor served as a co-director of nuclear medicine at a university in Atlanta, Georgia and is currently employed at that university.

[1] To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such, and to the extent any of the following conclusions of law constitute findings of fact, they are also so adopted.

7. Naomi Taylor's daughter is married to David Pemberton. Defendant was a close friend of Pemberton and best man at the wedding of Naomi Taylor's daughter and Pemberton in 2001. Plaintiffs met Defendant through Pemberton prior to the wedding in 2001.

8. Within a few years of the wedding, Defendant prepared a will for Plaintiffs while he was employed at Stillpoint Advisers ("Stillpoint") in Atlanta, Georgia. Stillpoint provided wealth management and professional services.

9. Eventually, Defendant left Stillpoint and started Apogee Family Office, LLC. Other companies later developed as part of the Apogee group of companies, including Apogee Law Collier, P.C.; Apogee Law Davis, Collier, LLC; Apogee Holding Company, LLC; Apogee Insurance Services, LLC; Apogee Wealth Management, LLC; Apogee CPA Services, LLC; Family Office 360, LLC; ATS Fidelis Group, Inc.; 1842 Capital, LLC; and Apogee GBC 2008, LLC (collectively referred to herein as the "Apogee Companies").

10. In his answer, Defendant denies any principal relationship or managerial authority related to Apogee Law Collier, P.C. He admits he was managing member for Apogee Family Office, LLC; Apogee Holding Company, LLC; Apogee Insurance Services, LLC; Apogee Wealth Management, LLC; Family Office 360, LLC; and 1842 Capital, LLC. He also admits he was a member of Apogee CPA Services, LLC and Apogee Law Davis, Collier, LLC and a shareholder and officer of ATS Fidelis, Inc.

11. Defendant testified he owned over 90% of Apogee Family Office, and there was one other owner of the company.

12. Pemberton suggested Plaintiffs seek financial management advice from Defendant and the Apogee Companies.

13. Plaintiffs' priority was retirement planning when they began receiving financial advice from the Apogee Companies around 2006.

14. One of the services the Apogee Companies offered involved having access to clients' financial accounts and paying bills on their behalf. Plaintiffs used this service.

15. The Apogee Companies had access to Plaintiffs' IRA accounts and could withdraw fees for their services from those accounts.

B. The Georgian Bank Stock Purchase

16. In 2008, Defendant became aware of a large block of Georgian Bancorporation, Inc. ("Georgian Bank") stock being sold at a discount by an investor who was having financial difficulties.

17. Georgian Bank was a small, closely-held bank in Georgia.

18. For regulatory reasons, Georgian Bank had to stay under 300 shareholders to remain a nonpublic company.

19. At a meeting on or about May 13, 2008, Peter Maher, who worked with the Apogee Companies, mentioned the Georgian Bank stock as an investment option for Plaintiffs. Defendant was also at this meeting and agreed this was a good investment option for Plaintiffs.

20. Andrew Taylor's understanding was that Peter Maher worked for and was supervised by Defendant.

21. On May 13, 2008, Naomi Taylor sent an email to Maher on which Defendant was copied in which she states: "On the bank investment, I believe that I have $150,000 in a cash account and can use another $50,000 from other cash account (joint with Tip) that he might be using for cash to come up with $200,000 for investing in the bank, if you can give me that much

in shares."[2] Pl.'s ex. 2 p.68. She testified at trial she included the last portion of this statement in her email because her impression from Defendant was the Georgian Bank stock was in high demand.

22. On May 21, 2008, Andrew Taylor emailed Maher and Defendant asking for suggestions about how much stock to purchase, how to fund the purchase, and what loan terms Georgian Bank would offer to loan money against the stock. Pl.'s ex. 2, p. 71.

23. On May 21, 2008, Defendant emailed Andrew Taylor:

> Tip, the terms are Gordon[3] committed to us after I asked them about it were unsecured (within reason of course, but you two certainly qualify), interest only, prime rate (5%), 50 bps initial fee, and 17 bps for annual renewal fee. Definitely the BEST terms I have ever seen them do, and I have never seen them do anything unsecured . . . but I guess that is part of being in "the club." We actually don't take very many loans to them as they are hard on their terms, rates, etc . . . but that's likely why they have not been impacted by the subprime issues. I'll forward you their shareholder letters, if you have time to read them you will find them very interesting.
>
> How much?? General rule of thumb is you don't want to see more than 5% of net worth in a single security as a MAXIMUM, so between you guys total we are talking $700k or so. With that said however, we do know a lot about the bank, so it's not unreasonable to do something north of that number if you really wanted to. Maybe an even $1 million . . . using the leverage of borrowing a fair amount of the funds might not be a bad idea. You have to consider what is our downside from here (seems limited to me) and what is our potential upside? I'd expect this to double if not triple with a strategic buyer. Me personally, I might bet the farm, but I am guessing between the four of us (Naomi, you, Peter and myself) I probably have the highest risk tolerance of all of us . . . but I have seen some of your small cap stocks Tip, so you might not be as far behind me as I might guess ;-).
>
> Seriously though, this is a very PRIVATE and closed deal, and not that you would, please don't pass it along to anyone. If you do have a friend/family member or someone that would want to do $200k + just let me know first and we would be happy to talk to them and get them in (especially if local or a potential client of ours or the banks), but it would have to be someone serious and probably able to move quickly. Pl.'s ex. 2, pp. 70-71 (omissions in original).

---

[2] The parties sometimes refer to Andrew Taylor as "Tip" in their communications.

[3] Gordon Teel was the president and chief executive officer of Georgian Bank at that time. Def.'s ex. B.

24. On May 23, 2008, Andrew Taylor emailed Defendant: "I would like to invest $500K but would appreciate your and Peter's advice on the best way to structure it—selling some current securities and using revenue to buy the bank stock, the appropriate split between my retirement funds and regular funds and how much additional debt to take by borrowing from the bank." Pl.'s ex. 2, p. 70.

25. Later, Naomi Taylor also indicated she wanted to invest $500,000 in the Georgian Bank stock.

26. Defendant's plan was to purchase $5 million worth of Georgian Bank stock with $1 million being allocated to Plaintiffs and $1.5 million being allocated to the Apogee Companies. Another family would then be found to invest in the remaining $2.5 million.

27. The purchase of the stock had to be closed quickly.

28. Defendant structured a lending transaction whereby the $5 million needed to purchase the stock would be borrowed from Georgian Bank. The initial promissory note was dated May 29, 2008.[4] The loan was renewed on August 29, 2008. Pl.'s ex. 5. The August 29, 2008 note was in the amount of $5,032.049.00. *Id.* The borrower on both the May 29th and August 29th promissory notes was 1842 Capital, LLC. Defendant signed the August 29th promissory note as managing member of 1842 Capital. *Id.* Defendant signed guarantees for both the May 29th and August 29th notes. *Id.* Taylor Fairman signed a guarantee for the May 29th note. *Id.* Timothy Winder signed a guarantee for the August 29th note. *Id.* There are also guarantees for the May 29th note ("May 2008 guarantee"), and August 29th note ("August 2008 guarantee") with the purported signatures of Andrew Taylor and Naomi Taylor for the $5 million loan. *Id.*

[4] The May 29, 2008 note was never offered into evidence.

29. Apogee GBC 2008 was the purchaser of the Georgian Bank stock. Defendant testified Apogee GBC 2008 was structured to hold the Georgian Bank stock until it was sold.

30. On May 22, 2008, Defendant sent Andrew Taylor an email with an information package attached about the Georgian Bank stock purchase. Def.'s ex. B. Andrew Taylor recalled receiving the email and printing out the attachment.

31. The information package contains a two-page summary of the transaction, a Georgian Bank annual report, and some financial highlights and projections. *Id.*

32. The two-page summary contains an introductory paragraph, which states:

> It has become necessary for an individual shareholder of Georgian Bankcorporation, Inc. (www.GeorgianBank.com) to sell a large single block of approximately $11.2 million of bank stock at a distressed/block discount rate of $27 per share. It is our understanding that the reasons for this sale are of a personal nature and totally unrelated to the performance of the bank. Two Georgian Bank board members have already committed to purchase portions of this block of stock in excess of $2 million each. Th[r]ough our close connections with Georgian Bank (our offices are located in their Atlanta headquarters building and we do a substantial amount of client business with Georgian Bank so we know their business operations well), we have confidentially and privately been presented the unique opportunity to purchase a substantial portion of the remaining stock through a single purpose entity, Apogee GBC 2008, LLC. We believe this to be an ideal opportunity for our friends and family and the exact type of small/private deal that we would like to participate in. *Id.*

The summary also stated that the maximum amount of stock available to Apogee was 265,000 shares ($7.155 million) and the minimum available was 100,000 shares ($2.7 million) to 190,000 shares ($5.13 million), there were currently Apogee client and employee commitments for approximately 100,000 shares or $2.7 million, and the "[e]xpected closing [was] Monday, May 26th, 2008." *Id.* In addition, the summary provided that "[b]ank lending can be easily and quickly arranged at very favorable terms for investors. Terms are unsecured, prime rate (5%), interest only, 0.5% origination fee with an annual 0.17% renewal fee." *Id.* Furthermore, the summary indicated that "[m]embership units in Apogee GBC 2008, LLC will be allocated at

$27/unit representing an equivalent number of Georgian Bank shares" and that "[m]embers should expect no dividends over the term of the LLC and this is a highly illiquid asset which likely [will] be tied up for 3 to 5 years at a minimum." *Id.*

33. On May 30, 2008, Defendant emailed Plaintiffs about closing the stock purchase ("May 30th email"):

> Just a quick heads up that we are working diligently to close the first part of the stock deal today. I may have some documents for you guys to sign . . . if possible today . . . or over the weekend if we are all tied up today. You guys around???
>
> We/Apogee 2008, LLC (the single purpose holding entity for the stock) is buying the stock today to "close" the deal for the seller . . . and over the next 90 days reallocating as everybody needs to individual name, IRA's, etc. More to follow. Pl.'s ex. 7, p. 118 (omissions in original).

34. Andrew Taylor testified that the May 30th email was the first time Defendant had mentioned Apogee GBC 2008. He also testified that he understood Defendant and the Apogee Companies were going to purchase the stock and then reallocate it to individual investors.

35. Andrew Taylor responded to Defendant's May 30th email, stating "[w]e are around all weekend and next week. I leave for Wash June 6 and Naomi and I both leave for Europe June 9." Def.'s ex. D.

36. On or about June 8, 2008, Andrew Taylor traveled to the Washington, D.C. area to give a lecture. On or about June 11, 2008, Plaintiffs traveled to Europe.[5]

37. On June 11, 2008, Defendant emailed Plaintiffs ("June 11th email"):

> Attached are the organizational documents for Apogee GBC 2008, LLC . . . if you need some reading material for the plane. Purchase agreement, copy of the stock certificate, etc. Basically I am the "managing member"/President of this single purpose LLC, Shannan Collier (one of our attorneys is the Secretary), and Taylor Fairman is the CIO (Chief Investment Office). So we should all be pretty

[5] In his email responding to Defendant's May 30th email, Andrew Taylor had the dates wrong for when he was leaving for Washington and when Plaintiffs were leaving for Europe. Def.'s ex. D.

comfortable that we are in 100% control. I'll have some additional paperwork for you to sign for your ownership, etc . . . but we can do that when you guys return. We had to go ahead and close the purchase on May 30th (using a loan from the bank in order to close it fast as you know), so we will end up having to "bill" folks a small/proportional share of their interest calculated from 5/30 to the time they deposit their purchase price into the account so we can pay down the loan. We are also asking people to sign (with us) for their portion of the note as a sign of good faith. However . . . the benefit we negotiated last minute for doing the total block purchase (Apogee did $5,022,000) as fast as we did . . . was some additional WARRANTS which actually brings our purchase price down to $25.70 (or $1.30 off the original $27 purchase price). Pretty happy about that!!!

In any case . . . Peter passed along the signed wires so we will get that moving ASAP to stop the "clock ticking" on the interest part . . . and we should have the IRA portion done in the next 3 or 4 weeks once Fidelity approves everything. Please let me know if you have any questions. Pl.'s ex. 7, pp. 124-25 (omissions in original).

38. Defendant introduced into evidence a copy of the June 11, 2008 email that showed various attachments which do not appear on the copy of the email Plaintiffs moved into evidence. *See* Def.'s ex. G; Pl.'s ex. 7, pp. 124-25; Pl.'s ex. 10. These attachments include documents entitled Apogee GBC 2008, LLC Operating Agreement, Organizational Documents 2008-05-30, Stock-Warrant Purchase 2008-05-30, and Apogee GBC 2008 Stock Certificate. Def's ex. G.

39. Naomi Taylor testified she believed she received the email with the attachments.

40. On June 14, 2008, Andrew Taylor responded to Defendant and stated Plaintiffs were lecturing in Vienna, Madrid, and Oporto and that he had not "had [a] chance to read the LLC info but [he] did print it out and brought it on the trip." Def.'s ex. G; Pl.'s ex. 7, p. 124.

41. Naomi Taylor testified she understood that Apogee GBC 2008 was a temporary holding entity for depositing funds from all the investors so the loan, which was temporary, could be paid off and each investor could receive their own shares of Georgian Bank stock. She testified this understanding was based on Defendants' May 30th email. She believed she and her

husband were buying Georgian Bank stock and there would be Georgian Bank stock certificates in their names.

42. Andrew Taylor testified his understanding was that Plaintiffs were purchasing Georgian Bank stock, and the money they gave Defendant would be used to pay for the stock.

43. Defendant introduced into evidence a wire transfer authorization for $150,000; a wire transfer authorization for $200,000; a check for $60,000; and a check for $40,000. Def.'s ex. J. The wire transfer authorizations direct that the funds be transferred to Apogee GBC 2008 from Fidelity accounts, and the checks are written to Apogee GBC 2008. *Id.* The wire transfer authorizations have a June 7, 2008 date printed at the top. *Id.* The two wire transfer authorizations also have fax transmittal sheets attached with transmittal dates of June 13, 2008, and June 23, 2008, respectively. *Id.* The checks are dated October 13, 2008. *Id.* These checks and wire transfer authorizations have Naomi Taylor's purported signature on them. *Id.*

44. Defendant also introduced into evidence a document captioned "APOGEE GBC 2008, LLC ACKNOWLEDGMENT OF AND BY NEW MEMBER," a document captioned "APOGEE GBC 2008, LLC NON-DISCLOSURE AGREEMENT," and a request for alternative investment transaction that lists Apogee GBC 2008 next to "Product Description." *Id.* Both the acknowledgment of and by new member and request for alternative investment transaction have numerous blanks on them that are incomplete. *Id.* These documents have Naomi Taylor's purported signature on them. *Id.*

45. Defendant testified the fax transmittal cover sheets with transmittal dates of June 13, 2008 and June 23, 2008 represent the dates the Apogee Companies sent the wire transfer authorizations to Fidelity to have the funds transferred from Fidelity to Apogee GBC 2008.

46. With respect to Andrew Taylor, Defendant introduced into evidence a wire transfer authorization for $150,000. Def.'s ex. I, p. 129. The wire transfer authorization directs that the funds be transferred to Apogee GBC 2008 from a Fidelity account, has a June 7, 2008 date printed at the top, and has Andrew Taylor's purported signature on it. *Id.* There is also a fax transmittal cover sheet attached with a transmittal date of June 23, 2008.[6] *Id.* at pp. 130-31. In addition, Defendant introduced a request for alternative investment transaction for Andrew Taylor's IRA, which authorizes National Financial Services LLC (NFS), agent for Fidelity Management Trust Company, as custodian for Andrew Taylor's account to purchase $350,000 worth of shares/units in Apogee GBC 2008. *Id.* at 133. It is dated September 29, 2008, and has Andrew Taylor's purported signature on it. *Id.*

47. Defendant introduced into evidence membership unit certificates in Apogee GBC 2008 listing Plaintiffs as owners of the units. Def.'s ex. H. Plaintiffs testified they had not seen these certificates. Andrew Taylor testified he would have expected Defendant to hold stock certificates for him and would not have expected to see the certificates.

48. Andrew Taylor testified he along with Defendant and Peter Maher decided where to obtain the funds to pay for the Georgian Bank investment. Andrew Taylor authorized the funds for the stock to be taken from various accounts, and Defendant and Maher had discretion about when to transfer the funds.

[6] The Court sustained the objection of Plaintiffs' counsel to pages 130-31 of Defendant's exhibit I being admitted into evidence. However, Defendant testified the fax transmittal cover sheet with a transmittal date of June 23, 2008 would have represented the date the Apogee Companies sent the wire transfer authorization to Fidelity to have the funds transferred from Fidelity to Apogee GBC 2008. Furthermore, the reconciliation Defendant prepared of funds received by Apogee GBC 2008 and the reconciliation he prepared of Apogee GBC 2008's Wachovia bank account show a $150,000 wire from Andrew Taylor's Fidelity account on June 23, 2008. Pl.'s ex. 13, pp. 8, 10.

C. The Calling of the Loan and Start of Litigation

49. On July 10, 2009, Plaintiffs each received notices regarding approximately $14,000 in interest due on a loan from Georgian Bank. According to her testimony, Naomi Taylor sent an email to Defendant inquiring about the matter because she did not believe they had a loan with Georgian Bank. Defendant responded that Plaintiffs should not have gotten the notice, that he would take care of it, and that they should not worry. The specific emails were not introduced into evidence.

50. Defendant testified the mistake in Plaintiffs' receiving the past due notice on the Georgian Bank loan was that Apogee GBC 2008 had not made the payment on the loan when it was due, not that Plaintiffs received notice about the missed payment.

51. On August 17, 2009, Andrew Taylor emailed a list of items Plaintiffs wanted to discuss with Defendant and Maher at their next meeting. One of the items on the list is "[u]pdate on Georgian Bank: 2nd Quarter report. We would also like to be reminded of reason for the past due notices sent to me and Naomi for $14,000 each." Def.'s ex. K, pp. 171-72; *see also* Def.'s ex. L.

52. Because Plaintiffs each received a past due notice from Georgian Bank regarding a $5 million loan, they believed their exposure was $10 million.

53. On August 20, 2009, Defendant met with Plaintiffs. Naomi Taylor testified that at this meeting, Defendant informed Plaintiffs the notices were regarding a loan related to the Georgian Bank stock purchase. He also informed Plaintiffs they had signed guarantees on a $5 million loan. Plaintiffs were unaware before this meeting that they had purportedly signed guarantees.

54. There still appeared to be some confusion regarding the Plaintiffs' risk related to the loan, as after the meeting, Andrew Taylor sent an email dated August 20, 2009, to Defendant:

> Since leaving your office I haven't been able to think of anything but the Georgian Bank. It would be very painful but we can survive losing a million dollars; bankruptcy would be devastating. Naomi and I were reviewing the past due notices from Georgian Bank. They state that we are each Guarantors of loans of $5,032,049 or total loans exceeding 10 million dollars for both of us. We thought our risk was limited to our $950,000 investment and did not knowingly borrow any money or sign any loan agreement. What is the total debt and how did the bank determine that we owed 10 million dollars?
>
> I assume we had copies of the forms we signed but I can't find them. Can you send us copies of those forms and copies of the loan agreement with the bank so that we can get a better understanding of our risk? Pl.'s ex. 15.

55. Defendant responded to Andrew Taylor with Naomi Taylor and Peter Maher copied on the email:

> Tip, my apologies as I may have overstated the matter from a "technical" perspective. The TOTAL loan is only $5 million remaining. NOT per person as you have inferred below. So, in the doomsday scenario the[y] "could" go after ONE person for the entire amount and once the $5 million is paid, no one else is liable. NOT go after everybody "each" for $5 million. Some people are smaller, and some people liable are in excess of $30 million/liquid – net worth. It is a small risk to you and Naomi, I truly [sic] feel very small, so I might have overstated the true risk.
>
> I'm on my way to meet Dave's friend so [I]'ll write more later . . . but not remotely near what you are thinking. Sorry to have overstated. We have seen so much crazieness [sic] this past year that the 1 in a million still worries me . . . But as I said you have my 1,000% commitment you guys won't be impacted be it the $950k or anything else. As I said . . . no more "family" deals :-). Pl.'s ex. 15 (omissions in original).

56. Defendant sent a second response to only Andrew Taylor:

> Tip, P.S. And I wanted to write just you back since I don't want you to worry, but I am serious about the fact that I'll make sure you two are not impacted on the investment. You have my personal commitment to that forever. All indications are thin[g]s will work out and we will get our investment back "eventually" . . . or at least a good part of it. I know as you said you were looking for a good deal to make a good return . . . but regardless it is something I got you two into (the investment piece) and I don't want to see you lose anything based on your faith/trust in me. Our word is all we have at the end of the day, so that is important to me. The bank has already agreed to split up the loan/and take people

off . . . I wish I had just got that done before today. I have been more worried about the investment hit than anything for you two, but it is something we can overcome, but I can carry that piece and am reconciled to such if the ultimate "remote" occurs.

People think I am crazy for committing such, I just think it is the right thing to do.

Make sense? Def.'s ex. M, p. 183 (omissions in original).

57. Andrew Taylor replied:

> We are very relieved to hear that the total debt is only $5 million. Naomi and I looked carefully at the bills from the Georgian Bank when we got home. We each got a separate bill from the bank for the interest on a 5 million dollar loan so we assumed that a much larger loan package had been subdivided and our proportion (however that was calculated) was 5 million each. Apparently, the Bank was billing each of us separately for the full amount of the loan, not very thoughtful management.
>
> You did recommend the bank stock but we also thought it would be a very good investment; we could have said "no thanks." I wanted Peter to be more aggressive with stock purchases after our previous meeting than he was probably inclined to be; the stock market could have gone down instead of up. Unfortunately, the opportunity to invest in Georgian Bank came just after I had the $950,000 settlement with Reinke and it presented the opportunity to get rich quick and pay off that debt so I invested much more in Georgian Bank than I probably would have under different circumstances.[7] You aren't responsible for my desire to get rich quick.
>
> Anyway, we will proceed with our plans to refinance our house.
>
> Thanks for the followup; we do feel better. Def.'s ex. M, p. 183.

58. Naomi Taylor testified she was not aware of anyone obligated on the loan who was worth $30 million or worth anything the lender could collect against and that as it turned out, Plaintiffs were the "low-hanging fruit."

59. Naomi Taylor testified she would not have invested money in the Georgian Bank stock if she knew Defendant had no other clients buying the stock.

---

[7] The settlement Andrew Taylor references in this email related to litigation involving the dissolution of a real estate partnership and is unrelated to this adversary proceeding for the most part. Based on this email, the outcome of that litigation was a factor in Andrew Taylor's decision to participate in the Georgian Bank investment. In addition, Defendant argued that Andrew Taylor's participation in a business entity whose sole purpose was to hold real estate suggested that Andrew Taylor understood the logic behind having Apogee GBC 2008 own the Georgian Bank stock.

60. Defendant testified that aside from about $1,000 he put into the transaction, Plaintiffs were the only people who put money into the transaction.

61. Defendant testified that Taylor Fairman did not have assets to pay a $5 million loan and that Fairman acquired no ownership interest in Apogee GBC 2008.

62. The person purportedly worth $30 million referenced in Defendant's initial response to Andrew Taylor with Naomi Taylor and Peter Maher copied was most likely Timothy Winder. Winder was not worth $30 million.

63. On September 10, 2009, Andrew Taylor emailed Defendant:

> We just got another bill from Georgian Bank which lists us as guarantors of a 5 million dollar loan. It would be very painful but we could survive the $950,000 loss of our investment but we would be bankrupt if we were responsible for a 5 million dollar loan. I don't seem to have a record of what we actually signed when we thought we were just purchasing $950,000 worth of Georgian Bank shares. We would like to have a record of that purchase. Also, at our last meeting, you mentioned that you would restructure the loan in Sept so that we would no longer be guarantors of the loan. We check the news every weekend to see if Georgian Bank is one of the banks that has been shut down and we will sleep more comfortably when we have documentation that we are off that loan. Thanks. Def.'s ex. M, p. 189.

64. Defendant never responded with the documentation Andrew Taylor requested in the August 20, 2009 email and the September 10, 2009 email.

65. Defendant responded to Andrew Taylor's September 10th email:

> Hi Tip . . . we got one at the office today as well . . . I think they just send them to everyone. I am working through the renewal with the bank now and they are entertaining allowing us (Apogee and ATS Fidelis) to substitute as guarantor on the loan, so that's good news. We are still early stage with those two companies in their growth and income . . . but as un-enjoyable as it would be they can carry and pay off the loan in full (over time of course) and it will become easier and easier as their respective success grows . . . so as much as we keep our fingers crossed for the bank and will do all we can to help them . . . we are fortunate to have diversified income and capital sources to weather the worse case scenario—for all of us as I have committed to you guys for recommending the investment. As for the loan itself we are all paid up and current and as discussed when we meet [sic] it would probably be the end of September before we had the

whole thing refinanced. I'm providing the bank financials, etc. on the replacement guarantors (Apogee & Fidelis) so it will be a couple of weeks until that is done and they can give us a decision.

. . . .

I'll keep you updated and as always if you have any questions please ask. We are carrying the worry and I am sorry you guys are having to worry as well (as it's counter to what our job is as we are supposed to keep you out [of] things you would have to worry about) . . . but as always we will weather this and all that I/we have will stand behind making sure you two are unscathed. Def.'s ex. M, p. 189 (first, second, third, fourth, fifth, and seventh omissions in original).

66. Andrew Taylor replied:

Thanks for getting back to us. We all thought the investment was good at the time. Probably $100,000 would have been a more reasonable investment for me but I was greedy and wanted to quickly make enough money to pay off the $750,000 debt that my lawsuit generated.[8] Even if the bank fails and I lose the $500,000, we consider it an investment in your current and future companies and you can wait until you have your first 20 million before you worry about replacing it.

On the other hand, we really want to be off the loan. I know you said that Apogee and ATS Fidelis can repay the $5,000,000 but what if the purchaser of a failed Georgian Bank wanted all its money now. Naomi and I have assets that can be liquidated. I don't know what Apogee and ATS Fidelis have and I'm not sure the purchaser would care where the money came from. In my lawsuit, Reinke wanted his $950,000; he didn't care where I got it. I hope the refinance can be resolved before I leave for Nepal Oct 3. Def.'s ex. M, p. 188.

67. Defendant emailed Plaintiffs again on September 23, 2009:

Don't mean to alarm you, but wanted you to know that a FedEx package from the lawyers at the bank will be at your home address tonight. It was something they sent out to everyone, so we all got it. I have met with the two bankers this afternoon that were cc'd on the letter and I had a rather direct conversation with them as to the options. Although they are willing to work with me on the renewal they have their "process" and this is just part of protecting their Interests. These are different bankers than we were dealing with 6 months ago and before . . . so they don't fully understand the totality of our relationship with the bank and frankly given the change of control with Gordon leaving and their fear that Georgian will be taken over . . . I am not sure they are in a position to do much from a relationship perspective.

There are two issues here:

[8] This is another reference to the litigation in which Andrew Taylor was involved related to the dissolution of a real estate partnership.

1. Value of Stock. Due to the frankness of the bank employees I meet [sic] with today . . . the prospects I have for the stock itself and the new management working the bank out of this problem are darkened. As we all have discussed I know we were all hoping for an easy return on our investment, but this is still something I recommended and as promised will do all I can to make that up to you. It is not good for us all . . . but we will do what we have to do to overcome it.
2. Loan. My #1 concern is to get you two off the loan guarantee with the renewal (at Georgian or wherever else we move it as discussed below.) The other guarantors are understanding of why we will release you two and have no objections and totally agree with that approach . . . so that is good news. I just have to get the bank to do so as well.

Current course of action to release the Taylor's: My efforts have been in working with Georgian Bank in an endeavor to help preserve their business and the equity we all have in Georgian. This week alone we placed a new $1 million estate cash account with the bank and will place $4 million more in the next 5 to 10 days as the insurance proceeds are paid (all FDIC insured of course). If the employees don't care and the equity will be whipped [sic] out . . . then there is no real reason to limit our loan options and relationships to just Georgian.

As such I have scheduled with hast [sic] meeting with 3 local banks/bankers we know that given the circumstances could do this for us. Atlantic Capital, Bank of North Georgia, and Ironstone Bank. Atlantic Capital is another privately held bank (new bank that started right at the beginning of this mess and has NO bad loans whatsoever) and a bunch of former Synovus executives that know Apogee and know the family office/investment business extremely well. I suspect they are our best option and can make a decision FAST as I would like this behind us. We meet [sic] with them 3 weeks ago on regular business matters . . . and I have a client (I gave him the whole scoop of what I was dealing with—also a long term associate and shareholder at Atlantic Capital) calling the Chairman of the bank at this moment to schedule a meeting with him ASAP. The client though[t] they would be VERY interested in talking and said I might as well start at the top.

I also have a call in to Mr. Teel as well for his advise [sic] and recommendation as to where we can move the loan. He knows our business, the relationships we bring and has a lot of friends in the industry . . . so that will add more people to the list to talk with.

As [ ] another option . . . one of our clients is the national investment banker for our industry out of NYC. She knows players on a national level that would be available to take this on for us.

We are all working on this and I apologize this has infringed upon the two of you.

I "know" with every fiber of my being that we will get this taken care of and release you two from the loan . . . and although I am perhaps overreacting to this and overly concerned because you two are like family and I am just dumbfounded I did not foresee such a insane scenario of events . . . but regardless this is something that I will get taken care of as a concern for the two of you.

> Call me and I am happy to talk or come meet you tonight or any time that is convenient. Pl.'s ex. 16 (omissions in original).

68. At some point between July and September of 2009, Plaintiffs each received a $5 million demand letter from Georgian Bank on the loan.

69. In October 2009, Plaintiffs had retained Louis Cohan as their legal counsel and were investigating Defendant and considering legal action. On October 1, 2009, Defendant emailed Plaintiffs and David Pemberton:

> David, thank you for this email. The fact that you addressed it to "Family" is why this situation destroys me inside. As we have discussed many times, family is the people you surround yourself with and the people you admire, care about and would do anything in the world for. You are my "family" because in good part due to this family-less bound [sic] we both share, Adina is as well because of the dedication I see between the two of you and she is more of a sister to me than I could ever imagine, and your children are like my own. Tip and Naomi are by association introduced the same to me . . . but as people, parents and professionals they are "soles" that I admire and although I've never been comfortable/comfortable around as family as I am with you and Adina, they are people that are closer to me than any family I know. They are your "real" family/parent . . . but they are both my parents by proxy. Pl's ex. 18 (omissions in original).

Defendant also states in the email that the only way he can rectify the situation is through continuing to develop his business interests but that "if Louis [Cohan] does what Louis wants to do, it is hopeless and [he] might as well not go to work tomorrow and let the chips fall where they may." *Id.* He further writes that "if [Cohan] had one bit of counsel as to what [he] should do to take all this on [him]self to protect the Taylors and how [he] could sign away and personally indemnify the Taylors for the rest of [his] life . . . that would be fine." *Id.* (omission in original). Finally, he states that he "had successful meetings with two banks so far, and [he has] more scheduled . . . but no one is going to want to talk to us if Louis is out filing lawsuits." *Id.* (omission in original).

70. On October 2, 2009, Defendant sent another email to Plaintiffs expressing concerns about Cohan's investigation and describing Defendant's efforts and plans to resolve the situation with the loan. Pl.'s ex. 19.

71. In September 2009, Georgian Bank was closed by the Georgia Department of Banking and Finance, and the Federal Deposit Insurance Corporation ("FDIC-R") was appointed as its receiver. FDIC-R entered into an agreement with First Citizens Bank and Trust Company ("First Citizens") under which First Citizens acquired certain assets and liabilities of Georgian Bank, including the notes and guarantees at issue in this case.

72. On October 15, 2009, First Citizens filed an action in state court in Fulton County, Georgia against Davis, Andrew Taylor, Naomi Taylor, 1842 Capital, Timothy Winder, and Taylor Fairman seeking the amounts owed under the notes and guarantees at issue. On August 20, 2010, after First Citizens re-conveyed the notes and guarantees at issue to FDIC-R and FDIC-R was substituted as the plaintiff, FDIC-R removed the case to the United States District Court for Northern District of Georgia (the "FDIC-R action").

73. On November 28, 2011, Plaintiffs were dismissed without prejudice from the FDIC-R action.

74. While Plaintiffs have not been found liable in the FDIC-R action, Andrew Taylor testified Plaintiffs paid legal fees and "enormous heartache" in defending the FDIC-R action for over two years.

75. On October 19, 2009, Plaintiffs filed suit against Defendant and others in Fulton County, Georgia ("Fulton County action"). Plaintiffs assert the filing of the Fulton County action occurred before they were served in the FDIC-R action.

76. Defendant sent an email to Plaintiffs on October 29, 2009. The subject of the email was "THE LATEST FROM LOUIS—STOP IT OR I QUIT:"

> I AM DONE unless this does not stop with Louis. I and everybody else in the world (related to me or not) received the attached and I just saw this myself 15 minutes ago. I have stepped up to take the total hit on this situation; I have focused solely on doing what will protect you but every 2 minutes I am attacked by Louis. Everything he does jeopardizes ANY ability for me to #1 get a loan to settle with the bank and #2 get the bank to settle. ALL I seem to be doing is dealing with Louis and his bull[] . . . so either he STOPS or I STOP.
>
> We are making great progress #1 dealing with the issue with the bank, as well as #2 finding a lender to loan me the money . . . the ONLY 2 important things in this world . . . but Louis has distracted EVERYONE on my team and every business partner I have that is helping me (and thus YOU) out of this mess. My friends care about you because they know I care about you . . . but I am not asking them to keep helping me if you do not have Louis STOP immediately. You can love him and trust him all you want . . . well let him help YOU when I quit because I have nothing of value if you keep suing me. Then YOU will be the only people the bank will have to go after. You win . . . but YOU LOSE!!!
>
> Here is my requirement as you have left me with NO options:
>
> 1. Withdraw the lawsuit without prejudice and re-file if this matter is not cleared up by January 1, OR
> 2. I quit and you are on your own.
>
> I don't care anymore and can live with either route you want to take . . . but I cannot do what MUST be done with Louis destroying every ability I have to raise money and distracting everyone helping me with this matter.
>
> Let me know by 5pm tomorrow as I QUIT otherwise. Pl.'s ex. 20 (omissions in original).

77. The following day Defendant sent a further email to Plaintiffs, stating in part:

> 5. WORST OF ALL . . . Luis [sic] has requested all bank info for which I have signatory authority. This drags in every client/association I have that has nothing to do with this. I will not let this happen because I am working on the bank situation, so I will turn 100% of my attention to fighting Louis. It is insane what he is asking for and the unrelated people and business entities he is dragging into this without cause. Get ready, these people are going to go after/sue YOU for this overreaching invasion of privacy and I will help them do that full time!!!
>
> 6. I am in discussions daily with the Chairman and/or CEO/President of TWO privately held local banks to get the money to SETTLE this issue with the bank. I am NOT going to continue this course with Louis doing what he is doing. I will QUIT and focus 100% on Louis and defending my friends and

clients that have NOTHING to do with this first . . . so pick what you want me to do.

7. ALSO, I am meeting and in discussions daily with a friend and merging his practice/business into Apogee. It is me selling part of my business to pay this settlement with the bank. It would add $4 million plus of revenue and $600 million + client investment assets. This could SOLVE the bank issue with collateral and cash . . . but I am NOT going to continue this with Louis doing what he is doing to DESTROY Apogee. I won't risk my friend merging his business into Apogee as the firm is dragged through the mud. I will tell EVERYONE to go work for him and Apogee will be worth ZERO . . . thus I have zero and you get zero help and have to deal with the bank by yourself!!!

. . . .

I care about my family, friends and clients . . . and CARED about you two and wanted to help protect you to whatever detriment this may have on me personally . . . but with these attacks I have NO options and now have NO guilt anymore and unless Louis stops you are on your own. You are bringing it on yourselves at this point, so good luck. I have A LOT of people that care about me because they know who I am inside and know that I would do the same for them . . . but I am not going to have them suffer because of Louis and because you two have brought into his claim that I am a CROOK. You know me and if you are the type of people that can let some b.s. attorney convenience [sic] you I am something I am not . . . . Then good luck to you. Is Louis willing to sacrifice himself and pay off the note/settlement in full to protect you??? I am the only IDIOT standing up trying to fix this . . . to help you and others . . . while you have let an attorney convenience [sic] you I am a CROOK and sue me and every friend/business partner I have. Well, I have been more than open with you two, David, anyone in what happened – good bad and ugly . . . and have tried to do the stand up thing and get us all out of this at my personal detriment . . . but you know what, we are all adults and if you are all about attacking me and protecting yourself . . . I will be too!!! I am NOT going to try to keep helping someone suing me . . . so make your decision fast, because I QUIT otherwise. Pl.'s ex. 21, pp. 2-3 (all omissions except for the fifth are in original).

78. On November 20, 2009, Plaintiffs voluntarily dismissed the Fulton County action without prejudice. Naomi Taylor testified Plaintiffs dismissed the Fulton County action because she felt overwhelmed and because Pemberton and Defendant wanted the lawsuit out of the equation so the situation perhaps could be resolved through other means.

79. After the situation was not resolved through other means, Plaintiffs filed what they have described as a renewal of the Fulton County action in Cobb County, Georgia in April 2010 ("Cobb County action"). *See* Ga. Code Ann. § 9-2-61(a).

80. Subsequently, Defendant moved to South Carolina and filed bankruptcy under chapter 7. Defendant's bankruptcy filing stayed the Cobb County action.

81. When Plaintiffs began alleging Defendant forged documents, Defendant testified he essentially quit working and closed his businesses. He testified all of his assets were illiquid businesses, and he "shut everything down, and [he] was done."

82. Defendant has filed a lawsuit against Plaintiffs in the United States District Court for the District of South Carolina. Defendant served Plaintiffs with that lawsuit while they were in the courtroom waiting for the trial in this case to start.

83. Defendant asked Naomi Taylor whether she was aware that the Cobb County action, Defendant's bankruptcy, and his lawsuit against Plaintiffs would be over if Plaintiffs had not objected to his discharge.

84. Defendant also introduced a question by stating everything could have been over when Plaintiffs were dismissed from the FDIC-R action and asked Naomi Taylor why she did not retire then. Naomi Taylor responded Defendant would have stolen $950,000 from Plaintiffs, that is not right, and they could not just dismiss that.

85. Naomi Taylor testified that if Plaintiffs had known everything they should have known about the Georgian Bank stock purchase, including that she and her husband were the only people actually providing money for the stock and that their names were on a $5 million guarantee, they would not have made the investment.

86. Defendant asked Andrew Taylor whether his decision to invest in the Georgian Bank stock would have changed if he had full information about the transaction. Andrew Taylor responded: "It would have helped enormously if you had said Tip and Naomi you are not buying one single share of Georgian Bank stock, let me repeat it, not one single share of Georgian Bank

stock. I am going to put your money in a shell company, and I am going to take that money out of that shell company for my own expenses." If Defendant had said that, Andrew Taylor indicated he would not have participated in the investment.

D. The Alleged Forgeries

87. Plaintiffs deny signing guarantees for the $5 million loan and assert their signatures were forged on the guarantees dated May 2008 and August 2008.

88. Defendant appeared on behalf of Plaintiffs when obtaining the loan from Georgian Bank and provided Plaintiffs' financial information to obtain the loan.

89. Defendant testified the loan to purchase the Georgian Bank stock was his idea and he was the only person who approached Georgian Bank about the loan.

90. Defendant testified that aside from about $1,000 he put into the transaction, Plaintiffs were the only people who actually put money into the transaction.

91. Plaintiffs did not meet with or talk with Georgian Bank in connection with obtaining the loan.

92. Andrew Taylor testified he was in Europe in the Alps with his daughter and a friend on August 29, 2008.

93. Andrew Taylor testified Naomi Taylor was not in Atlanta, Georgia on August 29, 2008, but was in southern Georgia with her daughter.

94. Naomi Taylor denies ever agreeing to borrow money to purchase the Georgian Bank stock.

95. Andrew Taylor testified there were discussions about borrowing money to invest in the Georgian Bank stock, but he never actually agreed to be part of a loan to purchase the stock. When he later found out through the June 11th email that a loan was involved, Andrew

Taylor testified he did not question Defendant's taking out the loan because he trusted Defendant's decision that using a loan was the best way to complete the transaction.

96. In the June 11th email, Defendant stated:

> We had to go ahead and close the purchase on May 30th (using a loan from the bank in order to close it fast as you know), so we will end up having to "bill" folks a small/proportional share of their interest calculated from 5/30 to the time they deposit their purchase price into the account so we can pay down the loan. We are also asking people to sign (with us) for their portion of the note as a sign of good faith. Pl.'s ex. 7, pp. 124-25.

He also wrote that "[i]n any case . . . Peter passed along the signed wires so we will get that moving ASAP to stop the 'clock ticking' on the interest part . . . and we should have the IRA portion done in the next 3 or 4 weeks once Fidelity approves everything." *Id.* (omissions in original).

97. Defendant testified there was never any discussion about people involved in the investment and loan only being liable on the loan for their portion of the Georgian Bank stock purchase, i.e. Plaintiffs would be liable for $1 million until they paid for their $1 million investment.

98. Defendant asked Andrew Taylor whether a handwriting expert had reviewed the purported signatures of Plaintiffs on the May 2008 and August 2008 guarantees. Andrew Taylor responded that a handwriting expert, Mr. Carney, reviewed their signatures. When Defendant asked about Carney's opinion, Andrew Taylor testified that Carney's opinion was what appear to be Andrew Taylor's signatures on both the May 2008 and August 2008 guarantees were simulations. When Defendant asked about Carney's opinion with respect to Naomi Taylor's

purported signatures, Andrew Taylor testified Carney's opinion, with the highest confidence, was what appear to be her signatures on both guarantees were forgeries.[9]

99. In responding to First Citizens' First Requests for Admission in the FDIC-R action, Andrew Taylor indicated he executed the May 2008 and August 2008 guarantees. Def.'s ex. Q. In an affidavit in support of a request to withdraw this admission, Andrew Taylor stated:

> At the time I made the admissions set forth above, I was operating under the mistaken assumption that I had executed the Commercial Guaranties, based on the myriad of other documents I had signed at the behest of Defendant R. Jefferson Davis, Jr. . . . and representations from Davis himself in which he indicated that I had executed same (this assumption was reinforced by a demand letter I received from Georgian Bank also asserting that I had executed the Commercial Guaranties). At the time, I trusted Davis (he was my son-in-law's best friend and had been my financial adviser for the past several years), but no copies of documents I had purportedly signed related to the purchase of Georgian Bank stock had been provided to me.
>
> This mistaken assumption was also the basis for representations in my Answer and Defenses, responses to First Interrogatories and a complaint filed on my behalf in a separate related matter in which indicated that I executed the Commercial Guaranties.
>
> ....
>
> I did not examine the signatures on the Commercial Guaranties prior to admitting their genuineness. I trusted Davis, had no reason to suspect a potential forgery and never doubted Davis' affirmations that I had executed the Commercial Guaranties. . . .
>
> Several months into this litigation, I began to request and review various documents in order to produce them in response to discovery requests. The detailed information I began to discover during the course of this litigation led me

[9] Prior to trial, Plaintiffs indicated they would offer Carney's testimony via deposition. Defendant filed a motion to exclude Carney from testifying at trial, a motion for a protective order regarding Plaintiffs' notice of deposition of Brian Carney, a motion to reconsider the Court's Order denying his request for a protective order, and a motion to exclude Carney's testimony based on the absence of local counsel for Plaintiffs at Carney's deposition. The Court denied the motion for a protective order before trial. These other motions are now deemed moot because Plaintiffs did not offer Carney as a witness at trial or ask that his deposition be admitted into evidence. Given Defendant's vigorous opposition to Carney being allowed to testify at trial and Plaintiffs' decision not to offer his testimony, the Court will not surmise why Defendant asked Andrew Taylor about Carney's opinions, thus making part of record before the Court the fact that Plaintiffs have a purported expert who has opined Andrew Taylor's signatures on the guarantees are simulations and Naomi Taylor's signatures are forgeries.

to question the basic assumptions I had previously held regarding the underlying transactions.

Specifically, a few weeks after serving my responses to the Requests for Admission, our attorney, Louis Cohan, called from the bank where he was inspecting the original loan file. Mr. Cohan asked if we knew there were guaranties in both May and August of 2008. My Wife and I had never heard that before, and we were certain we did not sign two sets of guaranties. At the time of my faulty admissions, I was unaware there were two guaranties allegedly executed on two separate dates. I thought the use of the plural "guaranties" referred to the guaranty allegedly signed by me and the guaranty allegedly signed by my Wife in May of 2008.

Mr. Cohan asked if I signed any guaranty with a felt tip pen as it appeared one of the guaranties had been signed with same. I was sure I had not signed any guaranty with a felt-tip pen. Mr. Cohan sent us copies of the Commercial Guaranties, told us where to locate the dates and instructed us to carefully review them.

Upon further inspection of the Commercial Guaranties, I noticed my purported signature on the May guaranty didn't even match my purported signature on the August guaranty. Based on discovery of a second set of guaranties, the fact that I was out of the country when the second guaranty was purportedly signed, and my careful review of the signatures, I then knew for certain that I had not signed the Commercial Guaranties.

I did not execute the Commercial Guaranties. My previous responses in which I admitted executing the Commercial Guaranties, or previous submissions to this Court in which I indicated I executed the Commercial Guaranties, were erroneous and based purely on my mistaken assumption (fostered by the consistent and unequivocal affirmations of Davis) that the Commercial Guaranties were included in the various documents I signed at Davis' request related to the purchase of the Georgian Bank stock (an assumption that was reinforced by the demand letter from Georgian Bank indicating that I had executed the Commercial Guaranties). *Id.*

100. The May 2008 and August 2008 guarantees Andrew Taylor purportedly signed were included with a demand letter Georgian Bank sent prior to the filing of the FDIC-R action.

101. Andrew Taylor testified it never occurred to him until later that Plaintiffs' signatures were forged on the guarantees.

102. The court in the FDIC-R action permitted Andrew Taylor to withdraw his admission. Although discussed at length by Plaintiffs' counsel and Defendant at trial, the order allowing Andrew Taylor to withdraw his admission was not offered into evidence. The Court

references the order here to clarify there is not an admission at this time in another lawsuit that Plaintiffs executed the guarantees.[10]

103. Andrew Taylor testified he did not sign any documents between May 30, 2008, and June 11, 2008, other than perhaps wire transfer authorizations.

104. Defendant asked Andrew Taylor whether it was possible he forged Naomi Taylor's signature. Andrew Taylor responded "absolutely not."

105. During his testimony at trial, Defendant also theorized that Andrew Taylor signed Naomi Taylor's name on the May 2008 guarantee.

106. Defendant testified the signatures on the guarantees are nowhere near Naomi Taylor's actual signature.

107. During a deposition in the FDIC-R action, Plaintiffs' attorney asked Defendant whether he signed Plaintiffs' names on the May 2008 and August 2008 loan guarantees without their authorization, whether he took the May 2008 loan guarantees to Georgian Bank to induce it to lend $5 million, and whether he took the August 2008 loan guarantees to induce Georgian Bank to renew the $5 million loan. Defendant asserted the Fifth Amendment in response to each of these questions. When asked at the deposition whether he was asserting the Fifth Amendment to avoid incriminating himself, Defendant asserted the Fifth Amendment in response.[11]

108. Defendant asserted the Fifth Amendment in response to these questions based on the advice of counsel.

---

[10] Naomi Taylor also admitted to executing the guarantees in the FDIC-R action and was allowed to withdraw her admission. Defendant did not question her about her request to withdraw her admission or introduce her affidavit in support of her request into evidence.

[11] The Fifth Amendment of the United States Constitution provides that "[n]o person . . . shall be compelled in any criminal case to be a witness against himself."

109. In the May 30th email, Defendant wrote: "Just a quick heads up that we are working diligently to close the first part of the stock deal today. I may have some documents for you guys to sign . . . if possible today . . . or over the weekend if we are all tied up today. You guys around???" Pl.'s ex. 7, p. 118 (omissions in original).

110. Defendant testified the documents to which he alluded in the May 30th email were the guaranties and because the loan closed on May 29th, the guarantees needed to be provided to the bank on May 30th, if possible, but no later than the following Monday, which was June 2, 2008.

111. Defendant testified he had some emails indicating the guarantees were taken to Georgian Bank on Monday, June 2, 2008. These emails were not introduced into evidence.

112. Defendant testified that someone between May 29, 2008 and June 2, 2008 physically brought the May 2008 guarantees to Plaintiffs for their signatures, but he did not know who or when. He testified that he or Peter Maher could have been the person who brought the guarantees to Plaintiffs and that, aside from fax or email, this was the customary manner in which documents were provided to Plaintiffs. He knew the guarantees were brought to Plaintiffs between these dates because the guarantees had to be given to Georgian Bank on June 2, 2008. He speculated the guarantees were taken to Plaintiffs at the same time as the wire transfer authorization forms contained in Defendant's exhibits I and J because there is no evidence the wire transfer authorizations were emailed or faxed to Plaintiffs.

113. Defendant testified he does not know who signed the guarantees that have Plaintiffs' purported signatures on them.

114. Defendant testified he does not know how the August 2008 guarantees were provided to Plaintiffs for their purported signatures or when the guarantees were signed.

E. The $950,000

115. Plaintiffs paid $950,000.00 to Apogee GBC 2008 for their portion of the Georgian Bank stock investment. These funds were transferred to Apogee GBC 2008 through a $150,000 wire transfer from Naomi Taylor's Fidelity account on June 13, 2008; a $200,000 wire transfer from Naomi Taylor's Fidelity account on June 23, 2008; a $150,000 wire transfer from Andrew Taylor's Fidelity account on June 23, 2008; a $350,000 wire transfer from Andrew Taylor's Fidelity account on October 7, 2008; a $60,000 check from Naomi Taylor dated October 13, 2008; and a $40,000 check from Naomi Taylor dated October 13, 2008. *See* Pl.'s ex. 13, pp. 8, 10; Def.'s exs. I, J.

116. Defendant states in his June 11th email that "we will end up having to 'bill' folks a small/proportional share of their interest calculated from 5/30 to the time they deposit their purchase price into the account so we can pay down the loan" and that "Peter passed along the signed wires so we will get that moving ASAP to stop the 'clock ticking' on the interest part." Pl.'s ex. 7, pp. 124-25.

117. On April 5, 2010, Defendant sent the following email to Mark Lefkow with Shannan Collier copied:

> The Wachovia HELOC [Home Equity Line of Credit] reconciliation is complete and the attached reflects all transaction on that account.
>
> The RBC HELOC is more complicated and just draft. It is obvious however that transactions went to either pay Georgian Bank interest or for the 1842 Capital loan . . . or went to myself/the businesses.
>
> There is capital in the businesses . . . and the intention is Winder would be paying half of the interest payment after 8/29/09 and I/my business interest could have easily continued to pay the other half of the interest payments until the bank stock sold . . . Winder then gets his half upon sale of the stock, I get my allocable share on 1.5 million and the Taylors get their allocable share on their $1 million. Would have worked very well sans the unforeseen demise of the bank.
>
> I attached the Winder interest agreement to refresh your memory. Pl.'s ex. 13, p. 1 (omissions in original).

Defendant acknowledged sending this email during his testimony at trial. Defendant acknowledged preparing the Wachovia HELOC reconciliation that is referenced in this email and part of Plaintiffs' exhibit 13. Additionally, Defendant admitted to preparing the RBC HELOC reconciliation that is referenced in this email and part of Plaintiffs' exhibit 13.

118. On April 5, 2010, Defendant sent another email to Lefkow with Collier copied:

> I am tracking down the status of the $950,000. I am getting the bank to provide me with copies of the checks . . . should have within 24 to 48 hours.
>
> You can see payments TO the Apogee GBC 2008, LLC Wachovia account and the payments OUT of the account. I won't know until I get the check copies exactly where I wrote those checks to. BUT, they were likely either to my personal RBC HELOC (Home Equity Line of Credit) or my personal Wachovia HELOC.
>
> I also gave you a reconciliation of the interest payments to Georgian. They total $248,853.40.
>
> SO, I have $700,000 that is "somewhere." I am having the RBC and Wachovia HELOC reconciled to see where I wrote monies from those account too [sic] . . . but it would be either my personal accounts or to one of the companies.
>
> I'll have more info for you directly. Pl.'s ex. 13, p. 7 (omissions in original).

Defendant admitted that he sent this email and that the email was sent to trace where the $950,000 Plaintiffs paid to Apogee GBC 2008 went. Defendant admitted during his testimony that he commingled the funds with his personal accounts. Defendant testified to preparing a spreadsheet that is page 8 of Plaintiffs' exhibit E. Defendant stated the spreadsheet was an attempt to trace the $950,000 and was a reconciliation of Apogee GBC 2008's Wachovia bank account. The spreadsheet shows the $950,000 from Plaintiffs going into the account and numerous checks written on the account ranging in dollar amounts from $30,063 to $160,000. Defendant states in the above email the checks were likely to his personal RBC HELOC or personal Wachovia HELOC. Defendant also indicated he prepared page 9 of Plaintiffs' exhibit E, which is a reconciliation of the $248,853.40 in interest payments on the Georgian Bank loan

referenced in the email. Additionally, Defendant stated he prepared page 10 of Plaintiffs' exhibit E, which is a timeline of when Apogee GBC 2008 received funds from Plaintiffs.

119. Defendant admitted sending a third email on April 5, 2010, to Lefkow with Collier copied:

> Attached is a reconciliation of all interest payments made on the 1842 Capital, LLC loan.
> Unfortunately I made these payments from various personal accounts as opposed to having an 1842 Capital, LLC checking account.
> Total interest payments were $248,853.40.
> Big picture, $950,000 less $250,000 of interest payments = $700,000. That remaining $700,000 is/were commingled with other personal funds of mine and used in the various businesses (Apogee or the construction companies). I'll send you the RBC HELOC and Wachovia HELCO [sic] reconciliations, but they get very confusing. Pl.'s ex. 13, p. 13.

120. Defendant testified to transferring funds from the RBC HELOC to his personal checking account. He testified the same occurred with respect to the Wachovia HELOC.

121. The RBC HELOC reconciliation shows a July 29, 2008 transaction, which is a $20,000 withdrawal to "Fidelis." Defendant testified "Fidelis" was ATS Fidelis. The reconciliation also shows a December 19, 2008 transaction, which is a $30,000 withdrawal to "AFO." Defendant testified "AFO" was Apogee Family Office. The reconciliation shows a July 24, 2008 transaction, which is a $35,000 withdrawal to "ATS." Defendant testified "ATS" was ATS Fidelis or ATS Electric.[12] Pl.'s ex. 13, p. 5.

---

[12] Plaintiffs' exhibit 13 was admitted through the testimony of Shannan Collier, who testified via deposition at trial. Collier was Defendant's attorney for a period of time. Defendant objected to Collier's testimony on grounds of attorney-client privilege. The Court overruled this objection and found the privilege waived based on an email dated May 3, 2010, to Louis Cohan, Mark Lefkow, and others, which states "[s]ince I have waived the attorney-client privilege with Ms. Collier, attached are all emails FROM Ms. Collier to myself related to this matter. I will be forwarding all emails that I sent TO Ms. Collier in a few minutes." Pl.'s ex. 13, p. 15.

Prior to trial, Defendant moved to exclude Collier's deposition due to the absence of local counsel for Plaintiffs at the deposition. *See* D.S.C. Civ. R. 83.I.06 ("Unless excused by the Court, the associated local counsel shall be present at all pretrial conferences, hearings and trials

122. With everything that was occurring with his businesses, Defendant testified the last thing he would be strategizing about is how to take $950,000 from Plaintiffs. Defendant also stated he has lost "a ton more than the $950,000" and does "not care about $950,000."

CONCLUSIONS OF LAW

Plaintiffs assert Defendant owes a debt to them that is nondischargeable under 11 U.S.C. §§ 523(a)(2)(A), (a)(4), and (a)(6). A central purpose of the Bankruptcy Code "is to provide a procedure by which certain insolvent debtors can reorder their affairs, make peace with their creditors, and enjoy 'a new opportunity in life with a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt.'" *Grogan v. Garner*, 498 U.S. 279, 286 (1991) (quoting *Local Loan Co. v. Hunt*, 292 U.S. 234, 244 (1934)). However, the Bankruptcy Code "limits the opportunity for a completely unencumbered new beginning to the 'honest but unfortunate debtor.'" *Id.* at 286-87 (quoting *Hunt*, 292 U.S. at 244). Section 523(a) of the Bankruptcy Code sets forth certain kinds of obligations that Congress deems to be nondischargeable. *Id.* at 280-81.

As the party asserting a debt owed to them is nondischargeable, Plaintiffs bear the burden of proof, which is by a preponderance of the evidence. *Id.* at 291. In addressing exceptions to discharge, courts "traditionally interpret the exceptions narrowly to protect the purpose of providing debtors a fresh start" but "are equally concerned with ensuring that perpetrators of fraud are not allowed to hide behind the skirts of the Bankruptcy Code." *Foley & Lardner v.*

---

and may attend discovery proceedings."). Defendant also objected on this basis at the deposition. The Court does not find that Collier's testimony should be excluded based on the absence of Plaintiffs' local counsel at her deposition. In addition, even if the Court had excluded Collier's testimony based on the absence of local counsel or the attorney-client privilege, the Court's conclusions in this Order would be the same because of Defendant's testimony regarding Plaintiffs' exhibit 13 and what he did with the $950,000.

Biondo (*In re Biondo*), 180 F.3d 126, 130 (4th Cir. 1999). Given that section 523(a) is worded in the disjunctive, Plaintiffs only need to prove the applicability of one of its subsections. *See* 11 U.S.C. § 523(a).

A. 11 U.S.C. § 523(a)(2)(A)

Under 11 U.S.C. § 523(a)(2)(A), debts "for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by . . . false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition" are not dischargeable. "[F]alse pretenses, a false representation, or actual fraud" are "common-law terms, and . . . they imply elements that the common law has defined them to include." *Field v. Mans*, 516 U.S. 59, 69 (1995). At the time section 523(a)(2)(A) was enacted in 1978 and now, "the most widely accepted distillation of the common law of torts was the Restatement (Second) of Torts (1976), published shortly before Congress passed the [1978 Bankruptcy Reform] Act." *Id* at 70. Likewise, the Fourth Circuit has referred to the Restatement in defining the tort of fraudulent misrepresentation and stated that to prevail under section 523(a)(2)(A), a plaintiff must establish five elements: "(1) that the debtor made a representation; (2) that at the time the representation was made, the debtor knew it was false; (3) that the debtor made the false representation with the intention of defrauding the creditor; (4) that the creditor justifiably relied upon the representation; and (5) that the creditor was damaged as the proximate result of the false representation." *Lind Waldock & Co. v. Morehead*, 1 Fed. Appx. 104, 107 (4th Cir. 2001) (citing *Biondo*, 180 F.3d at 134; *MBNA Am. v. Simos* (*In re Simos*), 209 B.R. 188, 191 (Bankr. M.D.N.C. 1997)). Courts within the Fourth Circuit and other circuits have held that "a misrepresentation occurs when funds are entrusted to a debtor for a specific purpose, and the debtor has no intention of using the money for that purpose." *Elrod v.*

Bowden (*In re Bowden*), 326 B.R. 62, 83 (Bankr. E.D. Va. 2005) (citing cases); *see also In re Sheridan*, 57 F.3d 627, 635 (7th Cir. 1995) ("We have held that when a creditor entrusts the debtor with money to use for a specific purpose and the debtor has no intention of using it in that manner, a misrepresentation exists upon which a debt can be held non-dischargeable. In other words, proof that the debtor never put the money toward the stated purpose allows a court to infer the requisite intent." (citing *Merchants Nat'l Bank & Trust Co. of Indianapolis v. Pappas* (*In re Pappas*), 661 F.2d 82, 86 (7th Cir. 1981)).

1. False representation

Based on the evidence presented, the Court finds that the debt Defendant owes to Plaintiffs is nondischargeable under section 523(a)(2)(A) based both on a false representation and a false pretense. First, with respect to a false representation, Defendant made a representation in the June 11th email in which he stated:

> We had to go ahead and close the purchase on May 30th (using a loan from the bank in order to close it fast as you know), so we will end up having to "bill" folks a small/proportional share of their interest calculated from 5/30 to the time they deposit their purchase price into the account so we can pay down the loan. We are also asking people to sign (with us) for their portion of the note as a sign of good faith. Pl.'s ex. 7, pp. 124-25.

He also wrote in this email that "[i]n any case . . . Peter passed along the signed wires so we will get that moving ASAP to stop the 'clock ticking' on the interest part . . . and we should have the IRA portion done in the next 3 or 4 weeks once Fidelity approves everything." *Id.* (omissions in original). At the time he made this representation, Defendant knew it was false. Defendant testified he appeared on behalf of Plaintiffs when obtaining the loan from Georgian Bank and provided Plaintiffs' financial information to obtain the loan. He did this even though Plaintiffs never gave him express authorization to obtain the loan. Defendant also testified the loan to purchase the Georgian Bank was his idea and he was the only person who approached Georgian

Bank about the loan. Therefore, Defendant knew as a part of the May 2008 note, he, Fairman, and supposedly Plaintiffs were signing guarantees for the whole $5 million loan. Yet, he suggests in this email that Plaintiffs are only signing "for their portion of the note as a sign of good faith." Defendant makes further misrepresentations regarding billing Plaintiffs for "a small/proportional share of their interest calculated from 5/30 to the time they deposit their purchase price into the account" so he can pay down the loan and "stop the 'clock ticking' on the interest part." The evidence clearly shows Defendant used approximately $250,000 of the $950,000 provided by Plaintiffs to pay interest on the entire $5 million loan, not just Plaintiffs' portion of the loan. Pl's ex. 13. The remaining $700,000 was commingled in Defendant's personal accounts and used for his business or personal expenses. *Id.* In sum, the Court finds that Defendant knew the statements in his June 11th email about Plaintiffs' liability on the May 2008 loan and about how he was going to use Plaintiffs' money were false at the time he made the statements and that he had no intention to use Plaintiffs' money in the manner he indicated in the email. *See Bowden*, 326 B.R. at 83.

The Court also finds that Defendant made the false representations in the June 11th email with the intention of defrauding Plaintiffs. "Because direct proof of intent (*i.e.*, the debtor's state of mind) is nearly impossible to obtain, the creditor may present evidence of the surrounding circumstances from which intent may be inferred." *Caspers v. Van Horne* (*In re Van Horne*), 823 F.2d 1285, 1288 (8th Cir. 1987), *abrogated on other grounds, Grogan*, 498 U.S. at 291. There is ample evidence in the circumstances surrounding the transaction at issue to support a finding Defendant intended to defraud Plaintiffs when he made the statements in the June 11th email. As an initial matter, he did not use the funds provided by Plaintiffs in the manner represented in the email. Instead, he used the funds for his personal expenses, his businesses,

and for interest on the entire $5 million loan while Plaintiffs remained guarantors on the loan even though they paid $950,000 toward their $1 million investment. He also misrepresented Plaintiffs' potential liability on the loan, which he structured less than two weeks before the June 11th email. At a minimum, Defendant's statements regarding Plaintiffs' potential liability constitute false representations that he recklessly made and on which he knew or should have known Plaintiffs would rely and from which "intent to deceive may logically be inferred." *Household Fin. Corp. v. Kahler* (*In re Kahler*), 187 B.R. 508, 513 (Bankr. E.D. Va. 1995). In addition, out of the four people who purportedly guaranteed the May 2008 note, Plaintiffs were the only ones with assets sufficient to pay a $5 million loan.[13] Defendant admitted Fairman did not have assets to cover a $5 million loan, and there is no indication Defendant had assets to cover a $5 million loan. It is improbable Georgian Bank would have agreed to such a loan without guarantors who could cover the loan. Therefore, Defendant needed Plaintiffs' guarantees in order to obtain the loan to purchase the Georgian Bank stock. Defendant used the guarantees Plaintiffs purportedly signed in May 2008 to leverage a loan to benefit himself and others. While he paid no actual money for the stock, aside from perhaps $1,000, Defendant testified $1.5 million of the stock would be allocated to the Apogee Companies, and undoubtedly he and others within those companies would expect to see a return on that $1.5 million worth of stock.[14] In the end, Defendant structured a $5 million loan that benefited himself and others and that had Plaintiffs as guarantors for the full amount of the loan even though the loan only benefited them to the extent of their $1 million investment and even though they intended to pay

[13] The same is true of the August 2008 note.

[14] In an email to Lefkow, Defendant stated he expected to see a return on $1.5 million. *See* Pl.'s ex. 13, p. 3. It is, thus, unclear whether $1.5 million of the stock was allocated to himself or the Apogee Companies. Regardless, he expected to see a significant return on the transaction.

for their investment and did so to the extent of $950,000. Defendant provides no credible explanation for structuring the transaction in this fashion other than simply stating there was no discussion about only having people liable on the loan for the amount of their investment until they paid for their investment.[15] He also provides no credible explanation for why he used the $950,000 for a purpose other than that for which it was given to him. *See Bowden*, 326 B.R. at 87 ("[O]nce a creditor has provided circumstantial evidence giving rise to this intent, a debtor cannot overcome the inference by making unsupported assertions of honest intent."). That Defendant may have believed in May and June of 2008 that the odds of Georgian Bank failing and the guarantees being enforced were "1 in a million" and an "insane scenario of events" does not negate this Court's finding that he acted with fraudulent intent. *See* Pl.'s ex. 15, 16; *see also Murray v. Nassbridges* (*In re Nassbridges*), 434 B.R. 573, 588-89 (Bankr. C.D. Cal. 2010) ("Debtor took the Murrays' money on one set of assumptions and then invested it under an entirely different set. Even professional gamblers may think they are sophisticated or nimble enough to beat the house every time, but they only have the right to lose their own money, not other peoples' money absent clear and informed consent to play the game."); *Dubois v. Lindsley* (*In re Lindsley*), 388 B.R. 661, 669 (Bankr. D. Md. 2008) ("Viewed through that prism, the Court finds that Debtor's representation and subsequent actions establish that he took Plaintiffs'

[15] Defendant asserted the Fifth Amendment when asked in a deposition taken in the FDIC-R action whether he brought the May 2008 and August 2008 loan guarantees purportedly signed by Plaintiffs to Georgian Bank to induce it to lend $5 million and to renew the $5 million loan. "In a civil proceeding, a fact-finder is entitled to draw adverse inferences from a defendant's invocation of the privilege against self incrimination." *ePlus Tech., Inc. v. Aboud*, 313 F.3d 166, 179 (4th Cir. 2002). At trial, Defendant stated he asserted the Fifth Amendment based on the advice of counsel. Without elaboration, Defendant also testified he thought asserting Fifth Amendment would help Plaintiffs. Even without drawing this adverse inference as impeaching Defendant's testimony at trial, the Court finds ample evidence of intent.

property through subterfuge and secrecy with the intent (and hope) that his scheme would remain undiscovered.").

Further evidence of Defendant's fraudulent intent exists in what transpired after June 11, 2008. Plaintiffs' purported signatures appear on guarantees dated August 29, 2008. Andrew Taylor testified that he was in Europe in the Alps with his daughter and a friend on August 29, 2008, and that Naomi Taylor was in southern Georgia with her daughter. Again, Defendant provides no credible explanation for why he would structure a transaction under which Plaintiffs are guarantors of a $5 million note when their investment was only $1 million, particularly considering that by August 2008, Plaintiffs had paid $500,000 toward their investment and were in the process of paying the rest. *See* Def's ex. I, J; Pl.'s ex. 13, pp. 8, 10.

Additional evidence of Defendant's intent to defraud Plaintiffs is contained in his communications with them after they received past due notices about the loan and after he told them they had signed guarantees on the loan at their August 20, 2009 meeting. Andrew Taylor requested documentation regarding the loan in emails dated August 20, 2009 and September 10, 2009. *See* Pl.'s ex. 15; Def.'s ex. M, p. 189. Defendant never personally responded with this documentation, although Plaintiffs received copies of the guarantees they purportedly signed with the demand letter sent by the bank. In his emails to Plaintiffs following the August 20th meeting, Defendant repeatedly indicated his desire that they rely on him to protect their interests and to obtain their release from potential liability on the loan. In doing so, he acknowledged Plaintiffs should not have been guarantors on the loan. *See* Pl.'s ex. 16. He reacted angrily when Plaintiffs retained legal counsel to protect their interests and to investigate Defendant's actions, including threatening to quit and leave Plaintiffs on their own unless they withdrew the Fulton County action against him without prejudice and wait to re-file until after January 1, 2010, if the

matter was not resolved by then. Pl.'s ex. 20. In his October 30, 2009 email, he makes several hostile statements, including "[g]et ready, these people are going to go after/sue YOU for this overreaching invasion of privacy and I will help them do that full time!!!" and "I will tell EVERYONE to go work for [a friend Defendant states is interested in merging his business with Apogee] and Apogee will be worth ZERO . . . thus I have zero and you get zero help and have to deal with the bank by yourself!!!" Pl.'s ex. 21, pp. 2-3 (omission in original). Indeed, Defendant's emails during this time easily can be characterized as attempting to intimidate Plaintiffs into relying on Defendant to resolve the situation rather than relying on their attorney. Plaintiffs largely complied with Defendant's demands, dismissed the Fulton County action without prejudice, and then refiled their lawsuit against Defendant in Cobb County in April 2010. Defendant still did what he threatened, as he testified that he stopped operating the Apogee Companies and essentially bankrupted himself.

The Court finds that Plaintiffs justifiably relied upon Defendant's representations in the June 11th email. There is no credible evidence Plaintiffs signed the May 2008 or August 2008 guarantees, and Defendant himself agreed the signatures on the guarantees are nowhere near Naomi Taylor's actual signature. Additionally, the Court finds Andrew Taylor's explanation in his affidavit in support of his request to withdraw his admissions in the FDIC-R action credible.[16] *See* Def.'s ex. Q. Plaintiffs thus did not know there were guarantees with their purported

[16] Although the order in the FDIC-R action allowing Plaintiffs' to withdraw their admissions was never introduced into evidence, both parties described the order at length, including that it expressed suspicion about Plaintiffs' request. However, the court ultimately granted Plaintiffs' motion to withdraw their admissions. Furthermore, this Court's finding of credibility in Andrew Taylor's explanation is after a complete trial on the merits during which Plaintiffs and Defendant testified whereas the order in the FDIC-R action was at an interlocutory stage of that proceeding. Additionally, the fact that Naomi Taylor also initially admitted to executing the guarantees in the FDIC-R action suggests that Plaintiffs did not review their signatures closely before responding to the requests for admission, given that everyone, including Defendant, appears to agree that the signatures on the guarantees are not hers.

signatures on them at the time Defendant sent the June 11th email. As a result, Plaintiffs were justified in relying upon Defendant's statement suggesting that their liability on the loan used to close the transaction quickly was limited to the $1 million they agreed to invest and that the money they paid for the investment would be used to pay off their portion of the loan. Moreover, while the wire transfer authorizations with Plaintiffs' signatures on them have a June 7, 2008 date printed at the top, they are accompanied by fax transmittal sheets with transmittal dates of June 13, 2008, or June 23, 2008. Def.'s ex. I, J. Defendant testified these transmittal dates represent the dates the Apogee Companies sent the wire transfer authorizations to Fidelity to have the funds transferred from Fidelity to Apogee GBC 2008. Defendants' own reconciliations of funds received by Apogee GBC 2008 show a $150,000 wire transfer on behalf of Naomi Taylor from Fidelity on June 13, 2008; a $200,000 wire transfer on behalf of Naomi Taylor from Fidelity on June 23, 2008; and a $150,000 wire transfer on behalf of Andrew Taylor from Fidelity on June 23, 2008. Pl.'s ex. 13, pp. 8, 10. Therefore, if Defendant had truthfully stated in the June 11th email that Plaintiffs were guaranteeing the entire $5 million loan and that he was going to use the money they paid for the Georgian Bank stock investment for his businesses and personal expenses, Plaintiffs could have taken action to stop Fidelity from transferring funds to Apogee GBC 2008 before the transfers occurred. Instead, Plaintiffs took no action to protect themselves and were unaware of their purported guarantees of a $5 million loan until August 2009.

2. False pretense

Section 523(a)(2)(A) excepts from discharge debts for money to the extent obtained not only by false representations but also by false pretenses. "A false representation is an express misrepresentation, while a false pretense refers to an implied misrepresentation or 'conduct

intended to create and foster a false impression.'"[17] *Nat'l Bank of N. Am. v. Newmark* (*In re Newmark*), 20 B.R. 842, 854 (Bankr. E.D.N.Y. 1982) (quoting *H.C. Prange Co. v. Schnore* (*In re Schnore*), 13 B.R. 249, 251 (Bankr. W.D. Wis. 1981)). Thus, "[f]alse pretenses do not necessarily require overt misrepresentations. Instead, omissions or a failure to disclose on the part of the debtor can constitute misrepresentations where the circumstances are such that omissions or failure to disclose create a false impression which is known by the debtor." *Haeske v. Arlington* (*In re Arlington*), 192 B.R. 494, 498 (Bankr. N.D. Ill. 1996) (citing *Peterson v. Bozzano* (*In re Bozzano*), 173 B.R. 990, 993 (Bankr. M.D.N.C. 1994), *abrogated on other grounds, Cohen v. de la Cruz*, 523 U.S. 213 (1998)); *see Fleming v. Gordon* (*In re Gordon*), 491 B.R. 691 (Bankr. D. Md. 2013); *Lindsley*, 388 B.R. at 669; *O'Connor, CPO, Inc. v. Booker* (*In re Booker*), 165 B.R. 164, 169 (Bankr. M.D.N.C. 1994); *Nash-Bone v. Ramey* (*In re Ramey*), 454 B.R. 640, 645-46 (Bankr. E.D. Va. 2011); *Bowden*, 326 B.R. at 82-83; *Kendrick v. Pleasants* (*In re Pleasants*), 231 B.R. 893, 897-98 (Bankr. E.D. Va. 1999); *see also Bearden v. Jackson* (*In re Bearden*), 382 B.R. 911, 920 (Bankr. D.S.C. 2008) ("Furthermore, a false pretense requires some intentional act, either by affirmative representation or silence (with knowledge of the fact), on the part of the Debtor."). Within the confines of the Restatement (Second) of Torts, this description of what constitutes a false pretense finds support in sections 550 and 551. Most applicable here, section 551 provides that "[o]ne who fails to disclose to another a fact that he

[17] As for the term "actual fraud" in section 523(a)(2)(A), "the legislative history of section 523(a)(2)(A) indicates that the term . . . was included in that section, not to expand or define the manner of frauds that might fall within the operation of the non-dischargeability statute, but to clarify and emphasize the fact that only debts resulting from fraud intended to deceive, or frauds involving moral turpitude, are non-dischargeable, and not debts resulting from constructive fraud or fraud implied in law." *FCC Nat'l Bank v. Gilmore* (*In re Gilmore*), 221 B.R. 864, 871 (Bankr. N.D. Ala. 1998). As one court has stated, "[t]he term 'actual fraud' in section 523(a)(2)(A) is, except to exclude constructive fraud from the operation of the statute, redundant, since it does not encompass or define any conduct or activity that was not otherwise encompassed within or defined by the terms 'false representation or false pretenses.'" *Id.*

knows may justifiably induce the other to act or refrain from acting in a business transaction is subject to the same liability to the other as though he had represented the nonexistence of the matter that he has failed to disclose, if, but only if, he is under a duty to the other to exercise reasonable care to disclose the matter in question."[18] Restatement (Second) of Torts § 551 (1977); *see also AT&T Universal Card Serv. v. Mercer* (*In re Mercer*), 246 F.3d 391, 404 (5th Cir. 2001); *Citibank (S.D.), N.A. v. Eashai* (*In re Eashai*), 87 F.3d 1082, 1089 (9th Cir. 1996); *Van Horne*, 823 F.2d at 1288; *Demerdjian v. Thompson* (*In re Thompson*), 354 B.R. 174, 179 n.4 (Bankr. E.D. Tenn. 2006); *FCC Nat'l Bank v. Gilmore* (*In re Gilmore*), 221 B.R. 864, 872 (Bankr. N.D. Ala. 1998). Section 551 lists a number of matters a party to a business transaction is under a duty to exercise reasonable care to disclose to the other party before the transaction is consummated:

> (a) matters known to him that the other is entitled to know because of a fiduciary or other similar relation of trust and confidence between them; and
> (b) matters known to him that he knows to be necessary to prevent his partial or ambiguous statement of the facts from being misleading; and
> (c) subsequently acquired information that he knows will make untrue or misleading a previous representation that when made was true or believed to be so; and
> (d) the falsity of a representation not made with the expectation that it would be acted upon, if he subsequently learns that the other is about to act in reliance upon it in a transaction with him; and
> (e) facts basic to the transaction, if he knows that the other is about to enter into it under a mistake as to them, and that the other, because of the relationship between them, the customs of the trade or other objective circumstances, would reasonably expect a disclosure of those facts.

Id.

As an initial matter, Defendant was a fiduciary of Plaintiffs during the events in question under Georgia law. *See* Ga. Code Ann. § 23-2-58 ("Any relationship shall be deemed

[18] Section 550 deals with situations where "[o]ne party to a transaction . . . by concealment or other action intentionally prevents the other from acquiring material information." Restatement (Second) of Torts § 550 (1977).

confidential, whether arising from nature, created by law, or resulting from contracts, where one party is so situated as to exercise a controlling influence over the will, conduct, and interest of another or where, from a similar relationship of mutual confidence, the law requires the utmost good faith, such as the relationship between partners, principal and agent, etc."). Defendant prepared a will for Plaintiffs while he was at Stillpoint. The Apogee Companies had access to Plaintiffs' financial accounts and could pay bills from those accounts with Plaintiffs' authorization. Apogee also had access to Plaintiffs' IRA accounts and could withdraw fees for Apogee's services from those accounts with Plaintiffs' authorization. Plaintiffs repeatedly testified they trusted Defendant in making their decision to invest in the Georgian Bank, including trusting statements Defendant made in his May 21, 2008 email. *See* Pl.'s ex. 2, pp. 70-71. Perhaps most indicative of a fiduciary relationship is the fact that Defendant testified he appeared on Plaintiffs' behalf when obtaining the loan from Georgian Bank and provided Plaintiffs' financial information without Plaintiffs' ever giving their express authorization to use a loan to purchase the stock. Plaintiffs never met with or spoke with Georgian Bank in connection with obtaining the loan. Further evidence of a fiduciary relationship exists in Defendant's September 2009 emails describing Plaintiffs as "family," *see* Pl.'s ex. 16, 18, and in Defendant encouraging Plaintiffs in his August through October 2009 emails to rely on him to resolve the situation with the loan. Indeed, Plaintiffs' trust in Defendant was so great that they did not object to him using a loan to purchase the Georgian Bank stock even though they never authorized a loan to purchase their allocable share and they believed him when he said they signed guarantees at their meeting in August 2009, only to realize later they had not signed guarantees. Consequently, the Court finds Defendant's relationship with Plaintiffs was such that there was a duty to speak. *See* Restatement (Second) of Torts § 551.

The Court concludes that Plaintiffs' agreement to participate in the Georgian Bank stock purchase was the result of Defendant fostering a false impression by failing to disclose a fact that he knew may justifiably induce Plaintiffs to act or refrain from acting. The false impression was that Plaintiffs' risk was limited to the $1 million they agreed to invest, that their liability on the loan used to purchase their investment was limited to the amount needed to purchase their share of the stock, and that their liability on the loan would decrease as they paid for their investment. Defendant never disclosed to Plaintiffs that as part of the transaction they were guaranteeing a $5 million loan. Defendant's testimony that someone at sometime between May 29, 2008 and June 2, 2008 brought the guarantees to Plaintiffs for their signatures lacks credibility.[19] Defendant was not sure whether he brought the guarantees to Plaintiffs. Consequently, out of the witnesses who testified at trial, Plaintiffs were the only people with personal knowledge of whether someone brought them guarantees to sign, and they deny signing any guarantees. In addition, the notion that the guarantees were taken to and signed by Plaintiffs between May 29th and June 2d, thus making them aware they were guaranteeing a $5 million loan, is inconsistent with Defendant's statements in his June 11th email. Defendant states in this email that "we will end up having to 'bill' folks a small/proportional share of their interest calculated from 5/30 to the time they deposit their purchase price into the account so we can pay down the loan" and "we are also asking people to sign (with us) for their portion of the note as a sign of good faith." Pl.'s ex. 7, pp. 124-25. The email is written in a manner to foster Plaintiff's belief that they were only obligors on a loan to the extent of their $1 million allocable share of the stock and only until they paid for the stock. If $5 million guarantees were taken to Plaintiffs between May 29th and June

[19] It is questionable anyway whether simply sending someone to obtain Plaintiffs' signatures on $5 million guarantees when their investment was only $1 million constitutes exercising reasonable care to disclose the matter in question. *See* Restatement (Second) of Torts § 551.

2d for their signatures as Defendant asserts, then why did he make the statements set forth in the June 11th email, including that people were only being asked to sign "for their portion of the note as a sign of good faith." Further, Defendant's suggestion that Plaintiffs being guarantors on the entire $5 million loan was all some big, innocent mistake lacks credibility.[20]

As for the other elements of 11 U.S.C. § 523(a)(2)(A), the Court finds Defendant created a false impression with intent to deceive for the same reasons discussed in connection with the false representations Defendant made in the June 11th email and based on the inconsistency between the June 11th email and Defendant's testimony that the guarantees were taken to Plaintiffs for their signatures. The Court also finds Plaintiffs were justified in believing Defendant would disclose important details of the transaction to them, including that they would be guarantors of a $5 million loan.

3. Damage as the proximate result of the false representation and false pretense

The final element of section 523(a)(2)(A) is that Plaintiffs must have suffered damage as the proximate result of the false representation or false pretense. Defendant moved for summary judgment prior to trial and for judgment as a matter of law at trial arguing that the Georgian Bank stock was worthless once the bank failed, meaning Plaintiffs still would have lost $950,000 even if he used the funds to purchase the stock. However, the Court finds that Plaintiffs did suffer damage, potentially including but not limited to the $950,000 they paid to Apogee GBC

[20] The timeline of the transaction also weighs against the credibility of Defendant's testimony. Defendant indicates in the May 30th and June 11th email that the closing of the stock purchase occurred on May 30, 2008, which suggests that the seller conveyed the stock to Apogee GBC 2008 on that date. *See also* Def.'s ex. C. It seems unlikely the seller would have conveyed the stock without receiving the purchase price and equally questionable that Georgian Bank would have released the funds to cover the purchase price without first having Plaintiffs' purported guarantees. Defendant suggested the Apogee Companies' relationship with Georgian Bank was such that the bank was willing to wait until June 2, 2008, to receive those purported guarantees.

2008, which Defendant used for interest on the entire $5 million loan, for his businesses, and for his personal expenses.[21] *See Cohen*, 523 U.S. at 223 ("In short, the text of § 523(a)(2)(A), the meaning of parallel provisions in the statute, the historical pedigree of the fraud exception, and the general policy underlying the exceptions to discharge all support our conclusion that 'any debt . . . for money, property, services, or . . . credit, to the extent obtained by' fraud encompasses any liability arising from money, property, etc., that is fraudulently obtained, including treble damages, attorney's fees, and other relief that may exceed the value obtained by the debtor."(omissions in original)). Plaintiffs testified they would not have participated in the investment in Georgian Bank if they had known about the $5 million guarantees and had known Defendant would use their $950,000 for his businesses and personal expenses. If Defendant had made disclosures and been truthful to Plaintiffs about these matters, Plaintiffs would not have participated in the investment or transferred $950,000. Similarly, if Defendant had been truthful in the June 11th email, Plaintiffs could have taken action to stop the transfer of funds to Apogee GBC 2008 and notified Georgian Bank that they had not signed guarantees for a $5 million loan, thus taking steps to extricate themselves from the situation before having to defend a lawsuit brought to enforce the guarantees.[22]

---

[21] The Court does not attempt in this Order to ascertain all of the damages proximately caused by Defendant's actions. The Court merely finds that Plaintiffs were injured and suffered damages.

[22] A significant amount of the testimony at trial related to Plaintiffs' understanding of the role of Apogee GBC 2008 in the stock purchase, whether Plaintiffs knew Apogee GBC 2008 was more than a temporary holding entity, and at what point Plaintiffs knew about the existence of Apogee GBC 2008. Additionally, Defendant sought to impeach Plaintiffs' testimony on these issues through various emails, including the May 22, 2008 email with the information package attached about the Georgian Bank stock purchase, *see* Def.'s ex. B, and affidavits filed in this case on January 23, 2013, in which Plaintiffs make statements regarding their lack of knowledge of Apogee GBC 2008's role in the transaction and what effect full knowledge of that role would have had on them, *see* Def.'s exs. V, W. In the end, the Court does not find that Plaintiffs relied on or that any damages were proximately caused by any statements Defendant made regarding

B. 11 U.S.C. § 523(a)(4)

Plaintiffs also allege the debt owed to them is nondischargeable under 11 U.S.C. § 523(a)(4), which excepts from discharge debts "for fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny." "The language 'while acting in a fiduciary capacity' does not qualify the word 'embezzlement' and therefore [a] court need not find that the debtor was acting in a fiduciary capacity in order to hold the debt non-dischargeable on the grounds of embezzlement." *Gribble v. Carlton* (*In re Carlton*), 26 B.R. 202, 205 (Bankr. M.D. Tenn. 1982). "Embezzlement is generally defined under federal law as 'the fraudulent appropriation of property by a person to whom such property has been intrusted or into whose hands it has lawfully come.'" *Id.* (quoting *Moore v. United States*, 160 U.S. 268, 269 (1895)). "A creditor proves embezzlement by showing that he entrusted his property to the debtor, the debtor appropriated the property for a use other than that for which it was entrusted, and the circumstances indicate fraud."[23] *Brady v. McAllister* (*In re Brady*), 101 F.3d 1165, 1173 (6th Cir. 1996); *see also Booker*, 165 B.R. at 171.

Apogee GBC 2008's role as the holder of the Georgian Bank stock. Even if Defendant had explained more clearly that Apogee GBC 2008 was the owner of the stock because of regulatory restraints on the number of shareholders Georgian Bank could have and that Plaintiffs were receiving membership units in Apogee GBC 2008 which corresponded to their portion of the Georgian Bank stock, the Court finds they still would have participated in the investment given the level of trust they placed in Defendant at the time.

[23] In the amended complaint, Plaintiffs allege under their factual allegations that Defendant transferred $950,000 of Plaintiffs' money to his own use and benefit and that none of Plaintiffs' money was used to purchase Georgian Bank stock. In the section of the amended complaint where they plead section 523(a)(4), Plaintiffs state "embezzlement" in the heading but do not otherwise discuss the elements of embezzlement. However, in their motion for summary judgment, Plaintiffs clearly argued Defendant embezzled their money. Docket # 172, pp. 10-11. Defendant stated in his response to Plaintiffs' summary judgment motion that he "can categorically state (*without infringing on his Fifth Amendment assertions*) that he NEVER had custody and control over any of Plaintiffs['] money at any time, EVER." Docket # 186, p. 7. Plaintiffs also indicated in their pretrial order that one of the facts which remained to be litigated was whether Defendant embezzled Plaintiffs' money. Docket # 183, p. 1. Therefore, the Court

The Court finds that the debt owed to Plaintiffs is nondischargeable under section 523(a)(4) based on embezzlement. Plaintiffs entrusted $950,000 to Defendant with the understanding that it would go towards paying down the loan used to purchase Plaintiffs' share of the Georgian Bank stock. Defendant used the funds for interest on the entire $5 million loan, for his businesses, and for personal expenses. Moreover, as explained in connection with the Court's finding of nondischargeability under section 523(a)(2)(A), the circumstances under which Plaintiffs agreed to participate in the Georgian Bank stock purchase and transfer $950,000 to Apogee GBC 2008 indicate fraud. Therefore, each element of embezzlement is met, and the debt is excepted from discharge under section 523(a)(4). Given that the Court finds embezzlement applies, it is not necessary to decide whether Defendant was acting in a fiduciary capacity for purposes of section 523(a)(4) during the events in question.[24]

C. 11 U.S.C. § 523(a)(6)

Plaintiffs assert they are owed a debt that is nondischargeable under 11 U.S.C. § 523(a)(6), which excepts from discharge any debt "for willful and malicious injury by the debtor to another entity or the property of another entity." "The word 'willful' in (a)(6) modifies the word 'injury,' indicating that nondischargeability takes a deliberate or intentional *injury*, not merely a deliberate or intentional *act* that leads to injury." *Kawaauhau v. Geiger*, 523 U.S. 57, 61 (1998). "An act is 'malicious' within the meaning of § 523(a)(6) if wrongful and without just cause or excuse." *Thompson v. Myers (In re Myers)*, 235 B.R. 838, 842 (Bankr. D.S.C. 1998).

---

finds Defendant had notice that Plaintiffs were asserting the debt owed to them is nondischargeable based on embezzlement. *See also* Fed. R. Civ. P. 15(b)(2); Fed. R. Bankr. P. 7015.

[24] While the Court finds Defendant was a fiduciary under Georgia law, a different standard applies to determining whether someone is a fiduciary for purposes of section 523(a)(4).

The Court finds that Debtor's conduct in misrepresenting to Plaintiffs that he would use the funds they paid Apogee GBC 2008 to pay for their portion of the loan utilized to purchase the Georgian Bank stock and then using those funds for interest on the entire $5 million loan and for his personal expenses while Plaintiffs remained guarantors of the loan constitutes a willful and malicious injury for which the resulting debt is nondischargeable under section 523(a)(6).

CONCLUSION

At trial, Defendant stated he wanted an impartial opinion as to whether he had engaged in any wrongful acts. The Court hopes this Order provides some guidance. Simply stated, with respect to Defendant's dealings with Plaintiffs described herein and the debt related thereto, Defendant does not fall within the category of an "'honest but unfortunate'" debtor for whom the Bankruptcy Code was enacted to provide a fresh start. *Grogan*, 498 U.S. at 286-87 (quoting *Hunt*, 292 U.S. at 244). This Court has not endeavored to determine the amount of the debt Defendant owes to Plaintiffs. However, there is a nondischargeable debt related to Defendant's conduct.

For the reasons set forth herein, it is therefore ORDERED that:

1. Defendant owes Plaintiffs a debt that is nondischargeable under 11 U.S.C. §§ 523(a)(2)(A), (a)(4), and (a)(6);

2. Defendant's motion entered February 14, 2013, to exclude Carney's testimony, deposition, transcript, and report and motion entered March 6, 2013, to reconsider this Court's Order denying Defendant's motion for a protective order regarding Plaintiffs' deposition of Carney are moot;

3. Defendant's motion to exclude the trial depositions of Carney and Collier due to absence of local South Carolina counsel entered March 14, 2013, is moot to the extent it seeks to exclude Carney's deposition and denied to the extent it seeks to exclude Collier's deposition;

4. Defendant's emergency motion to dismiss entered March 22, 2013, is denied;

5. Defendant's motion for judgment as a matter of law because Plaintiffs suffered no damages is denied; and

6. Defendant's motion for judgment as a matter law on Plaintiffs' 11 U.S.C. § 523(a)(4) cause of action because Defendant was not acting in fiduciary capacity is moot.[25]

AND IT IS SO ORDERED.

FILED BY THE COURT
07/26/2013

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

Entered: 07/26/2013

David R. Duncan
Chief US Bankruptcy Judge
District of South Carolina

[25] Prior to trial, in addition to arguing Plaintiffs suffered no damages and he did not act as a fiduciary, Defendant moved for summary judgment asserting that no debt exists because the claims alleged in the Cobb County action were compulsory cross-claims in the FDIC-R action. The Court denied the motion, and Defendant did not move for judgment as a matter of law on this basis at trial.

EXHIBIT K

February 1, 2014

Palmetto Kids FIRST Scholarship Program, Inc
1985 Riviera Drive, Suite 103-126
Mount Pleasant, SC 29464

Dear Palmetto Kids First Scholarship Program, Inc Board of Directors:

This letter is to confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the services we will provide.

Scholarship Services, LLC ("Scholarship Services") will provide a turnkey business management solution for Palmetto Kids FIRST Scholarship Program, Inc ("Palmetto Kids FIRST"). These services will include, but are not limited to, the following.

1. Provide informational and educational support services for donors, scholarship recipients/parents, and schools – to include printed materials.
2. Manage receipt and deposit of donations and communicate as needed with donors.
3. Coordination of volunteer services, vendor management, mail management, and bill payment services for Palmetto Kids FIRST (*such expenses of Palmetto Kids FIRST to be reimbursed as billed*).
4. Manage the public website, Facebook page and any other social or electronic media for Palmetto Kids FIRST.
5. Establish and maintain an accounting system and provide applicable financial reports for Palmetto Kids FIRST and its Board as necessary and requested by the Board.
6. Prepare annual tax returns and other applicable IRS or State of South Carolina tax filings.
7. Manage the South Carolina tax credit process and communicate with Donors, the South Carolina Department of Revenue, Education Oversight Committee, Department of Education and Secretary of State as necessary
8. Any other services as are deemed necessary to manage the back office operations of Palmetto Kids FIRST.

Notwithstanding the forgoing, Scholarship Services will specifically not provide legal, audit, lobbying or donor solicitation services to Palmetto Kids FIRST. Services may be provided internally by Scholarship Services, or by third parties as solely selected by Scholarship Services and as may be presented as a reimbursable expense.

Pursuant to the terms of the Educational Credit for Exceptional Needs Children ("ECENC") (*or any future South Carolina or federal tax credit legislation to which Palmetto Kids FIRST may participate*), Scholarship Services agrees to discount its fees and reimbursable expenses so that the administrative expenses (*excluding scholarship grants*) of Palmetto Kids FIRST do not exceed five percent (5%) (*or other applicable legislative maximum*) of its annual contributions and revenue for a particular year. Fees are due and payable upon presentment of an invoice to the

Treasurer of Palmetto Kids FIRST by Scholarship Services. Payment of such fees shall be expressly authorized by the Treasurer.

This engagement shall be effective as of February 1, 2014.

We appreciate the opportunity to be of service to you and Palmetto Kids FIRST and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign below.

Best Regards,

SCHOLARSHIP SERVICES, LLC

Olga I. Lisinska, Manager

Response:

This letter correctly sets forth the understanding of Palmetto Kids FIRST Scholarship Program, Inc. and its Board of Directors as of February 1, 2014.

Jaroslaw Jasinski, Member, Governing Board of Directors and President

David Owens, Member, Governing Board of Directors and Vice-President

Shawn Lilrage, Member, Governing Board of Directors and Secretary / Treasurer

EXHIBIT L

1350

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

APPLICATION FOR EXCEPTIONAL NEEDS CHILDREN SCHOLARSHIP CREDIT

SC SCH.TC-57A
(Rev. 7/11/14)
3886
2014

Name(s) As Shown On Tax Return

SSN or FEIN

Mailing Address

Street

Contact Person
--- N/A ---

City | County | State | Zip

Contact Person's Title
--- N/A ---

Physical Address --- N/A --- same as mailing address

Telephone Number

Street

Alternate Telephone Number

City | County | State | Zip

Email

Date(s) on which the taxpayer made a contribution to a nonprofit Scholarship Funding Organization, amount(s) contributed, and name(s) of nonprofit Scholarship Funding Organization (Attach separate sheet if necessary.):

Date of contribution	Amount contributed	Name of nonprofit Scholarship Funding Organization
	$	Palmetto Kids FIRST Scholarship Program, Inc.
-- N/A --	$ -- N/A --	-- N/A --
-- N/A --	$ -- N/A --	-- N/A --

Total qualified contributions(s) ..... $

I declare that the information included in this credit application is true, correct, and complete, to the best of my knowledge and belief.

Date

Signature of Taxpayer

--- N/A --- same as above
Printed Name of Taxpayer or Officer

--- N/A ---
Title, if Applicable

NOTE: Total credits for all taxpayers are limited to $8 million. Credits will be approved on a first come, first served basis depending on when the application was received.

You should use the quickest method available to you.

1) Email a scanned PDF of TC-57A to taxtech@sctax.org

2) Express Mail:
SC Department of Revenue
Research and Forms Development
300A Outlet Pointe Blvd
Columbia, SC 29210

3) Regular Mail:
SC Department of Revenue
Research and Forms Development
Columbia, SC 29214-0019

INSTRUCTIONS

Enter the date of each contribution you made to a qualifying nonprofit scholarship funding organization that provides scholarships to exceptional needs students, the amount of the contribution, and the name of the qualifying nonprofit scholarship funding organization. Do not include any contribution designated for a specific child or school.

Total credits for all taxpayers are limited to $8 million. Credits will be approved on a first come, first served basis depending on when the application was received. After you receive approval, include the amount approved on SC1040TC or SC1120TC and attach to your tax return to claim the credit.

36561017

General Information

A person may claim a credit against income or bank tax for the amount of money the person contributes to a nonprofit scholarship funding organization if the contribution is used to provide grants for tuition, transportation and/or textbook expenses to exceptional needs children enrolled in eligible schools. A contribution designated for a specific child or school does not qualify.

Credit limitations

NOTE: This credit is enacted under Temporary Budget Proviso 1.60. Unless the proviso is codified or extended, contributions made after June 30, 2015 will not be eligible for the credit.

The credit may not exceed 60% of the taxpayer's total tax liability and is not refundable.

A corporation or entity entitled to a credit may not convey, assign, or transfer the deduction or credit to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

Education Oversight Committee

The Education Oversight Committee provides on its website (www.eoc.sc.gov) available to the general public:

- a list with addresses and telephone numbers of nonprofit scholarship funding organizations in good standing which provide grants, and
- a list of approved independent schools which accept grants for eligible students and which, in the determination of the Committee, are in compliance with the requirements.

Nonprofit scholarship funding organizations

Grants may be awarded by a scholarship funding organization in an amount not exceeding $10,000 or the total cost of tuition, whichever is less, for qualifying students with exceptional needs to attend an independent school. Prior to awarding any grant, a scholarship funding organization must receive written documentation from the parent documenting that the qualifying student is an exceptional needs child. Upon approving the application, the scholarship funding organization must issue a check to the eligible school in the name of the qualifying student. In the event that the qualifying student leaves or withdraws from the school for any reason prior to the end of the semester or school year and does not re-enroll within thirty days, then the eligible school must return a prorated amount of the grant to the scholarship funding organization based on the number of days the qualifying student was enrolled in the school during the semester or school year within sixty days of the qualifying student's departure.

Every nonprofit scholarship funding organization providing grants shall cause an outside auditing firm to conduct a comprehensive financial audit of its operations in conformity with generally accepted accounting principles and shall furnish the same within 30 days of its completion and acceptance to the Secretary of State and the Department of Revenue, which must be made available by them on their website for public review. The audit must also document, at a minimum, the total number of grants awarded, the total amount of each grant, and the names of the eligible schools receiving grants on behalf of the eligible students.

A nonprofit scholarship funding organization may transfer funds to another nonprofit scholarship funding organization, especially in the event that the organization cannot distribute the funds in a timely manner or if the organization ceases to exist. None of the funds that are transferred by one nonprofit scholarship funding organization to another may be considered by the former organization when calculating its administrative expenses.

Eligible schools

The Education Oversight Committee is responsible for determining if an eligible school meets the criteria and shall publish an approved list of eligible schools and propose regulations for meeting the criteria.

In performing this function, the Education Oversight Committee shall establish an advisory committee made up of not more than nine members, including parents and representatives of independent schools and independent school associations. The advisory committee shall provide recommendations to the Education Oversight Committee on the content of these regulations and any other matters requested by the Education Oversight Committee.

Except as otherwise provided, neither the Department of Education, nor the Department of Revenue, nor any other state agency may regulate the educational program of an independent school that accepts students receiving scholarship grants.

Student test scores, by category, on national achievement or state standardized tests, or both, for all grades tested and administered by an eligible school receiving or entitled to receive scholarship grants must be transmitted to the Education Oversight Committee, which in turn shall publish this information on its website with the most recent scores by category included.

Any independent school determined not to be an eligible school may seek review by filing a request for a contested case hearing with the Administrative Law Court in accordance with the court's rules of procedure.

The Education Oversight Committee, after consultation with its nine-member advisory committee, may exempt an independent school having students with exceptional needs who receive scholarship grants from the curriculum requirements.

3656/2015

Every independent school accepting grants for eligible students shall cause to be conducted a compliance audit by an outside entity or auditing firm, and shall furnish the same within 30 days of its completion and acceptance to the Secretary of State and the Department of Revenue, which must be made available by them on their website for public review.

Definitions

"Eligible school" means an independent school including those religious in nature, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met, that:

(a) offers a general education to primary or secondary school students;
(b) does not discriminate on the basis of race, color, or national origin;
(c) is located in this State;
(d) has an educational curriculum that includes courses set forth in the state's diploma requirements and where the students attending are administered national achievement or state standardized tests, or both, at progressive grade levels to determine student progress;
(e) has school facilities that are subject to applicable federal, state, and local laws; and
(f) is a member in good standing of the Southern Association of Colleges and Schools, the South Carolina Association of Christian Schools or the South Carolina Independent Schools Association.

An **"exceptional needs"** child is a child (1)(a) who has been evaluated in accordance with South Carolina's evaluation criteria, as set forth in S.C. Regulation 43-243.1, and determined eligible as a child with a disability who needs special education and related services, in accordance with the requirements of Section 300.8 of the Individuals with Disabilities Education Act; or (b) who has been diagnosed within the last three years by a licensed speech-language pathologist, psychiatrist, or medical, mental health, psycho-educational, or other comparable licensed healthcare provider as having a neurodevelopmental disorder; a substantial sensory or physical impairment (such as deaf, blind, or orthopedic disability); or some other disability or acute or chronic condition that significantly impedes the student's ability to learn and succeed in school without specialized instructional and associated supports and services tailored to the child's unique needs; and (2) whose parents or legal guardian believes that the services provided by the school district of legal residence do not sufficiently meet the needs of the child.

"Independent school" means a school, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met and that does not discriminate based on the grounds of race, color, religion, or national origin.

"Nonprofit scholarship funding organization" means a charitable organization that:

(a) is exempt from federal tax under Section 501(a) of the Internal Revenue Code by being listed as an exempt organization in Section 501(c)(3) of the Code;
(b) allocates, after its first year of operation, at least 95% of its annual contributions and gross revenue received during a particular year to provide grants for tuition, transportation, or textbook expenses (collectively hereinafter referred to as tuition) or any combination thereof to children enrolled in an eligible school meeting the criteria of this section, and incurs administrative expenses annually, after its first year of operation, of not more than 5% of its annual contributions and revenue for a particular year;
(c) allocates all of its funds used for grants on an annual basis to children who are "exceptional needs" students as defined herein;
(d) does not provide grants solely for the benefit of one school, and if the Department of Revenue determines that the nonprofit scholarship funding organization is providing grants to one particular school, the tax credit allowed by this section may be disallowed;
(e) does not have as a volunteer, contractor, consultant, or fundraiser member of its governing board any parent, legal guardian, or member of their immediate family who has a child or ward who is currently receiving or has received a scholarship grant authorized by this section from the organization within one year of the date the parent, legal guardian, or member of their immediate family became a board member;
(f) does not have as a member of its governing board or an employee, volunteer, contractor, consultant, or fundraiser who has been convicted of a felony, or who has declared bankruptcy within the last seven years;
(g) does not release personally identifiable information pertaining to students or donors or use information collected about donors, students or schools for financial gain; and
(h) does not place conditions on schools enrolling students receiving scholarships to limit the ability of the schools to enroll students accepting grants from other nonprofit scholarship funding organizations.

"Parent" means the natural or adoptive parent or legal guardian of a child.

"Person" means an individual, partnership, corporation, or other similar entity.

"Qualifying student" means a student who is a South Carolina resident and who is eligible to be enrolled in a South Carolina secondary or elementary public school at the kindergarten or later year level for the current school year.

"Resident public school district" means the public school district in which a student resides.

"Transportation" means transportation to and from school only.

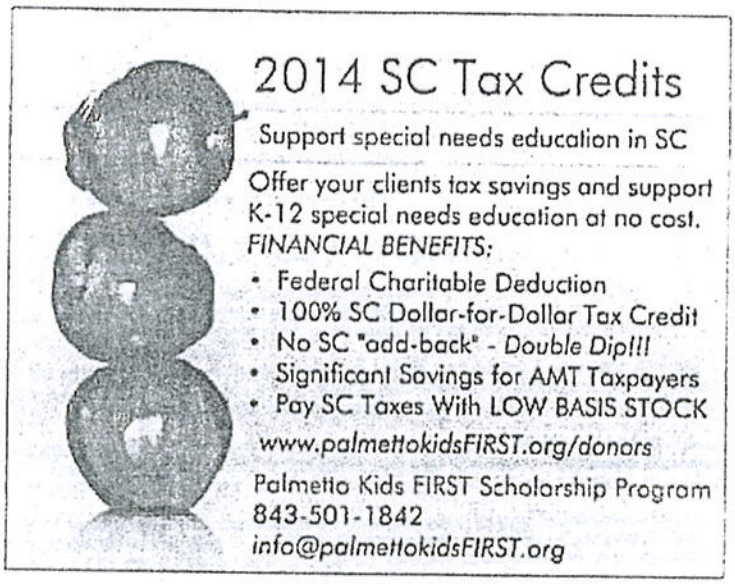
"Tuition" means the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not limited to, fees for attending the school and school-related transportation.

36563013

Palmetto Kids FIRST
Scholarship Program, Inc

Social Security Privacy Act Disclosure
It is mandatory that you provide your social security number on this tax form if you are an individual taxpayer. 42 U.S.C. 405(c)(2)(C)(i) permits a state to use an individual's social security number as means of identification in administration of any tax. SC Regulation 117-201 mandates that any person required to make a return to the SC Department of Revenue shall provide identifying numbers, as prescribed, for securing proper identification. Your social security number is used for identification purposes.

The Family Privacy Protection Act
Under the Family Privacy Protection Act, the collection of personal information from citizens by the Department of Revenue is limited to the information necessary for the Department to fulfill its statutory duties. In most instances, once this information is collected by the Department, it is protected by law from public disclosure. In those situations where public disclosure is not prohibited, the Family Privacy Protection Act prevents such information from being used by third parties for commercial solicitation purposes.





36564011

EXHIBIT M

(Emails exchanged between September 25, 2014 and October 17, 2014)

RE: TC-57A?

DELETEREPLYREPLY ALLFORWARD

Mark as unread

Bob Thomas

Fri 10/17/2014 3:38 PM

To:

'info at Palmetto Kids FIRST' <info@palmettokidsfirst.org>;

Cc:

Sylvan D. Proser;

This message was sent with high importance.

Olga,

I was able to access your version of our form through your website. We insist that you not provide a download or other version of TC-57A, but rather that you link directly to the TC-57A application on our website.

Bob Thomas

Tax Analyst

Research & Forms Development

SC Department of Revenue

Columbia, SC 29214-0019

(803) 898-5786

thomaro@sctax.org

From: Bob Thomas
Sent: Friday, September 26, 2014 3:59 PM

To: 'info at Palmetto Kids FIRST'
Cc: Sylvan D. Proser
Subject: RE: TC-57A?

Olga,

We insist that you not provide a download or other version of TC-57A, but rather that you link directly to the TC-57A application on our website.

Bob Thomas

Tax Analyst

Research & Forms Development

SC Department of Revenue

Columbia, SC 29214-0019

(803) 898-5786

thomaro@sctax.org

From: info at Palmetto Kids FIRST [mailto:info@palmettokidsfirst.org]
Sent: Friday, September 26, 2014 3:18 PM
To: Bob Thomas
Subject: Re: TC-57A?

Bob, thank you ... I was thinking there was perhaps something newer.

We are using the current (7/11/2014) form for email purposes and posted as a download on our website. I'll update our paperless version as well over the weekend just to be safe as well.

Anything else we can do to help, please let me know. Once we raise this final $4 million (or so), we would be happy to recap on how we can improve on the process going forward (assuming legislative renewal or permanent law). I am sure you have a lot on your plate, so we are happy to carry as much of the burden as we practically can for you.

Thank you for all you and your team do.

Olga

On Thu, Sep 25, 2014 at 10:57 AM, Bob Thomas <THOMARO@sctax.org> wrote:

Ms. Lisinska,

The application is HERE (www.sctax.org > Quick Links: Forms and Instructions > Tax Credits > SC SCH. TC-57A) .

Thank you!

Bob Thomas

Tax Analyst

Research & Forms Development

SC Department of Revenue

Columbia, SC 29214-0019

(803) 898-5786

thomaro@sctax.org

From: info at Palmetto Kids FIRST [mailto:info@palmettokidsfirst.org]
Sent: Thursday, September 25, 2014 10:41 AM
To: Bob Thomas
Subject: TC-57A?

Dear Mr. Thomas,

I don't see a new link online for the TC-57A. Can you please direct me to the appropriate place?

Thank you,

Olga Lisinska

Director of Operations

EXHIBIT N



Executive Summary

The way we do things is changing so fast, it's hard to keep up. It wasn't that long ago that the job title of "fundraiser" at some nonprofits might suffice for all things related to donations at the entire organization. Today, there could be a director of development, annual fund manager and online giving manger, among many others. In addition to a candidate's credentials, much of what a position might pay depends on a variety of factors, including the size of organization, the type of nonprofit and the cost of living in the region. How can you determine that? Data.

The NonProfit Times 2014 Salary and Benefits Report, authored and administered in partnership with Roswell, Ga.-based Bluewater Nonprofit Solutions, offers a treasure trove of data, from overall average salary increases and aggregate totals, job titles, job families, and a plethora of information about health, dental, vision and retirement plans. Data also are broken down by field of work, budget sizes and other key metrics, as well as providing average, minimum-maximum, median and key percentiles on each category of compensation or benefits.

The report includes data from almost 800 nonprofits that responded to the survey, with detailed information on benefits and salaries for 236 different positions found within nonprofits, ranging from entry level posts to chief executives. From the position with the highest average salary (chief scientific officer, [redacted]) to the lowest (personal attendant/home health care worker, [redacted]), you're likely to find the job titles that relate to your organization.

Whether you're a small organization or a large one, a service-oriented charity or an advocacy group, you'll find peer organizations of all kinds within these data. Participants included name brand affiliates or national organizations, like YMCA, United Way and American Red Cross to regional foundations, professional societies and local charities like historical associations or youth hockey or soccer groups.

Participation in the survey was open to all U.S. nonprofits with at least one full-time employee working no less than 30 hours per week. Organizations were asked to complete the survey with data that was valid for their group as of April 15, 2013.

Nonprofit organizations last year reported awarding average salary increases of 2.42 percent for all staff, down from 3.35 percent the previous year, with executive staff receiving average increases of 2.65 percent. Employee turnover among organizations was an overall average of 11 percent. The average annual base salaries for all 236 positions in the report, organized by 28 different job families, are as follows:

© 2014 Bluewater Nonprofit Solutions

Executive Summary - 2014 Nonprofit Organizations Salary and Benefit Survey

Job Family	Position Title	Average Base Salary
Administrative/General Office	Administration Director	
	Administrative Assistant, Intermediate Level	
	Administrative Assistant, Junior Level	
	Administrative Assistant, Senior Level	
	Data Entry Operator	
	Data Entry Supervisor	
	Executive Assistant	
	File Clerk	
	Mail Clerk	
	Meetings and Events Manager/Planner	
	Office Manager	
	Receptionist	
Advocacy/Government Affairs	Government Relations Director/Manager	
	Grassroots Advocacy/Campaign Manager	
	Lobbyist	
	Policy Advisor	
	Policy Analyst	
Animal Care	Animal Care Worker	
	Veterinary Technician	
Athletics/Recreation	Athletic Director	
	Fitness Instructor	
	Recreation/Activity Leader	
Call Center	Inbound Call Center Associate	
	Inbound Call Center Manager	
	Inbound Call Center Supervisor	
Communications/Marketing	Communications/Marketing/Public Relations Assistant	
	Communications/Public Relations Director	
	Communications/Public Relations Manager	
	Editor	
	Editorial Services Manager	
	Marketing Coordinator	
	Marketing Director	
	Videographer/Video Producer	
	Writer	
Conservation/Environmental Programs	Conservation/Environmental Program Manager	
	Energy Auditor	
	Environmental Program Director	

© 2014 Bluewater Nonprofit Solutions

	Environmental/Sustainability Educator
Culture/Performing Arts	Artistic Director
	Box Office/Sales Manager
	Curator
	Exhibits Manager
	Museum Registrar
	Production Manager/Coordinator
	Technical Staff
Education	Academic Records Assistant
	Admissions Director
	Admissions Representative
	Adult Education Teacher
	Assistant Principal
	Department Chair
	Instructor
	Librarian
	Library Assistant
	Registrar
	School Principal/Headmaster
	Teacher, K - 12
	Teacher, Pre School/Kindergarten
	Teaching Assistant, K
	Teaching Assistant, Pre School/Kindergarten
Executive	Chancellor/President
	Chief Administrative Officer
	Chief Advocacy Officer
	Chief Development Officer
	Chief Executive Officer/President/Executive Director
	Chief Financial Officer
	Chief Human Resources Officer
	Chief Information Officer
	Chief Marketing Officer
	Chief Medical Officer
	Chief of Staff
	Chief Operating Officer/Associate Executive Director
	Chief Program Officer
	Chief Scientific Officer
	Executive Vice President
Facilities/Maintenance	Building Manager
	Driver

© 2014 Bluewater Nonprofit Solutions

	Facilities Manager
	Groundskeeper
	Janitor or Custodian
	Maintenance Supervisor
	Maintenance Technician/Specialist
	Security Guard/Officer
	Security Manager
Finance	Accounting Clerk
	Accounting Managers
	Accounts Payable Manager/Supervisor
	Accounts Receivable Manager/Supervisor
	Assistant Controller/Assistant Director of Accounting
	Bookkeeper
	Budget Analyst
	Budget Director
	Director of Accounting/Controller
	Director of Finance
	Finance Administrator
	Financial Analyst
	Internal Auditor
	Senior Accountant
	Senior Internal Auditor
	Staff Accountant
Food Services	Cashier
	Catering Manager
	Cook
	Food Service Assistant/Worker
	Food Service Manager or Supervisor
Grant Making	Foundation Program Assistant
	Foundation Program Associate
	Foundation Program Officer
Graphics/Printing	Creative Services Director/Manager
	Graphic Artist
Housing	Construction Manager
	Director of Property Management
	Director of Resident Services
	Resident Services Coordinator
	Shelter Supervisor
Human Resources	Compensation and Benefits Specialist
	Employee Benefits Administrator

© 2014 Bluewater Nonprofit Solutions

	Employee Training Manager/Specialist
	Human Resources Assistant
	Human Resources Director/Manager
	Human Resources Generalist
	Payroll Clerk
	Payroll Manager
	Recruiter
	Recruiting Manager
Income Development/Fundraising	Annual Giving Director/Officer
	Capital Campaign Manager
	Corporate & Foundation Relations Director
	Development Associate (Generalist)
	Development Director
	Donor Information and Gift Processing Manager
	Grant Proposal Writer
	Grants Administrator
	Grants Manager
	Major Gifts Director/Officer
	Membership Assistant
	Membership Director/Manager
	Online Giving Manager
	Planned Giving Director/Officer
	Prospect Research Director
	Prospect Researcher
	Regional Area Income Development Vice President/Direct
	Sales Clerk
	Shop Manager
	Special Events Manager/Specialist
Information Technology	Applications Developer
	Business Systems Analyst
	Database Administrator
	Database Analyst
	Desktop Support Manager
	Desktop Support Specialist
	Information Technology Manager
	LAN Administrator
	Network Engineer
	Network Manager
	Software Engineer
	Systems Analyst

© 2014 Bluewater Nonprofit Solutions

	Systems Engineer
	Technical Project Manager
	Technical Support Analyst
	Technical Support Manager
	Web Administrator
	Web Developer
	Webmaster
Legal	Attorney/Lawyer
	General Counsel/Lawyer
	Legal Assistant
	Paralegal
	Senior Attorney/Lawyer
Medical Services	Clinic Director
	Community Health Worker
	Director of Nursing
	Medical Assistant
	Medical Receptionist
	Medical Records Clerk
	Medical Services Director
	Nurse Practitioner
	Nutritionist/Dietician
	Occupational Therapist
	Patient Accounts Representative
	Patient Financial Services Manager
	Personal Attendant/Home Health Care Worker
	Physical Therapist
	Physician
	Physician's Assistant
	Registered Nurse
	Speech Pathologist
Program Administration	Partnership and Collaboration Manager
	Program Analyst
	Program Assistant
	Program Coordinator
	Program Director/Manager
	Project Manager (Non Technical)
	Regional Area Program Coordinator
	Regional Area Program Director or Manager
Program Delivery	Case Manager, Entry Level
	Case Manager, Mid Level

© 2014 Bluewater Nonprofit Solutions

	Case Manager, Senior Level
	Chaplain/Clergy
	Child Care Assistant/Babysitter
	Counselor, Entry Level
	Counselor, Mid Level
	Counselor, Senior Level
	Direct Care Counselor
	Driver
	Eligibility Specialist
	Job Coach
	Job Placement Coordinator
	Licensed Psychologist
	Psychiatric Social Worker
	Psychiatrist
	Senior/Adult Program Assistant
	Social Worker, Entry Level
	Social Worker, Mid Level
	Social Worker, Senior Level
	Vocational or Placement Counselor
Purchasing	Buyer
	Purchasing Coordinator/Specialist
	Purchasing Manager
Regional General Management	Area Director/Manager
	Regional Vice President
Science	Research Analyst
	Research Assistant
	Research Director
	Research Manager
	Scientist
Volunteerism	Community Organizer
	Volunteer Coordinator
	Volunteer Director
Warehousing	Distribution Supervisor
	Forklift Operator
	Inventory Control Clerk
	Inventory Control Manager
	Order Picker
	Shipping/Receiving Clerk
	Warehouse Manager

© 2014 Bluewater Nonprofit Solutions

Some 124 positions reported average total cash compensation of at least $50,000, and among those, 24 positions reported an average of at least $100,000, and 5 positions had an average of more than $150,000:

Position	Average Total Cash Compensation
Chief Scientific Officer	
Chief Medical Officer	
Psychiatrist	
Chancellor/President	
Physician's Assistant	
Chief Advocacy Officer	
General Counsel/Lawyer	
Chief Information Officer	
Chief Executive Officer/President/Executive Director	
Chief Marketing Officer	
Research Director	
Chief of Staff	
Regional Vice President	
Chief Development Officer	
Executive Vice President	
Chief Financial Officer	
Medical Services Director	
Chief Operating Officer/Associate Executive Director	
Internal Auditor	
Chief Human Resources Officer	
Planned Giving Director/Officer	
Budget Director	
Chief Program Officer	
Senior Attorney/Lawyer	

The study offers not just salary but also benefits, including executive bonus and benefits information, as well as retirement plans, participation and eligibility rates, and employee turnover. Each section displays at a glance the year-over-year changes in data for each field. The study offers statistical measures ranging from average, minimum, 25th percentile, 50th percentile (median), 75th percentile and maximum. In cases where fewer than four organizations provided valid data, only the average field displayed data.

© 2014 Bluewater Nonprofit Solutions

Some 124 positions reported average total cash compensation of at least $50,000, and among those, 24 positions reported an average of at least $100,000, and 5 positions had an average of more than $150,000:

Position	Average Total Cash Compensation
Chief Scientific Officer	
Chief Medical Officer	
Psychiatrist	
Chancellor/President	
Physician's Assistant	
Chief Advocacy Officer	
General Counsel/Lawyer	
Chief Information Officer	
Chief Executive Officer/President/Executive Director	
Chief Marketing Officer	
Research Director	
Chief of Staff	
Regional Vice President	
Chief Development Officer	
Executive Vice President	
Chief Financial Officer	
Medical Services Director	
Chief Operating Officer/Associate Executive Director	
Internal Auditor	
Chief Human Resources Officer	
Planned Giving Director/Officer	
Budget Director	
Chief Program Officer	
Senior Attorney/Lawyer	

The study offers not just salary but also benefits, including executive bonus and benefits information, as well as retirement plans, participation and eligibility rates, and employee turnover. Each section displays at a glance the year-over-year changes in data for each field. The study offers statistical measures ranging from average, minimum, 25th percentile, 50th percentile (median), 75th percentile and maximum. In cases where fewer than four organizations provided valid data, only the average field displayed data.

© 2014 Bluewater Nonprofit Solutions

Chief Executive Salaries, Benefits

The average salary for a nonprofit chief executive officer/president last year was [redacted]. The median salary was [redacted] while the maximum found was [redacted]. The average tenure for a nonprofit CEO was almost 12 years and almost 40 percent of participating organizations paid their CEO some type of bonus.

Operating budget	*Average CEO salary*
Less than $499,999	
$500,000 to $999,999	
$1,000,000 to $2,499,999	
$2,500,000 to $4,999,999	
$5,000,000 to $9,999,999	
$10,000,000 to $24,999,999	
$25,000 to $49,999,999	
$50,000,000 or more	

More than one in five nonprofits offer their executives some form of executive benefit. The most common benefit offered to presidents, CEOs or executive directors last year was additional vacation days (49 percent). Less common were:

- Car or car allowance, 36 percent
- Excess life insurance, 22 percent
- Reserved parking, 19 percent
- Supplemental disability insurance, 16 percent
- Supplemental executive retirement plan, 15 percent
- Private club membership, 7 percent
- Travel expenses for spouse, 6.5 percent
- Executive physical, 4 percent
- Financial or legal counseling, 3 percent
- First class air travel, 3 percent

These percentages are overall averages of the salary and benefits report but of course they will vary by types of organizations. The survey provides an extensive breakdown of these data by an organization's geographic region, size of operating budget and within the specific field of work.

© 2014 Bluewater Nonprofit Solutions

Types of Benefits Offered

Among the types of benefits offered to general staff, the most common, with more than 7 in 10 respondents providing them, were: paid company holidays, medical insurance coverage, paid vacation days, dental insurance coverage and paid bereavement time. While less common, other benefits still were offered among the nearly 800 organizations, with the top 20 most popular being:

Employee Benefit Offered	% of Organizations Offering Benefit
Paid Company Holidays	88.38%
Medical Insurance Coverage	85.47%
Paid Vacation	70.96%
Dental Insurance Coverage	70.66%
Paid Bereavement Time	70.02%
Paid Sick Leave	65.93%
Basic Life Insurance for Employee	58.21%
Retirement Benefits	53.40%
Flextime	51.52%
Business Casual Days	44.68%
Free/Subsidized Parking	44.22%
Long Term Disability	43.62%
Flexible Spending Account Benefit	42.20%
Paid Personal Days	41.92%
Vision Insurance Coverage	38.68%
Association/Professional Society Dues	37.84%
Short Term Disability	37.81%
Full-Time Business Casual Policy	36.17%
Paid Time Off (PTO)	31.87%
Accidental Death and Dismemberment	31.01%

© 2014 Bluewater Nonprofit Solutions

Retirement Plans

More than 53 percent of organizations reported offering some type of retirement plan for employees, with the most common being 403(b) and 401(k) plans:

Retirement Plan Benefit Offered	Percentage of Organizations Offering Benefit in 2013
403(b) Plan	37.81%
401(k) Plan	23.38%
SEP-IRA Plan	10.45%
Defined Benefit Pension Plan	5.14%
457 Plan	3.48%
Money Purchase Plan	0.50%

The report categorizes more specific retirement offerings and eligibility by size of organization, geographic region, and among different fields within the nonprofit sector.

Medical plans

More than 85 percent of organizations offered medical insurance as an employee benefit. The most common benefit was a Preferred Provider Organization (PPO), offered by more than half of those surveyed:

Medical Insurance Benefit Offered	% of Organizations Offering Benefit in 2013
Preferred Provider Organization (PPO)	52.77%
Health Maintenance Organization (HMO)	28.28%
High Deductible Health Plan (HDHP)	17.22%
Point of Service (POS)	8.38%
Indemnity (Traditional Fee-for-Service)	1.10%

© 2014 Bluewater Nonprofit Solutions

Dental insurance

With more than 70 percent of organizations offering dental insurance among their benefits, the report examined more closely what types of dental insurance benefits are provided. More than half of respondents offered a Dental Preferred Provider Organization (DPPO) but there were other options as well:

Dental Insurance Benefit Offered	% of Organizations Offering Benefit in 2013
Dental Preferred Provider Organization (DPPO)	52.30%
Dental Point of Service (DPOS)	10.17%
Dental Health Maintenance Organization (DHMO)	7.05%
Indemnity (Traditional Fee-for-Service)	3.60%
Dental Reimbursement Plan	1.81%
Dental Exclusive Provider Organization (DEPO)	1.80%

This year's report offers a valuable cross-section of the sector, by geography, budget and staff size.

There was geographic diversity in the organizations, with different regions represented well, with the most responses coming from the Northeast but a good representation from other regions, including North Central, Southeast, Northwest, South Central and Southwest.

Geographic Region	*Number of Organizations*
Northeast	271
Southeast	142
North Central	155
South Central	72
Northwest	103
Southwest	39

Participating organizations tended to be on the small side, with 10 or fewer employees, but nonprofits of all sizes are represented, ranging from 10 employees to 200 or more. The volume of data available provides relevant information for just about any organization with 236 job titles organized among 28 different job families ranging from categories such as executive to scientific, and program delivery, legal and information technology.

© 2014 Bluewater Nonprofit Solutions

Operating Budget	Number of Organizations
Less than $499,999	174
$500,000 to $999,999	138
$1,000,000 to $2,499,999	149
$2,500,000 to $4,999,999	110
$5,000,000 to $9,999,999	84
$10,000,000 to $24,999,999	79
$25,000,000 to $49,999,999	22
$50,000,000 or more	26

Full-time Employees	Number of Organizations
1-10	638
11-25	49
26-50	24
51-100	31
101-200	19
201 or more	21

While many organizations were classified as human services, respondents ran the spectrum in terms of their field of work, ranging from arts and culture, like symphonies or philharmonics, to education and environment/animals, as well those classified as public or societal benefit and health organizations.

Field of Work	Number of organizations
Arts, culture and humanities	87
Education	45
Environment and animals	47
Health	100
Human services	308
International, foreign affairs	7
Public, societal benefit	125
Religion related	21
Mutual/membership benefit	28
Unknown, unclassified	14

© 2014 Bluewater Nonprofit Solutions

Special Report Price for 2013 Survey Participants

The comprehensive salary and benefits report can be purchased in its entirety on *The NonProfit Times* website for $285.

For participating in the survey, you have the opportunity to save 50 percent off the full report (700-plus pages) – a discount of $142.50.

Click here to view a sample and order the full 2014 Nonprofit Organizations Salary & Benefits Report today.

Normal price: $285
Your price: $142.50
Savings: $142.50
(plus the time if you compiled all this data yourself!)

http://www.thenonprofittimes.com/store/2014-nonprofit-organizations-salary-and-benefits-report/

Enter the Coupon Code: *participant50* during checkout to receive the 50% discount.

About Bluewater Nonprofit Solutions

Bluewater Nonprofit Solutions is a leading provider of salary and benefits surveys, management consulting and credit card processing to nonprofit organizations. Their leading edge survey tools offer unlimited customization and flexible reporting options that allow quick, affordable tailoring of a survey to meet the needs of any associations, industry groups, professional societies or chambers of commerce. Bluewater was founded by former nonprofit executives, and was created out of their deep knowledge and experiences providing day-to-day leadership within charitable organizations for more than 25 years. To learn more, visit www.bwnps.com

Contact information:

Bluewater Nonprofit Solutions
11285 Elkins Road, Suite D4
Roswell, GA 30076
Office phone: 770-777-4828
Email: info@bwnps.com

© 2014 Bluewater Nonprofit Solutions

EXHIBIT O

RE: Invitation - TOMORROW AT NOON in Ridgeway

Ricky Taylor

Fri 3/20/2015 11:21 AM

To: 'Jeff Davis' <jdavis@wtcarolina.org>.

Jeff,
Thank you for the invite. I will not be able to attend as I already have other plans Thanks again though.

Ricky

-----Original Message-----
From: Jeff Davis [mailto:jday.s@wtcarolina.org]
Sent: Friday, March 20, 2015 9:32 AM
To: Ricky Taylor
Subject: Invitation - TOMORROW AT NOON in Ridgeway

Ricky,

Thank you for your time on Tuesday I know you have a job to do. and I respect that Sadly I believe the entire situation has gotten far out of hand - much of that caused by lack of knowledge about how these programs operate nationally .. and efforts by some to sabotage this program over political differences

Regardless, I hope you saw on Tuesday that we and many others are simply trying to help these kids and families (as fast as possible). I am also volunteering to you / DOR to be a resource to help in any way. I've got more experience than anyone in our State with these types of programs - and will do anything I can to help you, DOR, the legislature, and anyone else that will listen JUST ASK, AND I'LL BE THERE!!!

To that end, I'd like to encourage you to attend a small event TOMORROW in Ridgeway. Meet some of the school leaders, kids, parents that this program is helping It is a struggle for all of them to help these kids - but this program and PKF has been a miracle to these families. You have heard from a couple disgruntled / uniformed / political opponents to the program ... come hear firsthand the REAL STORY

Magnolia Lodge - www.magnolialodgellc.com - 631 Longtown Road Ridgeway SC 29130

Noon - Food is served
1PM - Program introduction with parents and kids

A Citadel '89 and USC Law '94 classmate of mine will be hosting the event for The Barclay School

(www.thebarclayschool.org). Please bring your wife and family. It is casual and will change your life to see these special kids - and the two women running this school and sacrificing nearly all for these kids. Note, one, Dr. Gillian Barclay-Smith is the former head of Glenforest and I am sure can give you more background on what is happening there.

I understand you live in Blythewood which is just a few miles away ... PLEASE COME!!! Lets get all this misunderstanding behind all of us as fast as possible so we can all start focusing on helping these kids.

Best,

Jeff Davis, JD, MBA, CPA
843-901-8036 (cell)

P.S. As you know, I do not work with PKF and am not represented by their legal counsel. As such this communication is perfectly allowed and outside the scope of any litigation.

Working Together Carolina, Inc.

1985 Riviera Dr. 103-126 | Mt. Pleasant, SC 29464

843-901-8036 (cell) | jdavis@wtcarolina.org

Website www.WorkingTogetherCarolina.org

IMPORTANT NOTICE AND DISCLAIMER: Working Together Carolina, Inc. is a newly formed South Carolina nonprofit (501(c)(3) application in process) which will serve as an independent and nonpartisan alternative to Access Opportunity South Carolina (aka IndependentED)
The mission of Working Together Carolina is to assist schools parents and donors in understanding and implementing South Carolina's Educational Credit for Exceptional Needs Children (ECENC) We do not work with, consult, volunteer or raise tax credit donations for any Scholarship Funding Organization
All information provided is for general informational purposes only and should not be construed as legal or tax advice. Working Together Carolina does not provide legal or tax advice. All parties should consult their tax adviser or attorney.

EXHIBIT P

South Carolina General Assembly
121st Session, 2015-2016

Download This Bill in Microsoft Word format

~~Indicates Matter Stricken~~
Indicates New Matter

A92, R130, H4230

STATUS INFORMATION

General Bill
Sponsors: Rep. White
Document Path: l:\council\bills\bbm\9370dg15.docx

Introduced in the House on May 26, 2015
Introduced in the Senate on June 17, 2015
Last Amended on June 23, 2015
Passed by the General Assembly on June 23, 2015
Governor's Action: June 29, 2015, Certain items vetoed
Legislative veto action(s): Certain vetoes sustained

Summary: Supplemental appropriations

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
5/26/2015	House	Introduced and read first time (House Journal-page 15)
5/26/2015	House	Referred to Committee on Ways and Means (House Journal-page 15)
6/2/2015	House	Committee report: Favorable with amendment Ways and Means (House Journal-page 2)
6/4/2015	House	Debate adjourned (House Journal-page 10)
6/16/2015	House	Amended (House Journal-page 4)
6/16/2015	House	Read second time (House Journal-page 4)
6/16/2015	House	Roll call Yeas-103 Nays-0 (House Journal-page 58)
6/17/2015	House	Read third time and returned to Senate with amendments (House Journal-page 18)
6/17/2015	House	Roll call Yeas-94 Nays-0 (House Journal-page 18)
6/17/2015		Scrivener's error corrected
6/17/2015	Senate	Introduced and read first time (Senate Journal-page 3)
6/17/2015	Senate	Referred to Committee on Finance (Senate Journal-page 3)
6/18/2015	Senate	Committee report: Favorable with amendment Finance (Senate Journal-page 7)
6/18/2015	Senate	Committee Amendment Adopted (Senate Journal-page 7)
6/18/2015	Senate	Read second time (Senate Journal-page 7)
6/18/2015	Senate	Roll call Ayes-40 Nays-1 (Senate Journal-page 7)
6/18/2015	Senate	Unanimous consent for third reading on next legislative day (Senate Journal-page 7)
6/19/2015		Scrivener's error corrected
6/19/2015	Senate	Read third time and returned to House with amendments
6/19/2015	House	Non-concurrence in Senate amendment
6/19/2015	Senate	Senate insists upon amendment and conference committee appointed Leatherman, Setzler, Peeler

6/19/2015	House	Conference committee appointed White, Pitts, Clyburn
6/23/2015	House	Conference report adopted (House Journal-page 36)
6/23/2015	House	Roll call Yeas-108 Nays-0
6/23/2015	Senate	Conference report adopted (Senate Journal-page 8)
6/23/2015	Senate	Roll call Ayes-42 Nays-0 (Senate Journal-page 8)
6/23/2015	House	Ordered enrolled for ratification (House Journal-page 51)
6/23/2015		Ratified R 130
6/29/2015		Certain items vetoed by Governor
7/7/2015	House	Veto sustained on certain items: 1
7/22/2015		Effective date See Act for Effective Date
7/31/2015		Act No. 92

View the latest legislative information at the website

VERSIONS OF THIS BILL

5/26/2015
6/2/2015
6/16/2015
6/17/2015
6/18/2015
6/19/2015
6/23/2015

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

NOTE: THIS COPY IS A TEMPORARY VERSION. THIS DOCUMENT WILL REMAIN IN THIS VERSION UNTIL PUBLISHED IN THE ADVANCE SHEETS TO THE ACTS AND JOINT RESOLUTIONS. WHEN THIS DOCUMENT IS PUBLISHED IN THE ADVANCE SHEET, THIS NOTE WILL BE REMOVED.

(A92, R130, H4230)

AN ACT TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2015-2016, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. (A) The source of revenue appropriated in subsection (B) is:

(1) additional recurring general fund revenue for Fiscal Year 2015-2016 totaling $150,000,000 as certified by the Board of Economic Advisors on May 29, 2015; and

(2) reductions in appropriations as contained in SECTION 5 of this act.

(B)(1) P32-Department of Commerce

Non-Recurring Appropriations

Economic Development

Infrastructure $ 70,000,000

(2) F30-Statewide Employee Benefits

Non-Recurring Appropriations

Bonus Pay $ 23,500,000

From the funds appropriated to Statewide Employee Benefits for Bonus Pay, effective on the first pay date that occurs on or after October 16, 2015, the Department of Administration shall allocate to state agencies $23,500,000 to provide for a one-time lump sum bonus. Each permanent state employee, in a full-time equivalent position, who has been in continuous state service for at least six months prior to July 1, 2015, and who earns less than $100,000 shall receive an $800 one-time lump sum payment. This payment is not a part of the state employee's base salary and is not earnable compensation for purposes of employer or employee contributions to respective retirement systems. This appropriation may be used for payments to employees only in the same ratio as the employee's base salary is paid from appropriated sources and the employing agency shall pay the bonus for federal and other funded full-time equivalent positions employees from federal or other funds available to the agency in the proportion that such funds are the source of the employee's salary. The earnings limitation in Proviso 117.55 of H. 3701, R. 127, Act 91 of 2015, does not apply to this bonus.

(3) U12-Department of Transportation

Non-Recurring Appropriations

County Transportation Committee

Road Program $ 70,499,995

The Department of Transportation shall distribute the $70,499,995 appropriated above for the County Transportation Committee Road Program pursuant to Section 12-28-2740 of the 1976 Code. County Transportation Committees shall utilize the funds distributed pursuant to this proviso solely for use on the state-owned secondary road system for paving, rehabilitation, resurfacing, and/or reconstruction, and bridge repair, replacement, or reconstruction. No funds from this allocation shall be used for any road, bridge, or highway that is not part of the state-owned system.

Unexpended funds appropriated pursuant to this subsection may be carried forward to succeeding fiscal years and expended for the same purposes.

(4) General Obligation Bond (G.O.)

Bonds Subject to Debt Service Limitation:

Economic Development Bonds $ 16,425,000

(5) L04-Department of Social Services

Programs and Services Child Support Enforcement

Other Operating Expenses $ 1

(6) E23-Commission on Indigent Defense

Office of Circuit Public Defenders

Special Item:

Defense of Indigents Per Capita $ 1

(7) J02-Department of Health and Human Services

Medical Assistance Payment Case Services

CLTC-Community Long-Term Care $ 1

(8) J02-Department of Health And Human Services

Medical Assistance Payment Case Services

Coordinated Care $ 1

(9) J02-Department of Health and Human Services

Medical Assistance Payment Case Services

Behavioral Health Services $ 1

SECTION 2. (A) The source of the revenue appropriated in subsection (B) is additional Education Improvement Act revenue for Fiscal Year 2015-2016 totaling $21,500,000 as certified by the Board of Economic Advisors on May 29, 2015.

(B)(1) H63-Department of Education

Education Improvement Act

Modernize Vocational Equipment $ 6,538,722

Reading Coaches $ 4,961,278

EEDA $ 2,400,000

(2) H63-Department of Education

Education Improvement Act

Non-Recurring Appropriations

Transition Payments $ 7,600,000

SECTION 3. (A) The source of revenue appropriated in subsection (B) is additional unobligated Fiscal Year 2014-2015 General Fund surplus revenues totaling $150,196,281 as certified by the Board of Economic Advisors on May 29, 2015.

*(B)(1) *E04 - Lieutenant Governor's Office*

Predatory Lending Education ***$ 250,000***

Text printed in italic, boldface indicates sections vetoed by the Governor on June 29, 2015.
*Indicates those vetoes sustained by the General Assembly on July 7, 2015.

Of the funds appropriated in this item for Predatory Lending Education, the Office on Aging shall develop a pilot program to assist seniors in improving their knowledge about finances and education about predatory lending practices. The pilot shall include an assessment of the financial health of seniors in the pilot area which must be used to identify strategies to address the major concerns found through the assessment. The strategies should include, but are not limited to, the means of building awareness of senior financial resources. The Office on Aging shall provide the results of the pilot, as well as a recommended strategy for any expansion to other areas of the State, to the Chairmen of the Senate Finance Committee and the House Ways and Means Committee no later than March 15, 2016.

(2) E24 - Office of Adjutant General

Emergency Management Division

2014 Winter Storm Local

Matching Funds $ 4,117,162

From the funds appropriated in this item for 2014 Winter Storm Local Matching Funds, local governments shall receive allocations to offset storm cleanup expenses resulting from the winter storms during states of emergency declared by Executive Orders 2014-06 and 2014-11. Expenses eligible for reimbursement are those incurred by county and municipal governments and deemed eligible for reimbursement by the Federal Emergency Management Agency (FEMA), but were not reimbursed due to local match requirements. The amount reimbursed to each eligible local government shall be 25% of their Total Non-Federal Aid Share. The intent of the General Assembly is for the local government to pay at least 75% of the Total Non-Federal Aid Share.

(3) U12-Department of Transportation

County Transportation Committee

Road Program $ 145,829,119

The Department of Transportation shall distribute the $145,829,119 appropriated above for the County Transportation Committee Road Program pursuant to Section 12-28-2740 of the 1976 Code. County Transportation Committees shall utilize the funds distributed pursuant to this proviso solely for use on the state-owned secondary road system for paving, rehabilitation, resurfacing, and/or reconstruction, and bridge repair, replacement, or reconstruction. No funds from this allocation shall be used for any road, bridge, or highway that is not part of the state-owned system.

Unexpended funds appropriated pursuant to this subsection may be carried forward to succeeding fiscal years and expended for the same purposes.

SECTION 4. (A) The source of the revenue appropriated in subsection (B) is additional net education lottery proceeds for Fiscal Year 2015-2016 totaling $12,000,000 as certified by the Board of Economic Advisors on May 29, 2015.

(B)(1) H03-Commission on Higher Education

Need Based Grants $ 2,600,000

(2) H63-Department of Education

New Bus Purchases $ 2,400,000

SECTION 5. The Fiscal Year 2015-2016 appropriation to Aid to Subdivisions Department of Revenue for Distribution to Subdivisions: Aid to Counties-Homestead Exemption Fund (X44) is reduced by $20,425,000.

The first $10,000,000 carried forward from Fiscal Year 2014-2015 annual appropriations to Aid to Subdivisions Department of Revenue for Distribution to Subdivisions: Aid to Counties-Homestead Exemption Fund (X44) shall be credited to the Department of Transportation for distribution pursuant to Section 12-28-2740 of the 1976 Code. County Transportation Committees shall utilize the funds distributed pursuant to this proviso solely for use on the state-owned secondary road system for paving, rehabilitation, resurfacing, and/or reconstruction, and bridge repair, replacement, or reconstruction. No funds from this allocation shall be used for any road, bridge, or highway that is not part of the state-owned system.

SECTION 6. Excess debt service funds from Fiscal Year 2014-2015 must be carried forward and expended in Fiscal Year 2015-2016 to pay down general obligation bond debt for which the State (1) is paying the highest rate of interest, (2) will achieve relief in constrained debt capacity, or (3) reduce the amount of debt issued.

SECTION 7. The State Treasurer shall transfer $50,000,000 from general fund non-tax sources to the South Carolina Transportation Infrastructure Bank to be utilized solely to leverage bonds to finance bridge replacement, resurfacing, and rehabilitation projects, and expansion and improvements to existing mainline interstates. The Department of Transportation shall develop and submit a list of bridge and road projects to the bank for its consideration. Transferred funds may not be used for projects approved by the bank prior to July 1, 2015. The bank shall submit all projects proposed to be financed through this provision to the Joint Bond Review Committee for approval prior to financing any proposed project.

SECTION 8. Notwithstanding any provision in this act to the contrary, Horry County may use up to $750,000 of its allocations pursuant to SECTION 1(B)(3), SECTION 3(B)(3), and SECTION 5 for the Horry-Georgetown Evacuation Route.

SECTION 9. (A) As used in this proviso:

(1) "Eligible school" means an independent school including those religious in nature, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met, that:

(a) offers a general education to primary or secondary school students;

(b) does not discriminate on the basis of race, color, or national origin;

(c) is located in this State;

(d) has an educational curriculum that includes courses set forth in the state's diploma requirements and where the students attending are administered national achievement or state standardized tests, or both, at progressive grade levels to determine student progress;

(e) has school facilities that are subject to applicable federal, state, and local laws; and

(f) is a member in good standing of the Southern Association of Colleges and Schools, the South Carolina Association of Christian Schools, or the South Carolina Independent Schools Association.

(2) "Exceptional needs child" means a child:

(a)(i) who has been evaluated in accordance with this state's evaluation criteria, as set forth in S.C. Code Ann. Regs. 43-243.1, and determined eligible as a child with a disability who needs special education and related services, in accordance with the requirements of Section 300.8 of the Individuals with Disabilities Education Act; or

(ii) who has been diagnosed within the last three years by a licensed speech-language pathologist, psychiatrist, or medical, mental health, psychoeducational, or other comparable licensed health care provider as having a neurodevelopmental disorder, a substantial sensory or physical impairment such as deaf, blind, or orthopedic disability, or some other disability or acute or chronic condition that significantly impedes the student's ability to learn and succeed in school without specialized instructional and associated supports and services tailored to the child's unique needs; and

(b) the child's parents or legal guardian believes that the services provided by the school district of legal residence do not sufficiently meet the needs of the child.

(3) "Independent school" means a school, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met and that does not discriminate based on the grounds of race, color, religion, or national origin.

(4) "Nonprofit scholarship funding organization" means a charitable organization that:

(a) is exempt from federal tax pursuant to Section 501(a) of the Internal Revenue Code by being listed as an exempt organization in Section 501(c)(3) of the code;

(b) allocates, after its first year of operation, at least ninety-seven percent of its annual contributions and gross revenue received during a particular year to provide grants for tuition to children enrolled in an eligible school meeting the criteria of this proviso, and incurs administrative expenses annually, after its first year of operation, of not more than three percent nor more than $200,000 in the aggregate, whichever is less, of its annual contributions and revenue for a particular year to cover operational costs;

(c) allocates all of its funds used for grants on an annual basis to children who are exceptional needs students;

(d) does not provide grants solely for the benefit of one school, and if the department determines that the nonprofit scholarship funding organization is providing grants to one particular school, the tax credit allowed by this proviso may be disallowed;

(e) does not have as a volunteer, contractor, consultant, fundraiser or member of its governing board any parent, legal guardian, or member of their immediate family who has a child or ward who is currently receiving or has received a scholarship grant authorized by this proviso from the organization within one year of the date the parent, legal guardian, or member of their immediate family became a board member;

(f) does not have as a member of its governing board or an employee, volunteer, contractor, consultant, or fundraiser who has been convicted of a felony;

(g) does not release personally identifiable information pertaining to students or donors or use information collected about donors, students or schools for financial gain; and

(h) must not place conditions on schools enrolling students receiving scholarships to limit the ability of

the schools to enroll students accepting grants from other nonprofit scholarship funding organizations.

(5) "Parent" means the natural or adoptive parent or legal guardian of a child.

(6) "Person" means an individual, partnership, corporation, or other similar entity.

(7) "Qualifying student" means a student who is an exceptional needs child, a South Carolina resident, and who is eligible to be enrolled in a South Carolina secondary or elementary public school at the kindergarten or later year level for the applicable school year.

(8) "Resident public school district" means the public school district in which a student resides.

(9) "Transportation" means transportation to and from school only.

(10) "Tuition" means the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not limited to, fees for attending the school, textbook fees, and school-related transportation.

(11) "Department" means the Department of Revenue.

(B)(1) A person is entitled to a tax credit against income taxes imposed pursuant to Chapter 6, Title 12, or bank taxes imposed pursuant to Chapter 11, Title 12 for the amount of cash and the monetary value of any publicly traded securities the person contributes to a nonprofit scholarship funding organization up to the limits of this proviso if:

(a) the contribution is used to provide grants for tuition to exceptional needs children enrolled in eligible schools who qualify for these grants under the provisions of this proviso; and

(b) the person does not designate a specific child or school as the beneficiary of the contribution.

(2) An individual is entitled to a refundable tax credit against income taxes imposed pursuant to Chapter 6, Title 12, or bank taxes imposed pursuant to Chapter 11, Title 12 for the amount of cash and the monetary value of any publicly traded securities, not exceeding ten thousand dollars per child, the individual contributes as tuition for exceptional needs children within their custody or care and enrolled in eligible schools who qualify for these grants under the provisions of this proviso. The cumulative maximum total for credits authorized by this subitem may not exceed four million dollars. However, if a child within the care and custody of an individual receives a tuition scholarship from a nonprofit scholarship funding organization, then the individual only may claim a credit equal to the difference of ten thousand dollars or the cost of tuition, whichever is lower, and the amount of the scholarship.

(C) Grants may be awarded by a scholarship funding organization in an amount not exceeding ten thousand dollars or the total cost of tuition, whichever is less, for qualifying students with exceptional needs to attend an independent school. Before awarding any grant, a scholarship funding organization must receive written documentation from the parent documenting that the qualifying student is an exceptional needs child. Upon approving the application, the scholarship funding organization must issue a check to the eligible school in the name of the qualifying student. In the event that the qualifying student leaves or withdraws from the school for any reason before the end of the semester or school year and does not reenroll within thirty days, then the eligible school must return a prorated amount of the grant to the scholarship funding organization based on the number of days the qualifying student was enrolled in the school during the semester or school year within sixty days of the qualifying student's departure.

(D)(1)(a) The tax credits authorized by subsection (B) may not exceed cumulatively a total of twelve million dollars for contributions made on behalf of exceptional needs students. If the department determines that the total of such credits claimed by all taxpayers exceeds either limit amount, it shall allow credits only up to those amounts on a first come, first served basis.

(b) The department shall establish an application process to determine the amount of credit available to be claimed. The receipt of the application by the department shall determine priority for the credit. Subject to the provisions of item (5), contributions must be made on or before June 30, 2016, in order to claim the credit. The credit must be claimed on the return for the tax year that the contribution is made.

(2) A taxpayer may not claim more than sixty percent of their total tax liability for the year in contribution toward the tax credit authorized by subsection (B)(1). This credit is not refundable.

(3) If a taxpayer deducts the amount of the contribution on the taxpayer's federal return and claims the credit allowed by this proviso, then the taxpayer must add back the amount of the deduction for purposes of South Carolina income taxes.

(4) The department shall prescribe the form and manner of proof required to obtain the credit authorized by subsection (B). Also, the department shall develop a method of informing taxpayers if the credit limit is met at any time during Fiscal Year 2015-2016.

(5) A person only may claim a credit pursuant to subsection (B) for contributions made between July 1, 2015, and June 30, 2016.

(E) A corporation or entity entitled to a credit under subsection (B) may not convey, assign, or transfer the credit authorized by this proviso to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

(F) Except as otherwise provided, neither the Department of Education, the Department of Revenue, nor any other state agency may regulate the educational program of an independent school that accepts students receiving scholarship grants pursuant to this proviso.

(G)(1) By August 1, 2015, each independent school must apply to the Education Oversight Committee to be considered an eligible institution for which it may receive contributions from a nonprofit scholarship funding organization for which the tax credit allowed by this proviso is allowed. The Education Oversight Committee, as established in Chapter 6, Title 59, is responsible for determining if an eligible school meets the criteria established by subsection (A)(1), and shall publish an approved list of such schools meeting the criteria. If an independent school does not apply to be an eligible school, the independent school may not be published as an approved school, and contributions to that school shall not be allowed for purposes of the credit allowed by this proviso. The Education Oversight Committee must publish the approved list of schools on its website by September first of each year, and the list must include their names, addresses, telephone numbers, and, if available, website addresses. Also, the score reports and audits received by the Education Oversight Committee pursuant to items (2)(b) and (c) must be published with the list. The Education Oversight Committee shall summarize or redact the score reports if necessary to prevent the disclosure of personally identifiable information. For this purpose, it also shall promulgate regulations further enumerating the specifics of this criteria. In performing this function, the Education Oversight Committee shall establish an advisory committee made up of not more than nine members, including parents, and representatives of independent schools and independent school associations. The advisory committee shall provide recommendations to the Education Oversight Committee on the content of these regulations and any other matters requested by the Education Oversight Committee.

(2) An independent school's application for consideration as an eligible institution must contain:

(a) the number and total amount of grants received from each nonprofit scholarship funding organization in the preceding fiscal year;

(b) student test scores, by category, on national achievement or state standardized tests, or both, for all grades tested and administered by the school receiving or entitled to receive scholarship grants pursuant to this proviso in the previous fiscal year;

(c) a copy of a compilation, review, or compliance audit of the organization's financial statements, conducted by a certified public accounting firm; and

(d) a certification by the independent school that it meets the definition of an eligible school as that term is defined in subsection (A)(1) and that the report is true, accurate, and complete under penalty of perjury in accordance with Section 16-9-10.

(3) Any independent school not determined to be an eligible school pursuant to the provisions of this proviso may seek review by filing a request for a contested case hearing with the Administrative Law Court in accordance with the court's rules of procedure.

(4) The Education Oversight Committee, after consultation with its nine-member advisory committee, may exempt an independent school having students with exceptional needs who receive scholarship grants pursuant to this proviso from the curriculum requirements of subsection (A)(1)(d).

(H)(1) By August first of each year, each nonprofit scholarship funding organization must apply to the department to be considered an eligible organization for which its contributors are allowed the tax credit allowed by this proviso. If a nonprofit scholarship funding organization does not apply, the organization may not be published as an approved organization, and contributions to that organization shall not be allowed for purposes of the credit allowed by this proviso. A nonprofit scholarship funding organization's application must contain:

(a) the number and total amount of grants issued to eligible schools in the preceding fiscal year;

(b) for each grant issued to an eligible school in the preceding fiscal year, the identity of the school and the amount of the grant;

(c) an itemization and detailed explanation of any fees or other revenues obtained from or on behalf of any eligible schools;

(d) a copy of the organization's Form 990 or other comparable federal submission that indicates the provisions of the Internal Revenue Code under which the organization has been granted exempt status for purposes of federal taxation;

(e) a copy of a compilation, review, or audit of the organization's financial statements, conducted by a certified public accounting firm;

(f) the criteria and eligibility requirements for scholarship awards; and

(g) a certification by the organization that it meets the definition of a nonprofit scholarship funding organization as that term is defined in subsection (A)(4) and that the report is true, accurate, and complete under penalty of perjury in accordance with Section 16-9-10.

(2) By receiving the application materials and approving the organization as an eligible organization pursuant to item (1), the department is not determining that the organization meets all of the requirements of a qualified nonprofit scholarship funding organization and the organization remains subject to examination as provided for pursuant to subsection (I).

(3) The department has authority to disclose the names of qualifying nonprofit scholarship funding organizations to the Education Oversight Committee. The department also may disclose to the Education Oversight Committee the names of organizations that applied but were not qualified by the department and those organizations whose eligibility has been revoked in accordance with subsection (I)(2), as well as the reason the application of the organization was not accepted or the reason its qualification was revoked.

(4) By September first of each year, the Education Oversight Committee must publish on its website a list of all qualifying nonprofit scholarship funding organizations, provided by the department, to include their names, addresses, telephone numbers, and, if available, website addresses. Also, the results of the audit required by item (1)(e) must be published with the list.

(I)(1) The department has authority to oversee, audit, and examine the nonprofit scholarship funding organizations, including determining whether the nonprofit scholarship funding organization is being operated in a manner consistent with the requirements for an IRC Section 501(c)(3) organization or is in compliance with any other provision of this proviso.

(2)(a) If at any time during the year, the department has evidence, through audit or otherwise, that a nonprofit scholarship funding organization is not being operated in a manner consistent with the requirements for operating an IRC Section 501(c)(3) organization or is not in compliance with any other provision of this proviso, the department immediately may revoke the organization's participation in the program and must notify the organization and the Education Oversight Committee in writing of the revocation.

(b) Notice of revocation may be provided to the organization by personal delivery to the organization, by first class mail to the last known address of the organization, or by other means reasonably designed to provide notice to the organization.

(c) Any donations made following the date the notice of revocation is received by the organization or in the case of delivery by mail ten days after the notice of revocation was mailed, will not qualify for the credit and the donated funds must be returned to the donor by the organization. This proviso shall not limit the department's authority to deny any tax credit or other benefit provided by this proviso if the circumstances warrant.

(d)(i) Within thirty days after the day on which the organization is notified of the revocation, the organization may request a contested hearing before the Administrative Law Court. Within thirty days after a request for a contested case hearing is received by the Administrative Law Court, an administrative law judge shall hold the contested case hearing and determine whether the revocation was reasonable under the circumstances. The department has the burden of proof of showing that the revocation was reasonable under the circumstances. The revocation is "reasonable" if the department has some credible evidence to believe that the organization is not being operated in a manner consistent with the requirements for operating an IRC Section 501(c)(3) organization or is not in compliance with any other provision of this proviso. The decision made by the administrative law judge is final and conclusive and may not be reviewed by any court. If the organization does not request a contested case hearing within thirty days of the immediate revocation, the revocation shall become permanent.

(ii) If the administrative law judge determines that the revocation was reasonable, the administrative law judge shall remand the case to the department to issue a department determination for permanent revocation within the time period determined by the judge. The organization may appeal this department determination in accordance with Section 12-60-460. At the contested case hearing on the department determination, the parties can raise new issues and arguments in addition to those issues and arguments previously presented at the revocation hearing.

(iii) If the administrative law judge determines that immediate revocation is not reasonable, the revocation shall be lifted and the organization may resume accepting donations and award scholarships hereunder. The department may still issue a department determination in accordance with Section 12-60-450(E)(2).

(iv) If at any time during the process, the department believes the organization is in compliance, the department, in its sole discretion, may reinstate the organization and notify the Education Oversight Committee.

(v) Following the permanent revocation of a nonprofit scholarship funding organization, the Education Oversight Committee has the authority to oversee the transfer of donated funds of the revoked organization to other nonprofit scholarship funding organizations.

(J) A nonprofit scholarship funding organization may transfer funds to another nonprofit scholarship funding organization, especially in the event that the organization cannot distribute the funds in a timely manner or if the organization ceases to exist. None of the funds that are transferred by one nonprofit scholarship funding organization to another may be considered by the former organization when calculating its administrative expenses.

SECTION 10. The supplemental appropriations, reductions, and provisions contained in this act shall be combined with the provisions of Act 91 of 2015, the general appropriations bill for Fiscal Year 2015-2016, and be incorporated into Part IA and Part IB of the detail base budget for the succeeding fiscal year.

SECTION 11. All acts or parts of acts inconsistent with any of the provisions of Sections 1 through 9 of this act are suspended for Fiscal Year 2015-2016.

SECTION 12. If any part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other parts, sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 13. Except as otherwise specifically provided, this act takes effect July 1, 2015.

Ratified the 23rd day of June, 2015.

Certain ItemsVetoed by the Governor -- 6/29/15.

Certain Items sustained by House -- 7/7/15.

PLEASE NOTE

Text printed in italic, boldface indicates sections vetoed by the Governor on June 29, 2015.

*Indicates those vetoes sustained by the General Assembly on July 7, 2015.

This web page was last updated on August 10, 2015 at 11:42 AM

EXHIBIT Q

efile GRAPHIC print - DO NOT PROCESS | As Filed Data - | DLN: [redacted]

Form 990

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

▶ Do not enter Social Security numbers on this form as it may be made public By law, the IRS generally cannot redact the information on the form

▶ Information about Form 990 and its instructions is at www.IRS.gov/form990

OMB No 1545-0047

2013

Open to Public Inspection

A For the 2013 calendar year, or tax year beginning 06-20-2013 , 2013, and ending 05-31-2014

B Check if applicable
- ☐ Address change
- ☐ Name change
- ☑ Initial return
- ☐ Terminated
- ☐ Amended return
- ☐ Application pending

C Name of organization
PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM INC

Doing business As

Number and street (or P O box if mail is not delivered to street address) 1985 RIVIERA DRIVE 103-126

Room/suite

City or town, state or province, country, and ZIP or foreign postal code MT PLEASANT, SC 29464

D Employer Identification number [redacted]

E Telephone number (843) 501-1842

G Gross receipts $ 2,650,884

F Name and address of principal officer
SHAWN LIFRAGE
1985 RIVIERA DRIVE 103-126
MT PLEASANT, SC 29464

H(a) Is this a group return for subordinates? ☐ Yes ☑ No

H(b) Are all subordinates included? ☐ Yes ☐ No
If "No," attach a list (see instructions)

H(c) Group exemption number ▶

I Tax-exempt status ☑ 501(c)(3) ☐ 501(c) ( ) ◀ (insert no) ☐ 4947(a)(1) or ☐ 527

J Website: ▶ WWW PALMETTOKIDSFIRST ORG

K Form of organization ☑ Corporation ☐ Trust ☐ Association ☐ Other ▶

L Year of formation 2013 | M State of legal domicile SC

Part I Summary

1 Briefly describe the organization's mission or most significant activities
PKF'S MISSION IS TO PROVIDE SCHOLARSHIP GRANTS TO K-12 CHILDREN IN SOUTH CAROLINA

2 Check this box ▶ ☐ if the organization discontinued its operations or disposed of more than 25% of its net assets

Activities & Governance	3 Number of voting members of the governing body (Part VI, line 1a)	3	3
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	3
	5 Total number of individuals employed in calendar year 2013 (Part V, line 2a)	5	0
	6 Total number of volunteers (estimate if necessary)	6	0
	7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
	b Net unrelated business taxable income from Form 990-T, line 34	7b	0

		Prior Year	Current Year
Revenue	8 Contributions and grants (Part VIII, line 1h)		2,649,652
	9 Program service revenue (Part VIII, line 2g)		0
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)		1,232
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)		0
	12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)		2,650,884
Expenses	13 Grants and similar amounts paid (Part IX, column (A), lines 1–3)		2,034,671
	14 Benefits paid to or for members (Part IX, column (A), line 4)		0
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5–10)		0
	16a Professional fundraising fees (Part IX, column (A), line 11e)		0
	b Total fundraising expenses (Part IX, column (D), line 25) ▶0		
	17 Other expenses (Part IX, column (A), lines 11a–11d, 11f–24e)		132,300
	18 Total expenses Add lines 13–17 (must equal Part IX, column (A), line 25)		2,166,971
	19 Revenue less expenses Subtract line 18 from line 12		483,913

		Beginning of Current Year	End of Year
Net Assets or Fund Balances	20 Total assets (Part X, line 16)		483,913
	21 Total liabilities (Part X, line 26)		0
	22 Net assets or fund balances Subtract line 21 from line 20		483,913

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge

Sign Here	****** Signature of officer	2015-04-15 Date
	SHAWN LIFRAGE TREASURER Type or print name and title	

Paid Preparer Use Only	Print/Type preparer's name ERIK H GLASER CPA	Preparer's signature	Date	Check ☐ if self-employed [redacted]
	Firm's name ▶ GLASERDUNCAN CPAS			Firm's EIN ▶ [redacted]
	Firm's address ▶ 1040 ANNA KNAPP BLVD MOUNT PLEASANT, SC 29464			Phone no (843) 849-0655

May the IRS discuss this return with the preparer shown above? (see instructions) ☑ Yes ☐ No

For Paperwork Reduction Act Notice, see the separate instructions. Cat No 11282Y Form 990 (2013)

Part III Statement of Program Service Accomplishments

Check if Schedule O contains a response or note to any line in this Part III . . . . . ☑

1 Briefly describe the organization's mission

PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM, INC 'S MISSION IS TO PROVIDE SCHOLARSHIP GRANTS TO K THROUGH 12TH GRADE "EXCEPTIONAL NEEDS" STUDENTS BY MEANS OF THE EFFICIENT IMPLEMENTATION OF THE 2013 SOUTH CAROLINA EDUCATIONAL CREDIT FOR EXCEPTIONAL NEEDS CHILDREN (ECENC)

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? . . . . . ☐ Yes ☑ No

If "Yes," describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? . . . . . ☐ Yes ☑ No

If "Yes," describe these changes on Schedule O

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported

4a (Code) (Expenses $ 2,034,671 including grants of $ 2,034,671) (Revenue $)

THE PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM WILL, IN COOPERATION WITH ITS SCHOOL PARTNERS, AWARD UP TO $10,000 ANNUAL SCHOLARSHIPS TO "EXCEPTIONAL NEEDS" CHILDREN TO ATTEND THE PRIVATE K-12 SCHOOL OF THEIR PARENTS' CHOICE TAX CREDITS ARE AVAILABLE TO DONORS TO QUALIFIED SCHOLARSHIP FUNDING ORGANIZATIONS ON A FIRST-COME, FIRST-SERVED BASIS, BEGINNING IN JANUARY 1, 2014, AND WERE INITIALLY CAPPED AT $6 MILLION PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM PARTNERS WITH PRIVATE K-12 SCHOOLS IN SOUTH CAROLINA TO PROVIDE DEVELOPMENTAL AND ADMINISTRATIVE SUPPORT IN IMPLEMENTING THE PROGRAM SCHOOLS ARE NOT CHARGED FOR ANY SERVICES THE PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM WILL RAISE CONTRIBUTIONS PROVIDED UNDER THE SOUTH CAROLINA GENERAL ASSEMBLY THE ASSEMBLY, IN 2013 AND IN 2014, ENACTED A PROVISION, PROVISO 1 60 -IN THE STATE BUDGET THAT ALLOWS FOR THE CREATION OF NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS THESE 501(C)(3) ORGANIZATIONS MAY ALLOCATE GRANTS UP TO $10,000 PER CHILD FOR TUITION, TRANSPORTATION, OR TEXTBOOK EXPENSES FOR EXCEPTIONAL NEEDS STUDENTS ATTENDING AN INDEPENDENT SCHOOL THE EDUCATION CREDIT FOR EXCEPTIONAL NEEDS CHILDREN (ECENC) IS SEPARATE AND DISTINCT FROM THE ENROLLMENT OF PUBLIC SCHOOL STUDENTS WITH DISABILITIES AT A PRIVATE SCHOOL, WHICH IS GOVERNED BY SOUTH CAROLINA STATE BOARD OF EDUCATION REGULATION 43-243 MOREOVER, THE ECENC EXPLICITLY FORBIDS THE "REGULATION OF THE EDUCATIONAL PROGRAM OF AN INDEPENDENT SCHOOL THAT ACCEPT STUDENTS RECEIVING SCHOLARSHIP GRANTS " IN PROVISO 1 60, SECTION (D), PROVIDES THAT A PERSON MAY APPLY WITH THE DEPARTMENT OF REVENUE FOR A TAX CREDIT AGAINST CORPORATE OR INDIVIDUAL INCOME TAXES OR BANK TAXES FOR THE AMOUNT OF MONEY THE PERSON CONTRIBUTED TO A NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION, THAT THE SCHOLARSHIP FUNDING ORGANIZATION MUST USE THE CONTRIBUTION TO PROVIDE GRANTS FOR TUITION, TRANSPORTATION, AND/OR TEXTBOOK EXPENSES TO EXCEPTIONAL NEEDS CHILDREN ENROLLED IN ELIGIBLE SCHOOLS, AND THAT THE PERSON MAKING THE CONTRIBUTION MAY NOT DESIGNATE A SPECIFIC CHILD OR SCHOOL AS THE BENEFICIARY OF THE CONTRIBUTION SECTION (G) PROVIDES THAT THE EDUCATION OVERSIGHT COMMITTEE DETERMINES WHICH SCHOOLS ARE ELIGIBLE AND PUBLISHES A LIST OF APPROVED INDEPENDENT SCHOOLS THAT COMPLY WITH THE REQUIREMENTS OF ELIGIBILITY AND ACCEPT GRANTS FOR ELIGIBLE STUDENTS THERE IS NO CREDIT FOR CONTRIBUTING TO A SPECIFIC SCHOOL OR CHILD, THE CREDIT IS FOR CONTRIBUTING TO A SCHOLARSHIP FUNDING ORGANIZATION THE PROGRAM DOES NOT AND WILL NOT ACCEPT ANY QUID PRO QUO CONTRIBUTIONS THE PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM GRANTED $2,034,671 IN SCHOLARSHIPS TO 279 RECIPIENTS

4b (Code) (Expenses $ including grants of $) (Revenue $)

4c (Code) (Expenses $ including grants of $) (Revenue $)

4d Other program services (Describe in Schedule O)
(Expenses $ including grants of $) (Revenue $)

4e Total program service expenses ▶ 2,034,671

Part V Checklist of Required Schedules

			Yes	No
1	Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? *If "Yes," complete Schedule A*	1	Yes	
2	Is the organization required to complete *Schedule B, Schedule of Contributors* (see instructions)?	2	Yes	
3	Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? *If "Yes," complete Schedule C, Part I*	3		No
4	Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? *If "Yes," complete Schedule C, Part II*	4		No
5	Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues, assessments, or similar amounts as defined in Revenue Procedure 98-19? *If "Yes," complete Schedule C, Part III*	5		No
6	Did the organization maintain any donor advised funds or any similar funds or accounts for which donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? *If "Yes," complete Schedule D, Part I*	6		No
7	Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas, or historic structures? *If "Yes," complete Schedule D, Part II*	7		No
8	Did the organization maintain collections of works of art, historical treasures, or other similar assets? *If "Yes," complete Schedule D, Part III*	8		No
9	Did the organization report an amount in Part X, line 21 for escrow or custodial account liability, serve as a custodian for amounts not listed in Part X, or provide credit counseling, debt management, credit repair, or debt negotiation services? *If "Yes," complete Schedule D, Part IV*	9		No
10	Did the organization, directly or through a related organization, hold assets in temporarily restricted endowments, permanent endowments, or quasi-endowments? *If "Yes," complete Schedule D, Part V*	10		No
11	If the organization's answer to any of the following questions is "Yes," then complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable			
a	Did the organization report an amount for land, buildings, and equipment in Part X, line 10? *If "Yes," complete Schedule D, Part VI*	11a		No
b	Did the organization report an amount for investments—other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? *If "Yes," complete Schedule D, Part VII*	11b		No
c	Did the organization report an amount for investments—program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? *If "Yes," complete Schedule D, Part VIII*	11c		No
d	Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? *If "Yes," complete Schedule D, Part IX*	11d		No
e	Did the organization report an amount for other liabilities in Part X, line 25? *If "Yes," complete Schedule D, Part X*	11e		No
f	Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48 (ASC 740)? *If "Yes," complete Schedule D, Part X*	11f		No
12a	Did the organization obtain separate, independent audited financial statements for the tax year? *If "Yes," complete Schedule D, Parts XI and XII*	12a	Yes	
b	Was the organization included in consolidated, independent audited financial statements for the tax year? *If "Yes," and if the organization answered "No" to line 12a, then completing Schedule D, Parts XI and XII is optional*	12b		No
13	Is the organization a school described in section 170(b)(1)(A)(ii)? *If "Yes," complete Schedule E*	13		No
14a	Did the organization maintain an office, employees, or agents outside of the United States?	14a		No
b	Did the organization have aggregate revenues or expenses of more than $10,000 from grantmaking, fundraising, business, investment, and program service activities outside the United States, or aggregate foreign investments valued at $100,000 or more? *If "Yes," complete Schedule F, Parts I and IV*	14b		No
15	Did the organization report on Part IX, column (A), line 3, more than $5,000 of grants or other assistance to or for any foreign organization? *If "Yes," complete Schedule F, Parts II and IV*	15		No
16	Did the organization report on Part IX, column (A), line 3, more than $5,000 of aggregate grants or other assistance to or for foreign individuals? *If "Yes," complete Schedule F, Parts III and IV*	16		No
17	Did the organization report a total of more than $15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? *If "Yes," complete Schedule G, Part I (see instructions)*	17		No
18	Did the organization report more than $15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? *If "Yes," complete Schedule G, Part II*	18		No
19	Did the organization report more than $15,000 of gross income from gaming activities on Part VIII, line 9a? *If "Yes," complete Schedule G, Part III*	19		No
20a	Did the organization operate one or more hospital facilities? *If "Yes," complete Schedule H*	20a		No
b	If "Yes" to line 20a, did the organization attach a copy of its audited financial statements to this return?	20b		

Part IV Checklist of Required Schedules *(continued)*

21	Did the organization report more than $5,000 of grants or other assistance to any domestic organization or government on Part IX, column (A), line 1? *If "Yes," complete Schedule I, Parts I and II*	21		No
22	Did the organization report more than $5,000 of grants or other assistance to individuals in the United States on Part IX, column (A), line 2? *If "Yes," complete Schedule I, Parts I and III*	22	Yes	
23	Did the organization answer "Yes" to Part VII, Section A, line 3, 4, or 5 about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? *If "Yes," complete Schedule J*	23		No
24a	Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than $100,000 as of the last day of the year, that was issued after December 31, 2002? *If "Yes," answer lines 24b through 24d and complete Schedule K. If "No," go to line 25a*	24a		No
b	Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?	24b		
c	Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?	24c		
d	Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?	24d		
25a	Section 501(c)(3) and 501(c)(4) organizations. Did the organization engage in an excess benefit transaction with a disqualified person during the year? *If "Yes," complete Schedule L, Part I*	25a		No
b	Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? *If "Yes," complete Schedule L, Part I*	25b		No
26	Did the organization report any amount on Part X, line 5, 6, or 22 for receivables from or payables to any current or former officers, directors, trustees, key employees, highest compensated employees, or disqualified persons? *If so, complete Schedule L, Part II*	26		No
27	Did the organization provide a grant or other assistance to an officer, director, trustee, key employee, substantial contributor or employee thereof, a grant selection committee member, or to a 35% controlled entity or family member of any of these persons? *If "Yes," complete Schedule L, Part III*	27		No
28	Was the organization a party to a business transaction with one of the following parties (see Schedule L, Part IV instructions for applicable filing thresholds, conditions, and exceptions)			
a	A current or former officer, director, trustee, or key employee? *If "Yes," complete Schedule L, Part IV*	28a		No
b	A family member of a current or former officer, director, trustee, or key employee? *If "Yes," complete Schedule L, Part IV*	28b		No
c	An entity of which a current or former officer, director, trustee, or key employee (or a family member thereof) was an officer, director, trustee, or direct or indirect owner? *If "Yes," complete Schedule L, Part IV*	28c		No
29	Did the organization receive more than $25,000 in non-cash contributions? *If "Yes," complete Schedule M*	29	Yes	
30	Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation contributions? *If "Yes," complete Schedule M*	30		No
31	Did the organization liquidate, terminate, or dissolve and cease operations? *If "Yes," complete Schedule N, Part I*	31		No
32	Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? *If "Yes," complete Schedule N, Part II*	32		No
33	Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? *If "Yes," complete Schedule R, Part I*	33		No
34	Was the organization related to any tax-exempt or taxable entity? *If "Yes," complete Schedule R, Part II, III, or IV, and Part V, line 1*	34		No
35a	Did the organization have a controlled entity within the meaning of section 512(b)(13)?	35a		No
b	If "Yes" to line 35a, did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? *If "Yes," complete Schedule R, Part V, line 2*	35b		
36	Section 501(c)(3) organizations. Did the organization make any transfers to an exempt non-charitable related organization? *If "Yes," complete Schedule R, Part V, line 2*	36		No
37	Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? *If "Yes," complete Schedule R, Part VI*	37		No
38	Did the organization complete Schedule O and provide explanations in Schedule O for Part VI, lines 11b and 19? Note. All Form 990 filers are required to complete Schedule O	38	Yes	

Part V Statements Regarding Other IRS Filings and Tax Compliance

Check if Schedule O contains a response or note to any line in this Part V

				Yes	No
1a	Enter the number reported in Box 3 of Form 1096 Enter -0- if not applicable	1a	0		
b	Enter the number of Forms W-2G included in line 1a Enter -0- if not applicable	1b	0		
c	Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?		1c	Yes	
2a	Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements, filed for the calendar year ending with or within the year covered by this return	2a	0		
b	If at least one is reported on line 2a, did the organization file all required federal employment tax returns? Note. If the sum of lines 1a and 2a is greater than 250, you may be required to e-file (see instructions)		2b		
3a	Did the organization have unrelated business gross income of $1,000 or more during the year?		3a		No
b	If "Yes," has it filed a Form 990-T for this year? *If "No" to line 3b, provide an explanation in Schedule O*		3b		
4a	At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)?		4a		No
b	If "Yes," enter the name of the foreign country ▶ See instructions for filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts				
5a	Was the organization a party to a prohibited tax shelter transaction at any time during the tax year?		5a		No
b	Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?		5b		No
c	If "Yes," to line 5a or 5b, did the organization file Form 8886-T?		5c		
6a	Does the organization have annual gross receipts that are normally greater than $100,000, and did the organization solicit any contributions that were not tax deductible as charitable contributions?		6a		No
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?		6b		
7	Organizations that may receive deductible contributions under section 170(c).				
a	Did the organization receive a payment in excess of $75 made partly as a contribution and partly for goods and services provided to the payor?		7a		No
b	If "Yes," did the organization notify the donor of the value of the goods or services provided?		7b		
c	Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?		7c		No
d	If "Yes," indicate the number of Forms 8282 filed during the year	7d			
e	Did the organization receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?		7e		No
f	Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?		7f		No
g	If the organization received a contribution of qualified intellectual property, did the organization file Form 8899 as required?		7g		
h	If the organization received a contribution of cars, boats, airplanes, or other vehicles, did the organization file a Form 1098-C?		7h		
8	Sponsoring organizations maintaining donor advised funds and section 509(a)(3) supporting organizations. Did the supporting organization, or a donor advised fund maintained by a sponsoring organization, have excess business holdings at any time during the year?		8		
9	Sponsoring organizations maintaining donor advised funds.				
a	Did the organization make any taxable distributions under section 4966?		9a		
b	Did the organization make a distribution to a donor, donor advisor, or related person?		9b		
10	Section 501(c)(7) organizations. Enter				
a	Initiation fees and capital contributions included on Part VIII, line 12	10a			
b	Gross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities	10b			
11	Section 501(c)(12) organizations. Enter				
a	Gross income from members or shareholders	11a			
b	Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them)	11b			
12a	Section 4947(a)(1) non-exempt charitable trusts. Is the organization filing Form 990 in lieu of Form 1041?		12a		
b	If "Yes," enter the amount of tax-exempt interest received or accrued during the year	12b			
13	Section 501(c)(29) qualified nonprofit health insurance issuers.				
a	Is the organization licensed to issue qualified health plans in more than one state? Note. See the instructions for additional information the organization must report on Schedule O		13a		
b	Enter the amount of reserves the organization is required to maintain by the states in which the organization is licensed to issue qualified health plans	13b			
c	Enter the amount of reserves on hand	13c			
14a	Did the organization receive any payments for indoor tanning services during the tax year?		14a		No
b	If "Yes," has it filed a Form 720 to report these payments? *If "No," provide an explanation in Schedule O*		14b		

Part VI **Governance, Management, and Disclosure** *For each "Yes" response to lines 2 through 7b below, and for a "No" response to lines 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O. See instructions.*

Check if Schedule O contains a response or note to any line in this Part VI . . . . . ☑

Section A. Governing Body and Management

				Yes	No
1a	Enter the number of voting members of the governing body at the end of the tax year	1a	3		
	If there are material differences in voting rights among members of the governing body, or if the governing body delegated broad authority to an executive committee or similar committee, explain in Schedule O				
b	Enter the number of voting members included in line 1a, above, who are independent	1b	3		
2	Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?	2			No
3	Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person? .	3		Yes	
4	Did the organization make any significant changes to its governing documents since the prior Form 990 was filed?	4			No
5	Did the organization become aware during the year of a significant diversion of the organization's assets? .	5			No
6	Did the organization have members or stockholders?	6			No
7a	Did the organization have members, stockholders, or other persons who had the power to elect or appoint one or more members of the governing body?	7a			No
b	Are any governance decisions of the organization reserved to (or subject to approval by) members, stockholders, or persons other than the governing body?	7b			No
8	Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following				
a	The governing body?	8a		Yes	
b	Each committee with authority to act on behalf of the governing body?	8b		Yes	
9	Is there any officer, director, trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? *If "Yes," provide the names and addresses in Schedule O*	9			No

Section B. Policies *(This Section B requests information about policies not required by the Internal Revenue Code.)*

				Yes	No
10a	Did the organization have local chapters, branches, or affiliates?	10a			No
b	If "Yes," did the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with the organization's exempt purposes?	10b			
11a	Has the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form?	11a		Yes	
b	Describe in Schedule O the process, if any, used by the organization to review this Form 990				
12a	Did the organization have a written conflict of interest policy? *If "No," go to line 13*	12a		Yes	
b	Were officers, directors, or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	12b		Yes	
c	Did the organization regularly and consistently monitor and enforce compliance with the policy? *If "Yes," describe in Schedule O how this was done*	12c		Yes	
13	Did the organization have a written whistleblower policy?	13		Yes	
14	Did the organization have a written document retention and destruction policy?	14		Yes	
15	Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?				
a	The organization's CEO, Executive Director, or top management official	15a			No
b	Other officers or key employees of the organization	15b			No
	If "Yes" to line 15a or 15b, describe the process in Schedule O (see instructions)				
16a	Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?	16a			No
b	If "Yes," did the organization follow a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and take steps to safeguard the organization's exempt status with respect to such arrangements?	16b			

Section C. Disclosure

17 List the States with which a copy of this Form 990 is required to be filed ▶SC

18 Section 6104 requires an organization to make its Form 1023 (or 1024 if applicable), 990, and 990-T (501(c)(3)s only) available for public inspection. Indicate how you made these available. Check all that apply.
☐ Own website ☑ Another's website ☑ Upon request ☐ Other (explain in Schedule O)

19 Describe in Schedule O whether (and if so, how) the organization made its governing documents, conflict of interest policy, and financial statements available to the public during the tax year.

20 State the name, physical address, and telephone number of the person who possesses the books and records of the organization
▶OLGA LISINSKA 1985 RIVIERA DRIVE 103-126
MT PLEASANT, SC 29464 (843) 501-1842

Part VII **Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors**

Check if Schedule O contains a response or note to any line in this Part VII . . . . . ☐

Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees

1a Complete this table for all persons required to be listed Report compensation for the calendar year ending with or within the organization's tax year

- List all of the organization's current officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation Enter -0- in columns (D), (E), and (F) if no compensation was paid
- List all of the organization's current key employees, if any See instructions for definition of "key employee"
- List the organization's five current highest compensated employees (other than an officer, director, trustee or key employee) who received reportable compensation (Box 5 of Form W-2 and/or Box 7 of Form 1099-MISC) of more than $100,000 from the organization and any related organizations
- List all of the organization's former officers, key employees, or highest compensated employees who received more than $100,000 of reportable compensation from the organization and any related organizations
- List all of the organization's former directors or trustees that received, in the capacity as a former director or trustee of the organization, more than $10,000 of reportable compensation from the organization and any related organizations

List persons in the following order individual trustees or directors, institutional trustees, officers, key employees, highest compensated employees, and former such persons

☐ Check this box if neither the organization nor any related organization compensated any current officer, director, or trustee

(A) Name and Title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W- 2/1099-MISC)	(E) Reportable compensation from related organizations (W- 2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional Trustee	Officer	Key employee	Highest compensated employee	Former			
(1) JAROSLAW JASINSKI PRESIDENT	1 00	X		X				0	0	0
(2) DAVID OWENS VICE PRESIDENT	1 00	X		X				0	0	0
(3) SHAWN LIFRAGE SECRETARY & TREASURER	4 00	X		X				0	0	0

Part VII Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees *(continued)*

(A) Name and Title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional Trustee	Officer	Key employee	Highest compensated employee	Former			
1b Sub-Total ▶										
c Total from continuation sheets to Part VII, Section A ▶										
d Total (add lines 1b and 1c) ▶								c	c	c

2 Total number of individuals (including but not limited to those listed above) who received more than $100,000 of reportable compensation from the organization ▶ 0

		Yes	No
3	Did the organization list any former officer, director or trustee, key employee, or highest compensated employee on line 1a? *If "Yes," complete Schedule J for such individual*	3	No
4	For any individual listed on line 1a, is the sum of reportable compensation and other compensation from the organization and related organizations greater than $150,000? *If "Yes," complete Schedule J for such individual*	4	No
5	Did any person listed on line 1a receive or accrue compensation from any unrelated organization or individual for services rendered to the organization? *If "Yes," complete Schedule J for such person*	5	No

Section B. Independent Contractors

1 Complete this table for your five highest compensated independent contractors that received more than $100,000 of compensation from the organization. Report compensation for the calendar year ending with or within the organization's tax year.

(A) Name and business address	(B) Description of services	(C) Compensation

2 Total number of independent contractors (including but not limited to those listed above) who received more than $100,000 of compensation from the organization ▶ 0

Part VIII Statement of Revenue

Check if Schedule O contains a response or note to any line in this Part VIII

			(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512-514
Contributions, Gifts, Grants and Other Similar Amounts	1a Federated campaigns	1a				
	b Membership dues	1b				
	c Fundraising events	1c				
	d Related organizations	1d				
	e Government grants (contributions)	1e				
	f All other contributions, gifts, grants, and similar amounts not included above	1f 2,649,652				
	g Noncash contributions included in lines 1a-1f $	1,528,681				
	h Total. Add lines 1a-1f		2,649,652			
Program Service Revenue		Business Code				
	2a					
	b					
	c					
	d					
	e					
	f All other program service revenue					
	g Total. Add lines 2a-2f					
Other Revenue	3 Investment income (including dividends, interest, and other similar amounts)		1,232			1,232
	4 Income from investment of tax-exempt bond proceeds					
	5 Royalties					
		(i) Real	(ii) Personal			
	6a Gross rents					
	b Less rental expenses					
	c Rental income or (loss)					
	d Net rental income or (loss)					
		(i) Securities	(ii) Other			
	7a Gross amount from sales of assets other than inventory					
	b Less cost or other basis and sales expenses					
	c Gain or (loss)					
	d Net gain or (loss)					
	8a Gross income from fundraising events (not including $ ____ of contributions reported on line 1c) See Part IV, line 18	a				
	b Less direct expenses	b				
	c Net income or (loss) from fundraising events					
	9a Gross income from gaming activities See Part IV, line 19	a				
	b Less direct expenses	b				
	c Net income or (loss) from gaming activities					
	10a Gross sales of inventory, less returns and allowances	a				
	b Less cost of goods sold	b				
	c Net income or (loss) from sales of inventory					
	Miscellaneous Revenue	Business Code				
	11a					
	b					
	c					
	d All other revenue					
	e Total. Add lines 11a-11d					
	12 Total revenue. See instructions		2,650,884	0	0	1,232

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns. All other organizations must complete column (A).

Check if Schedule O contains a response or note to any line in this Part IX

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to governments and organizations in the United States. See Part IV, line 21				
2 Grants and other assistance to individuals in the United States. See Part IV, line 22	2,034,671	2,034,671		
3 Grants and other assistance to governments, organizations, and individuals outside the United States. See Part IV, lines 15 and 16				
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees				
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)				
7 Other salaries and wages				
8 Pension plan accruals and contributions (include section 401(k) and 403(b) employer contributions)				
9 Other employee benefits				
10 Payroll taxes				
11 Fees for services (non-employees)				
a Management	132,300		132,300	
b Legal				
c Accounting				
d Lobbying				
e Professional fundraising services. See Part IV, line 17				
f Investment management fees				
g Other (If line 11g amount exceeds 10% of line 25, column (A) amount, list line 11g expenses on Schedule O)				
12 Advertising and promotion				
13 Office expenses				
14 Information technology				
15 Royalties				
16 Occupancy				
17 Travel				
18 Payments of travel or entertainment expenses for any federal, state, or local public officials				
19 Conferences, conventions, and meetings				
20 Interest				
21 Payments to affiliates				
22 Depreciation, depletion, and amortization				
23 Insurance				
24 Other expenses. Itemize expenses not covered above (List miscellaneous expenses in line 24e. If line 24e amount exceeds 10% of line 25, column (A) amount, list line 24e expenses on Schedule O.)				
a				
b				
c				
d				
e All other expenses				
25 Total functional expenses. Add lines 1 through 24e	2,166,971	2,034,671	132,300	0
26 Joint costs. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation. Check here ▶ ☐ if following SOP 98-2 (ASC 958-720)				

Part X Balance Sheet
Check if Schedule O contains a response or note to any line in this Part X . . . . . ☐

			(A) Beginning of year		(B) End of year
Assets	1	Cash—non-interest-bearing		1	197,831
	2	Savings and temporary cash investments		2	316,082
	3	Pledges and grants receivable, net		3	
	4	Accounts receivable, net		4	
	5	Loans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees Complete Part II of Schedule L		5	
	6	Loans and other receivables from other disqualified persons (as defined under section 4958(f)(1)), persons described in section 4958(c)(3)(B), and contributing employers and sponsoring organizations of section 501(c)(9) voluntary employees' beneficiary organizations (see instructions) Complete Part II of Schedule L		6	
	7	Notes and loans receivable, net		7	
	8	Inventories for sale or use		8	
	9	Prepaid expenses and deferred charges		9	
	10a	Land, buildings, and equipment cost or other basis Complete Part VI of Schedule D — 10a			
	b	Less accumulated depreciation — 10b		10c	
	11	Investments—publicly traded securities		11	
	12	Investments—other securities See Part IV, line 11		12	
	13	Investments—program-related See Part IV, line 11		13	
	14	Intangible assets		14	
	15	Other assets See Part IV, line 11		15	
	16	Total assets. Add lines 1 through 15 (must equal line 34)	0	16	483,913
Liabilities	17	Accounts payable and accrued expenses		17	
	18	Grants payable		18	
	19	Deferred revenue		19	
	20	Tax-exempt bond liabilities		20	
	21	Escrow or custodial account liability Complete Part IV of Schedule D		21	
	22	Loans and other payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons Complete Part II of Schedule L		22	
	23	Secured mortgages and notes payable to unrelated third parties		23	
	24	Unsecured notes and loans payable to unrelated third parties		24	
	25	Other liabilities (including federal income tax, payables to related third parties, and other liabilities not included on lines 17-24) Complete Part X of Schedule D		25	
	26	Total liabilities. Add lines 17 through 25	0	26	0
Net Assets or Fund Balances		Organizations that follow SFAS 117 (ASC 958), check here ▶ ☐ and complete lines 27 through 29, and lines 33 and 34.			
	27	Unrestricted net assets		27	1,415
	28	Temporarily restricted net assets		28	482,498
	29	Permanently restricted net assets		29	
		Organizations that do not follow SFAS 117 (ASC 958), check here ▶ ☐ and complete lines 30 through 34.			
	30	Capital stock or trust principal, or current funds		30	
	31	Paid-in or capital surplus, or land, building or equipment fund		31	
	32	Retained earnings, endowment, accumulated income, or other funds		32	
	33	Total net assets or fund balances	0	33	483,913
	34	Total liabilities and net assets/fund balances	0	34	483,913

Part XI Reconciliation of Net Assets

Check if Schedule O contains a response or note to any line in this Part XI . . . . . ☐

1	Total revenue (must equal Part VIII, column (A), line 12)	1	2,650,884
2	Total expenses (must equal Part IX, column (A), line 25)	2	2,166,971
3	Revenue less expenses Subtract line 2 from line 1	3	483,913
4	Net assets or fund balances at beginning of year (must equal Part X, line 33, column (A))	4	0
5	Net unrealized gains (losses) on investments	5	
6	Donated services and use of facilities	6	
7	Investment expenses	7	
8	Prior period adjustments	8	
9	Other changes in net assets or fund balances (explain in Schedule O)	9	0
10	Net assets or fund balances at end of year Combine lines 3 through 9 (must equal Part X, line 33, column (B))	10	483,913

Part XII Financial Statements and Reporting

Check if Schedule O contains a response or note to any line in this Part XII . . . . . ☐

			Yes	No
1	Accounting method used to prepare the Form 990 ☑ Cash ☐ Accrual ☐ Other _____ If the organization changed its method of accounting from a prior year or checked "Other," explain in Schedule O			
2a	Were the organization's financial statements compiled or reviewed by an independent accountant?	2a		No
	If 'Yes,' check a box below to indicate whether the financial statements for the year were compiled or reviewed on a separate basis, consolidated basis, or both ☐ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis			
b	Were the organization's financial statements audited by an independent accountant?	2b	Yes	
	If 'Yes,' check a box below to indicate whether the financial statements for the year were audited on a separate basis, consolidated basis, or both ☑ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis			
c	If "Yes," to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant?	2c	Yes	
	If the organization changed either its oversight process or selection process during the tax year, explain in Schedule O			
3a	As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Single Audit Act and OMB Circular A-133?	3a		No
b	If "Yes," did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why in Schedule O and describe any steps taken to undergo such audits	3b		

efile GRAPHIC print - DO NOT PROCESS | As Filed Data - | DLN: [redacted]

SCHEDULE A (Form 990 or 990EZ)

Department of the Treasury
Internal Revenue Service

Public Charity Status and Public Support

Complete if the organization is a section 501(c)(3) organization or a section 4947(a)(1) nonexempt charitable trust.

▶ Attach to Form 990 or Form 990-EZ. ▶ See separate instructions.
▶ Information about Schedule A (Form 990 or 990-EZ) and its instructions is at www.irs.gov/form990.

OMB No 1545-0047

2013

Open to Public Inspection

Name of the organization
PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM INC

Employer identification number [redacted]

Part I Reason for Public Charity Status (All organizations must complete this part.) See instructions.

The organization is not a private foundation because it is (For lines 1 through 11, check only one box)

1 ☐ A church, convention of churches, or association of churches described in section 170(b)(1)(A)(i).
2 ☐ A school described in section 170(b)(1)(A)(ii). (Attach Schedule E)
3 ☐ A hospital or a cooperative hospital service organization described in section 170(b)(1)(A)(iii).
4 ☐ A medical research organization operated in conjunction with a hospital described in section 170(b)(1)(A)(iii). Enter the hospital's name, city, and state
5 ☐ An organization operated for the benefit of a college or university owned or operated by a governmental unit described in section 170(b)(1)(A)(iv). (Complete Part II)
6 ☐ A federal, state, or local government or governmental unit described in section 170(b)(1)(A)(v).
7 ☑ An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in section 170(b)(1)(A)(vi). (Complete Part II)
8 ☐ A community trust described in section 170(b)(1)(A)(vi) (Complete Part II)
9 ☐ An organization that normally receives (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions—subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975 See section 509(a)(2). (Complete Part III)
10 ☐ An organization organized and operated exclusively to test for public safety See section 509(a)(4).
11 ☐ An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in section 509(a)(1) or section 509(a)(2) See section 509(a)(3). Check the box that describes the type of supporting organization and complete lines 11e through 11h
a ☐ Type I b ☐ Type II c ☐ Type III - Functionally integrated d ☐ Type III - Non-functionally integrated
e ☐ By checking this box, I certify that the organization is not controlled directly or indirectly by one or more disqualified persons other than foundation managers and other than one or more publicly supported organizations described in section 509(a)(1) or section 509(a)(2)
f If the organization received a written determination from the IRS that it is a Type I, Type II, or Type III supporting organization, check this box
g Since August 17, 2006, has the organization accepted any gift or contribution from any of the following persons?
(i) A person who directly or indirectly controls, either alone or together with persons described in (ii) and (iii) below, the governing body of the supported organization?
(ii) A family member of a person described in (i) above?
(iii) A 35% controlled entity of a person described in (i) or (ii) above?

	Yes	No
11g(i)		
11g(ii)		
11g(iii)		

h Provide the following information about the supported organization(s)

(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1-9 above or IRC section (see instructions))	(iv) Is the organization in col (i) listed in your governing document?		(v) Did you notify the organization in col (i) of your support?		(vi) Is the organization in col (i) organized in the U S ?		(vii) Amount of monetary support
			Yes	No	Yes	No	Yes	No	
Total									

For Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990EZ. Cat No 11285F Schedule A (Form 990 or 990-EZ) 2013

Part II **Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)** (Complete only if you checked the box on line 5, 7, or 8 of Part I or if the organization failed to qualify under Part III. If the organization fails to qualify under the tests listed below, please complete Part III.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ▶	(a) 2009	(b) 2010	(c) 2011	(d) 2012	(e) 2013	(f) Total
1 Gifts, grants, contributions, and membership fees received (Do not include any "unusual grants")					2,649,652	2,649,652
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
3 The value of services or facilities furnished by a governmental unit to the organization without charge						
4 Total. Add lines 1 through 3					2,649,652	2,649,652
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f)						1,244,696
6 Public support. Subtract line 5 from line 4						1,404,956

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2009	(b) 2010	(c) 2011	(d) 2012	(e) 2013	(f) Total
7 Amounts from line 4					2,649,652	2,649,652
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources					18	18
9 Net income from unrelated business activities, whether or not the business is regularly carried on						
10 Other income Do not include gain or loss from the sale of capital assets (Explain in Part IV)						
11 Total support (Add lines 7 through 10)						2,649,670

12 Gross receipts from related activities, etc (see instructions) 12

13 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a 501(c)(3) organization, check this box and stop here ▶☐

Section C. Computation of Public Support Percentage

14 Public support percentage for 2013 (line 6, column (f) divided by line 11, column (f)) 14

15 Public support percentage for 2012 Schedule A, Part II, line 14 15

16a 33 1/3% support test—2013. If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ▶☐

b 33 1/3% support test—2012. If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ▶☐

17a 10%-facts-and-circumstances test—2013. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part IV how the organization meets the "facts-and-circumstances" test The organization qualifies as a publicly supported organization ▶☐

b 10%-facts-and-circumstances test—2012. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part IV how the organization meets the "facts-and-circumstances" test The organization qualifies as a publicly supported organization ▶☐

18 Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions ▶☐

Part III **Support Schedule for Organizations Described in Section 509(a)(2)**
(Complete only if you checked the box on line 9 of Part I or if the organization failed to qualify under Part II. If the organization fails to qualify under the tests listed below, please complete Part II.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ▶	(a) 2009	(b) 2010	(c) 2011	(d) 2012	(e) 2013	(f) Total
1 Gifts, grants, contributions, and membership fees received (Do not include any "unusual grants ")						
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose						
3 Gross receipts from activities that are not an unrelated trade or business under section 513						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
5 The value of services or facilities furnished by a governmental unit to the organization without charge						
6 Total. Add lines 1 through 5						
7a Amounts included on lines 1, 2, and 3 received from disqualified persons						
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of $5,000 or 1% of the amount on line 13 for the year						
c Add lines 7a and 7b						
8 Public support (Subtract line 7c from line 6)						

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2009	(b) 2010	(c) 2011	(d) 2012	(e) 2013	(f) Total
9 Amounts from line 6						
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						
c Add lines 10a and 10b						
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on						
12 Other income Do not include gain or loss from the sale of capital assets (Explain in Part IV)						
13 Total support. (Add lines 9, 10c, 11, and 12)						

14 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a 501(c)(3) organization, check this box and stop here ▶☐

Section C. Computation of Public Support Percentage

15 Public support percentage for 2013 (line 8, column (f) divided by line 13, column (f))	15	
16 Public support percentage from 2012 Schedule A, Part III, line 15	16	

Section D. Computation of Investment Income Percentage

17 Investment income percentage for 2013 (line 10c, column (f) divided by line 13, column (f))	17	
18 Investment income percentage from 2012 Schedule A, Part III, line 17	18	

19a 33 1/3% support tests—2013. If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization ▶☐

b 33 1/3% support tests—2012. If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3% and line 18 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization ▶☐

20 Private foundation. If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions ▶☐

Part IV Supplemental Information. Provide the explanations required by Part II, line 10; Part II, line 17a or 17b; and Part III, line 12. Also complete this part for any additional information. (See instructions).

Facts And Circumstances Test		
Return Reference	Explanation	

efile GRAPHIC print - DO NOT PROCESS | As Filed Data - | DLN [redacted]

SCHEDULE D (Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Financial Statements

▶ Complete if the organization answered "Yes," to Form 990, Part IV, line 6, 7, 8, 9, 10, 11a, 11b, 11c, 11d, 11e, 11f, 12a, or 12b
▶ Attach to Form 990. ▶ See separate instructions. ▶ Information about Schedule D (Form 990) and its instructions is at www.irs.gov/form990.

OMB No 1545-0047

2013

Open to Public Inspection

Name of the organization
PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM INC

Employer identification number
[redacted]

Part I Organizations Maintaining Donor Advised Funds or Other Similar Funds or Accounts. Complete if the organization answered "Yes" to Form 990, Part IV, line 6.

		(a) Donor advised funds	(b) Funds and other accounts
1	Total number at end of year		
2	Aggregate contributions to (during year)		
3	Aggregate grants from (during year)		
4	Aggregate value at end of year		

5 Did the organization inform all donors and donor advisors in writing that the assets held in donor advised funds are the organization's property, subject to the organization's exclusive legal control? ☐ Yes ☐ No

6 Did the organization inform all grantees, donors, and donor advisors in writing that grant funds can be used only for charitable purposes and not for the benefit of the donor or donor advisor, or for any other purpose conferring impermissible private benefit? ☐ Yes ☐ No

Part II Conservation Easements. Complete if the organization answered "Yes" to Form 990, Part IV, line 7.

1 Purpose(s) of conservation easements held by the organization (check all that apply)
☐ Preservation of land for public use (e g , recreation or education) ☐ Preservation of an historically important land area
☐ Protection of natural habitat ☐ Preservation of a certified historic structure
☐ Preservation of open space

2 Complete lines 2a through 2d if the organization held a qualified conservation contribution in the form of a conservation easement on the last day of the tax year

		Held at the End of the Year
a	Total number of conservation easements	2a
b	Total acreage restricted by conservation easements	2b
c	Number of conservation easements on a certified historic structure included in (a)	2c
d	Number of conservation easements included in (c) acquired after 8/17/06, and not on a historic structure listed in the National Register	2d

3 Number of conservation easements modified, transferred, released, extinguished, or terminated by the organization during the tax year ▶ _____

4 Number of states where property subject to conservation easement is located ▶ _____

5 Does the organization have a written policy regarding the periodic monitoring, inspection, handling of violations, and enforcement of the conservation easements it holds? ☐ Yes ☐ No

6 Staff and volunteer hours devoted to monitoring, inspecting, and enforcing conservation easements during the year ▶ _____

7 Amount of expenses incurred in monitoring, inspecting, and enforcing conservation easements during the year ▶ $ _____

8 Does each conservation easement reported on line 2(d) above satisfy the requirements of section 170(h)(4)(B)(i) and section 170(h)(4)(B)(ii)? ☐ Yes ☐ No

9 In Part XIII, describe how the organization reports conservation easements in its revenue and expense statement, and balance sheet, and include, if applicable, the text of the footnote to the organization's financial statements that describes the organization's accounting for conservation easements

Part III Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets. Complete if the organization answered "Yes" to Form 990, Part IV, line 8.

1a If the organization elected, as permitted under SFAS 116 (ASC 958), not to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide, in Part XIII, the text of the footnote to its financial statements that describes these items

b If the organization elected, as permitted under SFAS 116 (ASC 958), to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide the following amounts relating to these items

(i) Revenues included in Form 990, Part VIII, line 1 ▶ $ _____

(ii) Assets included in Form 990, Part X ▶ $ _____

2 If the organization received or held works of art, historical treasures, or other similar assets for financial gain, provide the following amounts required to be reported under SFAS 116 (ASC 958) relating to these items

a Revenues included in Form 990, Part VIII, line 1 ▶ $ _____

b Assets included in Form 990, Part X ▶ $ _____

Part III Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets *(continued)*

3 Using the organization's acquisition, accession, and other records, check any of the following that are a significant use of its collection items (check all that apply)

a ☐ Public exhibition
b ☐ Scholarly research
c ☐ Preservation for future generations
d ☐ Loan or exchange programs
e ☐ Other

4 Provide a description of the organization's collections and explain how they further the organization's exempt purpose in Part XIII

5 During the year, did the organization solicit or receive donations of art, historical treasures or other similar assets to be sold to raise funds rather than to be maintained as part of the organization's collection? ☐ Yes ☐ No

Part IV Escrow and Custodial Arrangements. Complete if the organization answered "Yes" to Form 990, Part IV, line 9, or reported an amount on Form 990, Part X, line 21.

1a Is the organization an agent, trustee, custodian or other intermediary for contributions or other assets not included on Form 990, Part X? ☐ Yes ☐ No

b If "Yes," explain the arrangement in Part XIII and complete the following table

		Amount
c	Beginning balance	1c
d	Additions during the year	1d
e	Distributions during the year	1e
f	Ending balance	1f

2a Did the organization include an amount on Form 990, Part X, line 21? ☐ Yes ☐ No

b If "Yes," explain the arrangement in Part XIII Check here if the explanation has been provided in Part XIII . . . . . ☐

Part V Endowment Funds. Complete if the organization answered "Yes" to Form 990, Part IV, line 10.

	(a) Current year	(b) Prior year	(c) Two years back	(d) Three years back	(e) Four years back
1a Beginning of year balance					
b Contributions					
c Net investment earnings, gains, and losses					
d Grants or scholarships					
e Other expenditures for facilities and programs					
f Administrative expenses					
g End of year balance					

2 Provide the estimated percentage of the current year end balance (line 1g, column (a)) held as

a Board designated or quasi-endowment ▶
b Permanent endowment ▶
c Temporarily restricted endowment ▶
The percentages in lines 2a, 2b, and 2c should equal 100%

3a Are there endowment funds not in the possession of the organization that are held and administered for the organization by

		Yes	No
(i) unrelated organizations	3a(i)		
(ii) related organizations	3a(ii)		
b If "Yes" to 3a(ii), are the related organizations listed as required on Schedule R?	3b		

4 Describe in Part XIII the intended uses of the organization's endowment funds

Part VI Land, Buildings, and Equipment. Complete if the organization answered "Yes" to Form 990, Part IV, line 11a. See Form 990, Part X, line 10.

Description of property	(a) Cost or other basis (investment)	(b) Cost or other basis (other)	(c) Accumulated depreciation	(d) Book value
1a Land				
b Buildings				
c Leasehold improvements				
d Equipment				
e Other				
Total. Add lines 1a through 1e *(Column (d) must equal Form 990, Part X, column (B), line 10(c).)* ▶				0

Part VII Investments—Other Securities. Complete if the organization answered 'Yes' to Form 990, Part IV, line 11b. See Form 990, Part X, line 12.

(a) Description of security or category (including name of security)	(b) Book value	(c) Method of valuation: Cost or end-of-year market value
(1) Financial derivatives		
(2) Closely-held equity interests		
Other		
Total. (Column (b) must equal Form 990, Part X, col. (B) line 12.) ▶		

Part VIII Investments—Program Related. Complete if the organization answered 'Yes' to Form 990, Part IV, line 11c. See Form 990, Part X, line 13.

(a) Description of investment	(b) Book value	(c) Method of valuation: Cost or end-of-year market value
Total. (Column (b) must equal Form 990, Part X, col. (B) line 13.) ▶		

Part IX Other Assets. Complete if the organization answered 'Yes' to Form 990, Part IV, line 11d. See Form 990, Part X, line 15.

(a) Description	(b) Book value
Total. (Column (b) must equal Form 990, Part X, col. (B) line 15.) ▶	

Part X Other Liabilities. Complete if the organization answered 'Yes' to Form 990, Part IV, line 11e or 11f. See Form 990, Part X, line 25.

1. (a) Description of liability	(b) Book value
Federal income taxes	
Total. (Column (b) must equal Form 990, Part X, col. (B) line 25.) ▶	

2. Liability for uncertain tax positions. In Part XIII, provide the text of the footnote to the organization's financial statements that reports the organization's liability for uncertain tax positions under FIN 48 (ASC 740). Check here if the text of the footnote has been provided in Part XIII ☐

Part XI Reconciliation of Revenue per Audited Financial Statements With Revenue per Return Complete if the organization answered 'Yes' to Form 990, Part IV, line 12a.

1	Total revenue, gains, and other support per audited financial statements			1	2,650,884
2	Amounts included on line 1 but not on Form 990, Part VIII, line 12				
a	Net unrealized gains on investments	2a			
b	Donated services and use of facilities	2b			
c	Recoveries of prior year grants	2c			
d	Other (Describe in Part XIII)	2d			
e	Add lines 2a through 2d			2e	0
3	Subtract line 2e from line 1			3	2,650,884
4	Amounts included on Form 990, Part VIII, line 12, but not on line 1				
a	Investment expenses not included on Form 990, Part VIII, line 7b	4a			
b	Other (Describe in Part XIII)	4b			
c	Add lines 4a and 4b			4c	0
5	Total revenue Add lines 3 and 4c. (This must equal Form 990, Part I, line 12)			5	2,650,884

Part XII Reconciliation of Expenses per Audited Financial Statements With Expenses per Return. Complete if the organization answered 'Yes' to Form 990, Part IV, line 12a.

1	Total expenses and losses per audited financial statements			1	2,166,971
2	Amounts included on line 1 but not on Form 990, Part IX, line 25				
a	Donated services and use of facilities	2a			
b	Prior year adjustments	2b			
c	Other losses	2c			
d	Other (Describe in Part XIII)	2d			
e	Add lines 2a through 2d			2e	0
3	Subtract line 2e from line 1			3	2,166,971
4	Amounts included on Form 990, Part IX, line 25, but not on line 1:				
a	Investment expenses not included on Form 990, Part VIII, line 7b	4a			
b	Other (Describe in Part XIII)	4b			
c	Add lines 4a and 4b			4c	0
5	Total expenses Add lines 3 and 4c. (This must equal Form 990, Part I, line 18)			5	2,166,971

Part XIII Supplemental Information

Provide the descriptions required for Part II, lines 3, 5, and 9, Part III, lines 1a and 4, Part IV, lines 1b and 2b, Part V, line 4, Part X, line 2, Part XI, lines 2d and 4b, and Part XII, lines 2d and 4b Also complete this part to provide any additional information

Return Reference	Explanation

Part XIII Supplemental Information *(continued)*

Return Reference	Explanation

efile GRAPHIC print - DO NOT PROCESS | As Filed Data - |

DLN: [redacted]

Schedule I (Form 990)

Department of the Treasury
Internal Revenue Service

Grants and Other Assistance to Organizations, Governments and Individuals in the United States

Complete if the organization answered "Yes," to Form 990, Part IV, line 21 or 22.

▶ Attach to Form 990

▶ Information about Schedule I (Form 990) and its instructions is at www.irs.gov/form990.

OMB No 1545-0047

2013

Open to Public Inspection

Name of the organization
PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM INC

Employer identification number
[redacted]

Part I General Information on Grants and Assistance

1 Does the organization maintain records to substantiate the amount of the grants or assistance, the grantees' eligibility for the grants or assistance, and the selection criteria used to award the grants or assistance? . . . . . ☑ Yes ☐ No

2 Describe in Part IV the organization's procedures for monitoring the use of grant funds in the United States

Part II Grants and Other Assistance to Governments and Organizations in the United States.

Complete if the organization answered "Yes" to Form 990, Part IV, line 21, for any recipient that received more than $5,000. Part II can be duplicated if additional space is needed.

(a) Name and address of organization or government	(b) EIN	(c) IRC Code section if applicable	(d) Amount of cash grant	(e) Amount of non-cash assistance	(f) Method of valuation (book, FMV, appraisal, other)	(g) Description of non-cash assistance	(h) Purpose of grant or assistance

2 Enter total number of section 501(c)(3) and government organizations listed in the line 1 table . . . . . ▶

3 Enter total number of other organizations listed in the line 1 table . . . . . ▶

Part III **Grants and Other Assistance to Individuals in the United States.** Complete if the organization answered "Yes" to Form 990, Part IV, line 22. Part III can be duplicated if additional space is needed.

(a)Type of grant or assistance	(b)Number of recipients	(c)Amount of cash grant	(d)Amount of non-cash assistance	(e)Method of valuation (book, FMV, appraisal, other)	(f)Description of non-cash assistance
(1) TUITION GRANTS AND SCHOLARSHIP AWARDS	279	2,034,671			

Part IV **Supplemental Information.** Provide the information required in Part I, line 2, Part III, column (b), and any other additional information.

Return Reference	Explanation
PART I, LINE 2	THE LAW CURRENTLY ONLY PROVIDES SCHOLARSHIPS FOR "EXCEPTIONAL NEEDS" CHILDREN TO ATTEND AN INDEPENDENT SCHOOL. AN "EXCEPTIONAL NEEDS" CHILD IS DEFINED AS A CHILD WHO HAS BEEN DESIGNATED BY THE SOUTH CAROLINA DEPARTMENT OF EDUCATION TO MEET THE REQUIREMENTS OF 34 CFR PART A SECTION 300 8 AND THE CHILD'S PARENTS OR LEGAL GUARDIAN BELIEVE THAT THE SERVICES PROVIDED BY THE SCHOOL DISTRICT OF LEGAL RESIDENCE DO NOT SUFFICIENTLY MEET THE NEEDS OF THE CHILD. PRIOR TO THE FUNDING OF ANY SCHOLARSHIP, FAMILIES MUST PROVIDE PALMETTO KIDS FIRST (OR THEIR RECOMMENDING SCHOOL) PROOF OF ELIGIBILITY

efile GRAPHIC print - DO NOT PROCESS | As Filed Data - | DLN: [redacted]

SCHEDULE M (Form 990)

Department of the Treasury
Internal Revenue Service

Noncash Contributions

▸Complete if the organizations answered "Yes" on Form 990, Part IV, lines 29 or 30.
▸Attach to Form 990.
▸Information about Schedule M (Form 990) and its instructions is at www.irs.gov/form990.

OMB No 1545-0047

2013

Open to Public Inspection

Name of the organization
PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM INC

Employer identification number [redacted]

Part I Types of Property

	(a) Check if applicable	(b) Number of contributions or items contributed	(c) Noncash contribution amounts reported on Form 990, Part VIII, line 1g	(d) Method of determining noncash contribution amounts
1 Art—Works of art				
2 Art—Historical treasures				
3 Art—Fractional interests				
4 Books and publications		[redacted]		
5 Clothing and household goods		[redacted]		
6 Cars and other vehicles				
7 Boats and planes				
8 Intellectual property				
9 Securities—Publicly traded	X	36	1,528,081	AVERAGE FMV ON RECEIPT
10 Securities—Closely held stock				
11 Securities—Partnership, LLC, or trust interests				
12 Securities—Miscellaneous				
13 Qualified conservation contribution—Historic structures				
14 Qualified conservation contribution—Other				
15 Real estate—Residential				
16 Real estate—Commercial				
17 Real estate—Other				
18 Collectibles				
19 Food inventory				
20 Drugs and medical supplies				
21 Taxidermy				
22 Historical artifacts				
23 Scientific specimens				
24 Archeological artifacts				
25 Other ▸ (_____)				
26 Other ▸ (_____)				
27 Other ▸ (_____)				
28 Other ▸ (_____)				

29 Number of Forms 8283 received by the organization during the tax year for contributions for which the organization completed Form 8283, Part IV, Donee Acknowledgement . . . 29

		Yes	No
30a	During the year, did the organization receive by contribution any property reported in Part I, lines 1 through 28, that it must hold for at least three years from the date of the initial contribution, and which is not required to be used for exempt purposes for the entire holding period?		No
b	If "Yes," describe the arrangement in Part II		
31	Does the organization have a gift acceptance policy that requires the review of any non-standard contributions?		No
32a	Does the organization hire or use third parties or related organizations to solicit, process, or sell noncash contributions?		No
b	If "Yes," describe in Part II		
33	If the organization did not report an amount in column (c) for a type of property for which column (a) is checked, describe in Part II		

Part III **Supplemental Information.** Provide the information required by Part I, lines 30b, 32b, and 33, and whether the organization is reporting in Part I, column (b), the number of contributions, the number of items received, or a combination of both. Also complete this part for any additional information.

Return Reference	Explanation

efile GRAPHIC print - DO NOT PROCESS | As Filed Data - | DLN: [redacted]

SCHEDULE O (Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990 or 990-EZ

Complete to provide information for responses to specific questions on Form 990 or to provide any additional information.
▶ Attach to Form 990 or 990-EZ.
▶ Information about Schedule O (Form 990 or 990-EZ) and its instructions is at www.irs.gov/form990.

OMB No 1545-0047

2013

Open to Public Inspection

Name of the organization
PALMETTO KIDS FIRST SCHOLARSHIP PROGRAM INC

Employer identification number
[redacted]

990 Schedule O, Supplemental Information

Return Reference	Explanation
FORM 990, PART VI, SECTION A, LINE 3	
FORM 990, PART VI, SECTION B, LINE 11	THE FORM 990 IS PROVIDED TO THE BOARD OF DIRECTORS FOR A PERIOD OF COMMENT AT THE END OF THE COMMENT PERIOD, AND WITH THE ADDRESS OF ANY QUESTIONS OR COMMENTS, THE FORM 990 IS FIL ED
FORM 990, PART VI, SECTION B, LINE 12C	IN CONNECTION WITH ANY ACTUAL OR POSSIBLE CONFLICT OF INTEREST, AN INTERESTED PERSON MUST DISCLOSE THE EXISTENCE OF THE FINANCIAL INTEREST AND BE GIVEN THE OPPORTUNITY TO DISCLOSE ALL MATERIAL FACTS TO THE DIRECTORS AND MEMBERS OF COMMITTEES WITH GOVERNING BOARD DELEGAT ED POWERS CONSIDERING THE PROPOSED TRANSACTION OR ARRANGEMENT AFTER DISCLOSURE OF THE FIN ANCIAL INTEREST AND ALL MATERIAL FACTS, AND AFTER ANY DISCUSSION WITH THE INTERESTED PERSO N, HE/SHE SHALL LEAVE THE GOVERNING BOARD OR COMMITTEE MEETING WHILE THE DETERMINATION OF A CONFLICT OF INTEREST IS DISCUSSED AND VOTED UPON THE REMAINING BOARD OR COMMITTEE MEMBE RS SHALL DECIDE IF A CONFLICT OF INTEREST EXISTS PROCEDURES FOR ADDRESSING THE CONFLICT O F INTEREST A AN INTERESTED PERSON MAY MAKE A PRESENTATION AT THE GOVERNING BOARD OR COMM ITTEE MEETING, BUT AFTER THE PRESENTATION, HE/SHE SHALL LEAVE THE MEETING DURING THE DISCUS SION OF, AND THE VOTE ON, THE TRANSACTION OR ARRANGEMENT INVOLVING THE POSSIBLE CONFLICT OF INTEREST B THE CHAIRPERSON OF THE GOVERNING BOARD OR COMMITTEE SHALL, IF APPROPRIATE, A PPOINT A DISINTERESTED PERSON OR COMMITTEE TO INVESTIGATE ALTERNATIVES TO THE PROPOSED TRA NSACTION OR ARRANGEMENT C AFTER EXERCISING DUE DILIGENCE, THE GOVERNING BOARD OR COMMITT EE SHALL DETERMINE WHETHER THE ORGANIZATION CAN OBTAIN WITH REASONABLE EFFORTS A MORE ADVA NTAGEOUS TRANSACTION OR ARRANGEMENT FROM A PERSON OR ENTITY THAT WOULD NOT GIVE RISE TO A CONFLICT OF INTEREST D IF A MORE ADVANTAGEOUS TRANSACTION OR ARRANGEMENT IS NOT REASONAB LY POSSIBLE UNDER CIRCUMSTANCES NOT PRODUCING A CONFLICT OF INTEREST, THE GOVERNING BOARD OR COMMITTEE SHALL DETERMINE BY A MAJORITY VOTE OF THE DISINTERESTED DIRECTORS WHETHER THE TRANSACTION OR ARRANGEMENT IS IN THE ORGANIZATION'S BEST INTEREST, FOR ITS OWN BENEFIT, A ND WHETHER IT IS FAIR AND REASONABLE IN CONFORMITY WITH THE ABOVE DETERMINATION IT SHALL MAKE ITS DECISION AS TO WHETHER TO ENTER INTO THE TRANSACTION OR ARRANGEMENT VIOLATIONS O F THE CONFLICTS OF INTEREST POLICY A IF THE GOVERNING BOARD OR COMMITTEE HAS REASONABLE C AUSE TO BELIEVE A MEMBER HAS FAILED TO DISCLOSE ACTUAL OR POSSIBLE CONFLICTS OF INTEREST, IT SHALL INFORM THE MEMBER OF THE BASIS FOR SUCH BELIEF AND AFFORD THE MEMBER AN OPPORTUN ITY TO EXPLAIN THE ALLEGED FAILURE TO DISCLOSE B IF, AFTER HEARING THE MEMBER'S RESPONSE AND AFTER MAKING FURTHER INVESTIGATION AS WARRANTED BY THE CIRCUMSTANCES, THE GOVERNING BO ARD OR COMMITTEE DETERMINES THE MEMBER HAS FAILED TO DISCLOSE AN ACTUAL OR POSSIBLE CONFLI CT OF INTEREST, IT SHALL TAKE APPROPRIATE DISCIPLINARY AND CORRECTIVE ACTION
FORM 990, PART VI, SECTION B, LINE 15	THE PROGRAM HAS A FULL-SERVICE MANAGEMENT AGREEMENT WITH SCHOLARSHIP SERVICES, LLC ALL FE ES ARE APPROVED UNDER A MANAGEMENT AGREEMENT BY THE BOARD OF DIRECTORS ALL CHECKS AND OTH ER THIRD PARTY OUTGOING MONETARY RELATED FINANCIAL TRANSACTIONS WILL BE SIGNED, INITIATED, OR EXPRESSLY AUTHORIZED BY THE NONPROFIT'S TREASURER, SHAWN LFRAGE
FORM 990, PART VI, SECTION C, LINE 18	THE PROGRAM MAKES IT'S FORM 990 AVAILABLE FOR PUBLIC INSPECTION UPON REQUEST
FORM 990, PART VI, SECTION C, LINE 19	THE PROGRAM MAKES ITS GOVERNING DOCUMENTS, CONFLICT OF INTEREST POLICY AND FINANCIAL STATEMENTS AVAILABLE UPON REQUEST
SCHEDULE B, PART I, NO 2	THE FOLLOWING SHARES OF STOCK WERE TRANSFERED ON MAY 23, 2014 FROM DONOR #2 TOTALING $1,29 7,609 765 SHARES OF MMM - $107,570 48 110 SHARES OF AAPL - $ 67,100 00 265 SHARES OF ADP - $ 22,375 35 295 SHARES OF BCX - $ 34,130 03 90 SHARES OF BRK B- $ 11,413 35 1,095 SHARES OF CSCO - $ 26,783 70 870 SHARES OF CTSH - $ 41,847 00 435 SHARES OF GD - $ 50,212 05 265 SHARES OF JNJ - $ 26,742 48 11,150 SHARES OF AMJ - $554,601 00 285 SHARES OF MDT - $ 17,0 52 98 25 SHARES OF UTX - $ 2,882 36 5,182 SHARES OF VYM - $334,912 64

EXHIBIT R

Einstein Academy

Claire Carter< ccarter@einsteinacademysc.org>

Palmetto Kids FIRST - Request for Mailing Lists for Potential Donors

1 message

Info at Palmetto Kids FIRST < info@palmettokidsfirst.org> Fri, Feb 28, 2014 at 10:17 AM
To: "info@palmettokidsFIRST.org" <info@palmettokidsfirst.org>
Bcc: ccarter@einsteinacademysc.org

Dear Scholarship School Officials:

We may be the only SFO actively distributing scholarships (per press reports), but that does not mean the other SFO's are not engaging in the race to reach the $8 million tax credit cap as fast as possible.

I was informed by a parent yesterday (that also has a child at a Catholic school) that they received (via US mail) "donor" information for the Charleston Diocese's St. Thomas Aquinas Scholarship Funding Organization (which only supports Catholic schools). This parent is not Catholic, nor is their child attending the Catholic school eligible for a scholarship grant. It is a mass mailing for all donors. The Diocese has also said they were including information in their weekly church flyers.

The Charleston Diocese (and presumably the SC Association of Christian Schools - their SFO is Advance Carolina) has more "command and control" over their member schools to require these sort of donor raise efforts ... but obviously we stand ready and desperately what to implement similar donor awareness programs (within the school support community) as well. Georgia just raised their entire $68 million cap this year in just 22 days - average donation approximately $2,000. You would be shocked as to how quickly $1,000 - $3,000 donations add up - and we need mass school community support (parents, alumni, board, administration).

If you are willing to share any mailing list with us, please let me know. [Parent list, Alumni List, Board List, School Donor List, etc.] Our typical package has a intro letter, pledge form, TC-57A, and return envelope. We are building our own lists from parent applicants and the "manual" route, but your help would greatly speed the process especially in light of the "competition".

Thanks,

Jeff Davis
Donor Assistance Volunteer
843-901-8036 (cell)

P.S. As many of you are aware, the only thing slowing us down in issuing more scholarships is how fast we are able to raise the funds. As of yesterday, we have currently raised $745,656.02 and with issued $600,000 of scholarship grants to 77 kids at 11 different schools (plus $95,000 allocated to schools awaiting paperwork). We are getting the funds out to schools/families as fast as we can, and urgently need $2 million more for our 2nd semester scholarships ... and another $3 - $4 million +++ for the fall 2014-2015 scholarship grant requests.

Palmetto Kids FIRST Scholarship Program, Inc.
1995 Riviera Dr. 103-126 | Mt. Pleasant, SC 29464
843-501-1542 (office voicemail) | *info@palmettokidsFIRST.org* | *www.palmettokidsFIRST.org*
Like us on Facebook at: www.facebook.com/palmettokidsFIRST

IMPORTANT NOTICE AND DISCLAIMER: Please note that donations by scholarship applicants, parents, guardians, friends or other family members, as well as other volunteer assistance related to donations, cannot and will not have any bearing on the award of a