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15 BEFORE THE ARIZONA
16 STATE BOARD OF EDUCATION

17 In the matter of:

Case No.: 2005-001

18
19 COLORADO CITY UNIFIED
20 SCHOOL DISTRICT NO. 14.
21

PETITION RE: GROSS FINANCIAL
MISMANAGEMENT AND REQUEST
FOR APPOINTMENT OF A RECEIVER
AND OTHER RELIEF

22 The Arizona Attorney General ("Attorney General"), on behalf of the State of
23 Arizona, the Executive Director of the Arizona State Board of Education (the "State
24 Board"), and State Superintendent of Public Instruction, brings this Petition regarding
25 Gross Financial Mismanagement and Request for the Appointment of a Receiver and
26 other Relief with respect to the Colorado City Unified School District No. 14.

1 I. LEGAL AUTHORITY AND JURISDICTION

2 Arizona Revised Statute ("A.R.S.") Section 15-103 provides, among other things,
3 that the State Board shall review allegations of school district insolvency and gross
4 mismanagement, and, if it determines at a public meeting that a school district is
5 insolvent or has grossly mismanaged its finances, it shall appoint a receiver for that
6 school district.

7 II. DEFINITIONS

8 The following definitions apply to this matter and, when used in this Petition,
9 shall have the following meaning:

10 The "District" means the Colorado City Unified School District No. 14, acting
11 through its officers and employees.

12 "Gross mismanagement" means that the school district's officers or employees
13 committed or engaged in gross incompetence or systemic and egregious mismanagement
14 of the school district's finances or financial records. A.R.S. § 15-103(T) (2).

15 "Notice" means written notice personally served or delivered by certified mail,
16 return receipt requested. A.R.S. § 15-103(T) (3).

17 "Receiver" means an individual appointed by the State Board from persons
18 recommended by the State Board for the purpose of managing a school district placed in
19 receivership. A.R.S. § 15-103(T) (4).

20 "Receivership" means the state or condition of being under the control of the
21 receiver appointed by the State Board. A.R.S. § 15-103(T) (5).

22 III. MATTERS ASSERTED

23 Background

24 1. The District is an Arizona public school district, funded by public monies and
25 charged with the responsibility of educating students in grades kindergarten through
26 twelve.

1 2. The District, acting through its officers and employees, has the fiduciary
2 responsibility to safeguard the assets of the District to ensure they are used for a public
3 purpose and in a fiscally prudent manner.

4 3. The District, acting through its officers and employees, has engaged in a pattern
5 and practice of systemic and egregious mismanagement of District property, materials,
6 supplies, funds, and facilities to the detriment of the students of the District.

7 4. The District, acting through its officers and employees, has committed and
8 engaged in a pattern and practice of gross incompetence in managing District property,
9 materials, supplies, funds, and facilities to the detriment of the students of the District.

10 5. The District is a political subdivision of the State and is subject to Article 9,
11 Section 7, of the Arizona Constitution, which states:

12 Neither the state, nor any county, city, town, municipality or
13 other subdivision of the state shall ever: Give or loan its credit
14 in the aid of, or make any donation or grant, by subsidy or
15 otherwise, to any individual, association or corporation.

16 6. A.R.S. § 15-341 provides that the governing board of the District shall, among
17 other things:

18 a. manage and control District property. A.R.S. § 15-
19 341(A)(4);

20 b. acquire property for the use of the schools of the District.
21 A.R.S. § 15-341(A)(5); and

22 c. use school funds received from the state and county school
23 apportionment exclusively for payment of salaries of teachers
24 and other employees and contingent expenses of the District.
25 A.R.S. § 15-341(A)(18).
26

1 7. Arizona laws governing the conduct of public officers and employees provide
2 that they, among other things:

3 a. refrain from voting upon or otherwise participate in any
4 contract, sale, purchase, or service in which the governing board
5 members, officers, or their relatives have a substantial interest.
6 A.R.S. § 38-503(A);

7 b. not use or attempt to use their official position to secure any
8 valuable thing or benefit that would not ordinarily accrue to
9 them in the performance of their duties. A.R.S. § 38-504(C);

10 c. not receive directly or indirectly compensation for any
11 service rendered in any case, proceeding, application, or other
12 matter which is pending before the District governing board.
13 A.R.S. § 38-505(A).

14 The Unfunded Warrants

15 8. Commencing in fiscal year 2004-2005, the District issued warrants for teacher
16 salaries and other expenses without having sufficient funds to satisfy the underlying
17 obligations.

18 9. In fiscal year 2004-2005, the District exhausted all available funds, as well as a
19 line of credit with the Wells Fargo Bank. Much of the available line of credit had been
20 used to make a payment for a loan to purchase an airplane.

21 10. When Wells Fargo Bank and the Mohave County Treasurer refused to honor the
22 District's warrants, employees of the District, many of whom were teachers whose sole
23 source of livelihood was their salary, were not paid. Those teachers were unable to meet
24 their financial obligations and incurred substantial penalties. The District has not
25 reimbursed its teachers for the financial penalties they incurred as a result of the
26 District's gross incompetence and mismanagement.

1 11. The District's failure to pay its employees exposed the District to potential treble
2 damages under A.R.S. § 23-355.

3 12. Currently, the District is over one million dollars (\$1,400,000.00) in arrears and is
4 unable to satisfy its debts and other financial obligation as they become due.

5 13. It is anticipated that the District will continue to incur debt through the current
6 fiscal year, reaching a point as early as October of 2005, at which time it will have
7 issued \$1,800,000.00 in warrants it cannot fund.

8 14. During fiscal year 2004-2005, the Arizona Schools Risk Retention Trust (the
9 "Trust") purchased some of the District's outstanding warrants. As of April 29, 2005,
10 the Trust had purchased over \$1,420,333.69 of the District's outstanding warrants. At
11 the time of this petition, the District is still unable to pay its teachers or vendors without
12 assistance from the Trust. According to the contract between the District and the Trust,
13 the District must eventually reimburse the Trust for the full amount of the warrants
14 purchased, plus 6% interest.

15 15. In addition, among other things, the District borrowed money from the District's
16 employee medical reimbursement accounts to cover outstanding warrants.

17 Excessive Expenditures and Misuse of Public Dollars

18 16. The District has spent and continues to spend excessively and irresponsibly on
19 administrative costs, including travel, cellular phones, computer equipment, credit cards,
20 vehicles, and miscellaneous items such as personal digital assistants.

21 17. In 2004, the District ranked 210th out of 227 school districts in percentage of
22 dollars used for classroom instruction. The District spent only 46.2% of its funding on
23 classroom instruction. By comparison, in that same year, the State average for
24 percentage of funds used for classroom instruction was 58.6%.

25 18. In contrast to its classroom spending, the District spent \$6,565.00 per pupil on
26 administrative expenditures in 2004. In that same year, the Fredonia-Moccasin Unified

1 School District ("Fredonia School District"), which is located 31.6 miles east of the
2 District and which educates a similar number of students as the District, spent \$3,005.00
3 per pupil on non-classroom expenses. *See* Exhibit A attached.

4 19. The 2004 fiscal year was not an anomaly for excessive administrative
5 expenditures by the District. The District has routinely spent more than twice as much
6 in administrative dollars per pupil as other school districts of similar size. For example,
7 in 2003, the District spent \$7,169.00 non-classroom dollars per pupil, which was more
8 than double the \$3,082.00 per pupil spent by Fredonia School District on administrative
9 expenditures. Exhibit A.

10 20. Governing board members, administrators, and employees have routinely charged
11 personal expenses to District-issued credit cards, resulting in large outstanding balances
12 and sizeable finance charges incurred by the District.

13 21. District administrators are issued District owned vehicles, which they use for
14 personal business ventures and other non-school related activities.

15 22. The District unnecessarily incurs expenses for the storage of District-owned
16 vehicles at the Deer Valley, Scottsdale, and Kingman airports for use when District
17 board members, administrators, and others travel by plane to those locations.

18 23. The District expends excessive amounts for vehicle repair, maintenance, and
19 fueling.

20 24. District board members and administrators frequently engage in unnecessary and
21 excessive travel. Board members and administrators were allowed to take family
22 members on school conferences and "business trips," charging meals, hotel stays, and
23 merchandise for non-district personnel to the District, and failed to reimburse the
24 District.

25 25. The District spent unwarranted amounts for basic ground maintenance and
26 landscaping. The District entered into a one year ground maintenance contract for

1 \$107,700.00, despite owning a substantial amount of maintenance equipment and
2 employing several maintenance personnel. At the time the contract was executed, the
3 District's property included just two facilities -- the district office building and the K-12
4 school building. By comparison, the Fredonia School District, which has three
5 campuses, only spent \$8,213.87 for the entire year on ground maintenance. Exhibit A.

6 26. The District was delinquent through fiscal year 2004-2005 in satisfying its
7 outstanding debt of \$131,317.39 to the Arizona School Facilities Board ("SFB") for
8 school construction costs for the K-12 school building. The SFB was forced to turn the
9 debt over to the Attorney General's Office for collection. Currently, the District owes
10 the SFB \$96,861.67.

11 27. The District paid for Dish Network satellite television for the private residence of
12 District business manager Jeffrey Jessop.

13 28. The District spent excessive amounts on computer equipment and software for
14 District administrators and support staff.

15 29. The District spent thousands of dollars each month on cellular phone plans for
16 District administrators, including several cellular phone contracts with Nextel,
17 Verizonwireless, Global Crossing, UNC, and South Central Wireless Communications.
18 Superintendent Alvin S. Barlow and business manager Jeffery Jessop each have three or
19 more cellular phone numbers.

20 30. District administrators made numerous inappropriate and unnecessary purchases
21 despite their knowledge of the District's fragile financial condition. For example, in
22 June 2004, the administration purchased four Panasonic surveillance cameras at a cost of
23 \$4,237.00. At the same time, administrators required teachers to take a 15% across-the-
24 board pay-cut from their already abnormally low salaries. In addition, the District made
25 significant cuts to the teachers' health benefits.

1 31. Despite having a business manager, assistant business manager, and accounting
2 staff, the District failed to timely pay its taxes to the Internal Revenue Service, which
3 resulted in the District incurring a late payment penalty of \$980.67.

4 32. The District inappropriately used school resources to provide a bill paying service
5 for its employees.

6 33. The District maintains an abnormally large administrative staff for a school
7 district its size. After the District's dramatic reduction in student enrollment, the District
8 did not reduce its administrative or support staff. The District continues to employ a
9 superintendent, business manager, assistant business manager, cashier, bookkeeper,
10 maintenance supervisor, a principal, two school resource officers, computer specialist,
11 and eight assistants.

12 34. In spite of its precarious financial condition in 2002, the District purchased a 210
13 Cessna airplane for \$200,000.00. The District allocated an additional \$20,000.00 for
14 airplane repairs. The District then entered into a contract with Ladell Bistline, son of
15 then governing board president F.L. Bistline, to pilot the plane for \$50.00 per hour.

16 Misuse of District Property

17 35. The District board members and administrators negligently or willfully
18 improperly disposed of and forfeited District property, funds, and facilities for the
19 benefit of privately operated Fundamentalist Church of Jesus Christ of Latter-Day Saints
20 ("FLDS") schools. All District governing board members and administrators are
21 members of the FLDS church.

22 36. Prior to 2002, the District leased five buildings from the Colorado City
23 Improvement Association ("Improvement Association"), a wholly owned subsidiary of
24 the United Effort Plan Trust, a religious and charitable trust which at that time was
25 controlled by leaders of the FLDS church. The District used the buildings as two
26 elementary schools, a junior high school, a storage facility, and a bus maintenance barn.

1 37. As part of the Improvement Association's leasing arrangement, the District pre-
2 paid eight years in rental for the David J. Broadbent ("Broadbent") elementary school
3 building and Marvin L. Darger ("Darger") elementary school building.

4 38. In June 2000, following the direction of FLDS leader Warren Jeffs, parents of all
5 FLDS children withdrew their children from enrollment in the District. In that same
6 year, the District terminated the leases for the junior high and Broadbent buildings.
7 District administrators cited a surplus of classroom space as the reason for the lease
8 terminations.

9 39. As part of the lease termination, the District agreed to roll the remaining prepaid
10 rental balance of \$232,500.00 for the Broadbent building into the Darger building lease.
11 The \$232,500.00 was used to extend the Darger building lease through January 31,
12 2006.

13 40. In 2002, the SFB completed construction of the new Colorado City K-12 School.
14 In spite of protests to the contrary from teachers and community members, District
15 administrators terminated the Darger building lease after the completion of the K-12
16 building. Again, District administrators cited an overabundance of classroom space
17 despite evidence and teacher testimony to the contrary.

18 41. At the time of the lease termination in August 2002, the prepaid balance on the
19 Darger building lease was \$307,500.00. The Improvement Association agreed to the
20 District's request for an early lease termination provided the District forfeit \$198,700.00
21 of the prepaid rental. The Improvement Association and the District agreed to use the
22 remaining \$108,800.00 in prepaid rental to extend the leases of the bus maintenance
23 facility and storage units.

24 42. In 2004, District Superintendent Alvin S. Barlow submitted a request to the SFB
25 for a new K-6 elementary school and new elementary and junior high additions to the
26

1 current K-12 building. Superintendent Barlow requested that construction start no later
2 than fall 2005 to "accommodate the overcrowding" in the K-12 school building.

3 43. The District forfeited prepaid rent presumably under the premise that it did not
4 need the property. Yet, by the District's own admissions, its schools were overcrowded.
5 The District was either grossly incompetent in anticipating its facilities needs or its
6 officers and employees had a much more sinister motive, which was to allow non-
7 district entities to profit from the misspent public dollars.

8 44. In addition to forfeiting \$198,700.00 in prepaid rent, the District's administrators
9 failed to require the return of thousands of dollars in building fixtures, including new
10 telephone systems, fire alarms, and landscape irrigation systems.

11 45. District administrators recklessly or intentionally allowed school furniture,
12 supplies, and materials, purchased with District funds, to be used by the private FLDS
13 schools.

14 46. District administrators also allowed or deliberately failed to investigate the
15 stealing of school books and other teaching materials from teachers' classrooms.

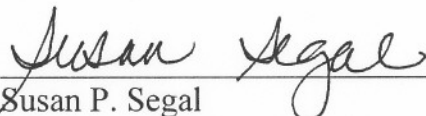
16 47. District expenditures exceeded the 2002-2003 fiscal year District budget by
17 \$19,507.00, and the 2003-2004 fiscal year District budget by \$431,736.00.


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2 IV. REQUEST FOR RELIEF

3 THEREFORE, based upon the foregoing, the Attorney General requests that the
4 State Board find that the District grossly mismanaged its finances, and place the District
5 in Receivership in accordance with A.R.S. § 15-103.

6 DATED this 12th day of August, 2005.

7 TERRY GODDARD

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9 
10 Susan P. Segal
11 Assistant Attorney General

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13 
14 Chad B. Sampson
15 Assistant Attorney General

16 452196

EXHIBIT A**2003-2004 FISCAL YEAR**

SUBJECT	COLORADO CITY SCHOOL DISTRICT	FREDONIA SCHOOL DISTRICT	STATE
District Size	Small	Small	
Number of Students	344	346	
Number of Schools	1	3	
Total Dollars Spent per Pupil	\$12,203	\$8,077	
Classroom Dollars per Pupil	\$5,638	\$5,072	
Percentage of Classroom Dollars Spent per Pupil	46.2%	62.8%	58.6%
Non-classroom Dollars per Pupil	\$6,565	\$3,005	
Percentage of Non-classroom Dollars per Pupil	53.8%	37.2%	41.4%
District Classroom Dollar Ranking	210 out of 227	21 of 227	
Number of Non-bus Passenger Vehicles	11	4	
Number of School Busses	12	6	
Number of Trailers	8	0	
Number of Airplanes	1	0	
District Vehicle for Employee Personal Use	YES	NO	
District Vehicle for Superintendent Personal Use	YES	NO	
Amount Spent on Grounds Maintenance	\$107,700	\$8,214	
Number of School District Administrative Employees: 2003-2004	22	6	
Total Number of School District Employees: 2003-2004	113	69	
Number of School District Administrative Employees: 2004-2005	23	6	
Total Number of School District Employees: 2004-2005	108	66	