

**COMMONWEALTH OF PENNSYLVANIA  
STATE CHARTER SCHOOL APPEAL BOARD**

POCONO MOUNTAIN CHARTER SCHOOL,	:
Petitioner	:
	:
v.	: Docket No. CAB 2010-06-A
	:
POCONO MOUNTAIN SCHOOL DISTRICT	:
Respondent	:

**OPINION AND ORDER**

**I. Introduction.**

This matter is before the Pennsylvania State Charter School Appeal Board (“CAB”) on Appeal by the Pocono Mountain Charter School (“PMCS”) from the decision of the Pocono Mountain School District (“School District”) to revoke its charter and on remand from Commonwealth Court in *Pocono Mountain Charter School, Inc. v. Pocono Mountain School District*, 88 A.3d 275 (Pa. Cmwlth. 2014).

**II. Findings of Fact.**

1. The School District is a public school district serving Mount Pocono Borough and Barrett, Coolbaugh, Jackson, Paradise, Pocono, Tobyhanna and Tunkhannock Townships within Monroe County, Pennsylvania.

2. PMCS is a public charter school operating at 16 Carriage Square, Tobyhanna, PA 18466. (Certified Record, hereinafter “C.R.” at 2368, 2407, 2410 and 2456 – School District Exhibits 1, 2, 3; Joint Exhibit 16).

3. On February 19, 2003, the School District's Board of School Directors (the "School Board") granted PMCS a three-year charter commencing September 1, 2003 and ending June 30, 2006. (C.R. at 624, 858, 3038; Charter School Exhibit 3).

4. On June 6, 2006, the School Board voted to renew the PMCS's charter for another five-year term ending June 30, 2011 and both parties boards subsequently signed the renewed charter, which contained sixty-two conditions. (C.R. 2330: Joint Exhibit 5).

5. During the spring and summer of 2007, the School District and PMCS exchanged several letters regarding School District concerns about PMCS compliance with terms of its renewed charter and the Charter School Law. (C.R. 383-394, 2550, 2553, 2802, School District Exhibits 14, 15, 23).

6. On May 21, 2008, the School Board adopted a resolution seeking to revoke the charter of PMCS. (C.R. 2321 – Joint Exhibit 1).<sup>1</sup>

7. The School Board's Resolution listed 27 reasons for the proposed revocation of PMCS's charter which included, but were not limited to, the following:

a. PMCS operating its business and educational programs in such a manner as to constitute an unconstitutional entanglement with Shawnee Tabernacle Church,<sup>2</sup> *id.* at ¶ 1;

b. PMCS paying an excessive salary and benefits to its Chief Executive Officer ("CEO"), *id.* at ¶ 5;

c. PMC's CEO, or private institutions controlled by PMCS's CEO, deriving improper financial benefits from PMCS, *id.* at ¶ 8;

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<sup>1</sup> We take note of the fact that a separate proceeding regarding renewal of the Charter has been initiated and stayed pending the outcome of these proceedings.

<sup>2</sup> Shawnee Tabernacle Church is the owner of the property and buildings that are leased for charter school purposes when school is in session and for school activities.

d. PMCS paying excessive rentals and fees for its school facilities for the direct benefit of the Shawnee Tabernacle Church, *id.* at ¶ 9;

e. PMCS and Shawnee Tabernacle Church entering into a lease for school facilities which was not an arm's length transaction and that unfairly benefited the landlord, *id.* at ¶ 10;

f. PMCS operating as an alter ego of its landlord, the Shawnee Tabernacle Church, *id.* at ¶ 14; and

g. PMCS failing to obtain competitive bids for products and services where such bids are required by Pennsylvania law, *id.* at ¶ 26.

8. On June 10, 2009, the School Board commenced the public hearing regarding the proposed revocation of PMCS's charter.

9. The School Board held 15 additional public hearing sessions regarding the proposed charter revocation on September 15, November 23 and 24 and December 8, 2009; February 1, 2, 8 and 9; March 18, 19 and 29; and June 1, 3, 4 and 10, 2010, all of which were duly advertised as required by law.

10. After the conclusion of the hearing sessions, the public had 30 days to submit written comments directly to the hearing officer regarding the proposed charter revocation consistent with Section 17-1729-A(c) of the Charter School Law. (C.R. 2309-2310).

11. On October 6, 2010, the School Board, after reviewing the record, unanimously approved an 18-page adjudication to revoke PMCS's charter for violation of four specified provisions of the Charter School Law. (C.R. 4977-4996).

12. On November 4, 2010, PMCS filed an appeal from the School Board's revocation decision with CAB.

13. On November 8, 2010, the School District filed with CAB a copy of the certified record from the PMCS revocation proceedings.

14. On November 15, 2010, the School District filed its answer in opposition to PMCS's appeal.

15. On February 16, 2011, CAB's counsel set a schedule for the parties to submit briefs and proposed findings of fact and conclusions of law in this appeal.

16. The parties timely submitted their briefs and proposed findings of fact and conclusions of law in compliance with CAB's February 16, 2011 directive.

17. Argument was held before CAB on July 26, 2011.

18. At its meeting of September 27, 2011 CAB voted to grant the appeal and overturn the School District's revocation decision.

19. Subsequently the School District filed an Application for Reconsideration, Motion to Retain Jurisdiction and Petition to Re-Open Record and Accept Supplemental Evidence, which was amended once the Audit Report on PMCS was issued by the Auditor General.

20. PMCS filed an answer to the application and a Motion to Quash.

21. After argument before CAB, CAB vacated its prior decision and re-opened the record for acceptance of the Audit Report and "for the parties to submit any other new and supplemental information related to the Audit Report ...".

22. Both parties submitted supplemental exhibits, each party objected to the submissions of the other party and, as a result, CAB referred the supplementary evidence to a hearing officer for review.

23. After holding a hearing and accepting stipulations, proposed findings and briefs, the hearing officer issued a report on April 30, 2013.

24. CAB considered the matter again on July 30, 2013 and voted to deny the appeal and uphold revocation of the school's charter. CAB's written decision was issued on August 5, 2013.

25. PMCS then filed a Petition for Review with Commonwealth Court.

26. On February 26, 2014 Commonwealth Court vacated CAB's August 5, 2013 decision and remanded the appeal to CAB to promptly decide the appeal based the record as it existed before CAB's original vote in July of 2013.

27. The parties sought and were again given the opportunity to argue before CAB at its April 29, 2014 meeting.

28. Shawnee Tabernacle Church is a nondenominational Christian Church founded by Pastor Dennis Bloom and his wife, Reverend Grisel Bloom. (C.R. 432-434, 693-694, 2604-2611; School District Exhibit 15 at Exhibits 7A and 7D).

29. Pastor Bloom has simultaneously served as Shawnee Tabernacle Church's Senior Pastor and PMCS's Chief Executive Officer ("CEO") since the opening of the charter school until December 3, 2010. (C.R. 370, 433, 624, 2601, 2768-2772; School District Exhibit 15 at Exhibit 7A; School District Exhibit 17).

30. Pastor Bloom's wife, the Reverend Grisel Bloom, simultaneously served as Shawnee Tabernacle Church's First Lady and PMCS's Assistant CEO from the

opening of the charter school until 2008. (C.R. 433, 642, 648, 2611, 2763, 2890; School District Exhibit 15 at Exhibit 7D; School District Exhibits 16, 28 and 41).

31. Pastor Bloom received an annual salary as PMCS's CEO of \$107,993 during the 2006-7 school year and \$120,000 during 2007-8 and 2008-9. (C.R. 438,642,647, 2611, 2763, 2890; School District Exhibits 24 and 25).

32. Grisel Bloom's salary as Assistant CEO of PMCS was \$67,308 in 2006-7 and \$76,000 in 2007-8. (C.R. 488-89, 648,2835, 2878; School District Exhibits 24 and 25).

33. During the same time period the average salary of PMCS's teachers was approximately \$20,000. (C.R. 518).

34. Pastor and Mrs. Bloom also each received "bonus" payments from PMCS of \$15,200 and \$8,079, respectively, in 2008, which may have been for accrued paid leave days. (C.R. 519).

35. Pastor Bloom's son and daughter both worked at PMCS. (C.R. 509-510, 620-621, 1938, 1946-1948). On June 20, 2007, Pastor Bloom's daughter was paid a \$1,500 bonus, along with other summertime workers, on the recommendation of PMCS's principal and subject to the approval of Pastor Bloom. (C.R. 701-702, 1810-1811, 1829, 1848; Charter School Exhibit 22 at p. 3).

36. No evidence was produced that the bonuses were approved by PMCS's Board of Trustees.

37. Pastor Bloom testified that he received no salary or reimbursement for a car lease from Shawnee Tabernacle Church for his service as Senior Pastor. (C.R. 686, 697-698).

38. A 2004 draft audit report of PMCS indicated that “on approximately five occasions, PMCS paid Reverend Bloom’s car lease payments; the payments were for approximately \$700 for each payment.” These car lease payments should have been paid by Shawnee Tabernacle Church. (C.R. 1895-1896, 3044-3045; Charter School Exhibit 4 at pp. 5-6).

39. The 2004 draft audit report of PMCS also stated, “it is important to note that Reverend Bloom is a central figure [in the charter school] that has influence and control over the operations and could easily circumvent internal controls that have been put in place.” (C.R. 1906, 3045; Charter School Exhibit 4 at p. 6).

40. Pastor Bloom’s exercise of dual control over both PMCS and Shawnee Tabernacle Church has been facilitated by significant turnover among members of PMCS’s Board of Trustees. (C.R. 678-79).

41. As charter school CEO, Pastor Bloom exercised significant influence and control over both school and church operations and oversaw various PMCS expenditures which substantially benefited the church. Regarding these expenditures Pastor Bloom negotiated or executed legal documents on behalf of both entities and signed checks from both school and church accounts. (C.R. 372-4, 378-9, 693, 2543, 2549, 2773, 2888, 3244-55, 3383-85: school District Exhibits 12, 13, 18, 26, 53 and Charter School Exhibit 30)

42. PMCS and Shawnee Tabernacle Church share space in the same building at 16 Carriage Drive, Tobyhanna, PA 18466. (C.R. 416, 1418-1419).

43. PMCS has leased space for school facilities from Shawnee Tabernacle Church since 2003.

44. After renewal of PMCS's charter in 2006, PMCS entered into a series of lease agreements with Shawnee Tabernacle Church pursuant to which the charter school paid (in addition to its rent) the cost to construct various improvements on the property, several of which benefited the church. (C.R. 2368-2422).

45. Under the terms of the leases PMCS was obligated to maintain and repair the leased premises and to make improvements, if such were desired by PMCS. (C.R. 2372-2373).

46. On June 5, 2003, Pastor Bloom signed the original lease between PMCS and Shawnee Tabernacle Church. Pastor Bloom signed the lease in his capacity as the President of Shawnee Tabernacle Church, even though he was also charter school CEO at the time. The president of PMCS's Board of Trustees signed for the charter school. (C.R. 1895-1896, 3255; Charter School Exhibit 30 – Exhibit "C").

47. PMCS paid Shawnee Tabernacle Church \$410,000 in rent for the portion of the facility it used for school year 2005-6. (C.R. 3337; School District Exhibit 40).

48. On July 26, 2006, PMCS and Shawnee Tabernacle Church executed a document entitled "Second Amendment to Lease Agreement." This lease was signed by PMCS's Board of Trustees' president and the president of the Board of the Shawnee Tabernacle Church.

49. Under the Amended Lease, PMCS paid Shawnee Tabernacle Church \$18,756.56 each month for a building that was being constructed by the church but was not yet usable. (C.R. 414, 2407; School District Exhibit 2).

50. Shawnee Tabernacle Church took out a \$3.9 million mortgage for the building expansion. (C.R. 633, 667).

51. During the 2006-2007 fiscal year, PMCS paid \$443,477 to Shawnee Tabernacle Church for rent. (C.R. 2823, 3358 – School District Exhibit 24).

52. On February 7, 2007, PMCS and Shawnee Tabernacle Church executed a document entitled “Ground Lease” to lease church-owned property for a parking lot, which lease was also signed by the presidents of both boards. (C.R. 2412; School District Exhibit 3 at p. 3).

53. On July 7, 2007, PMCS and Shawnee Tabernacle Church executed a “Master Lease to Lease Agreements” (hereinafter “Master Lease”) which replaced all prior leases between the parties. Pursuant to the Master Lease, PMCS leased from the Church the following two buildings and a parcel of land: (a) Premises A, designated as an existing 30,000 square foot building; (b) Premises B, designated as a proposed 35,000 square foot building; and (c) Premises C, designated as athletic fields. (C.R. 2369; School District Exhibit 1 at p. 2).

54. During the 2007-2008 fiscal year, PMCS paid \$849,175 to Shawnee Tabernacle Church for rent, which was approximately double the rent it paid in each of the prior two years. (C.R. 2867 – School District Exhibit 25 at p. 20).

55. After the final completion of the newest building (Premises B), PMCS paid \$929,000 annually to Shawnee Tabernacle Church for rent on the combined premises. (C.R. 450).

56. Under the 2007 Master Lease, PMCS was given use of the leased premises between 7:00 a.m. and 5:00 p.m., Monday through Friday, and only on school days – not during evenings, weekends, school vacation days or the summer break. (C.R. 462-463, 2371-2372; School District Exhibit 1 at pp. 4-5).

57. Under the 2007 Master Lease, PMCS agreed to pay the cost of gas, water, electric and sewer utilities provided to the leased premises, which it was only permitted to use for 20% of the time; yet Shawnee Tabernacle Church was required to reimburse PMCS for only 10% of those utility costs. (C.R. 416, 2377; School District Exhibit 1 at p. 10).

58. PMCS's real estate appraiser testified that the 2007 Master Lease between PMCS and Shawnee Tabernacle Church could not be considered an "arms-length transaction" because it was an agreement between two related parties. (C.R. 1422-1423, 1425, 1431, 3111; Charter School Exhibit 12 at p. 9).

59. PMCS's real estate appraiser concluded that as of the effective date of his appraisal, September 25, 2008, the fair market "net lease value" of PMCS's combined leased premises was \$14.50 a square foot. The appraiser's opinion of value was very close to the actual lease terms of \$14.29 per square foot net, which was the initial rental subject to annual increases. (C.R. 1411, 3142, 3156; Charter School Exhibit 12 at pp. 40 and 54).

60. PMCS's appraiser reached his opinion of net lease value as of September 25, 2008 taking into account only the improvements at the property in their condition at the time of his appraisal. (C.R. 1426, 1430, 1474).

61. PMCS's appraiser admitted having failed to take into account the following:

- a. That to create the facilities he valued as of September 25, 2008, PMCS had paid approximately \$900,000 to construct various improvements since renewal of its charter in 2006. (C.R. 1425, 1427, 1474).

b. That PMCS had (under the Second Amendment to the lease described above) paid \$18,756.56 per month in rent for Premises B prior to its completion. (C.R. 1429, 1474).

c. That PMCS did not have full leased rights to the premises because it was prohibited access during evenings, weekends, school vacations and summer break. (C.R. 1427, 1428-1429, 1474).

62. Because of these very important omissions in the analysis by PMCS's appraiser, even if one accepts the appraiser's testimony that \$14.50 per square foot was fair market value of a net lease for the combined premises in their condition as of September 25, 2008, it is abundantly clear that the **total amount** PMCS paid to Shawnee tabernacle Church for the leased premises – rental payment **plus** the cost of improvements incurred by PMCS – was greatly in excess of fair market value for the benefit received by PMCS, which provided an undue benefit to the church.

63. Under the 2007 Master Lease PMCS spent over \$900,000 in public funds to make interior and exterior improvements to church-owned property, without receiving any abatement or credit from rent it paid pursuant to its lease. (C.R. 2855, 2857, 2867 – School District Exhibit 25 at pp. 7, 9, 19).

64. In addition, expenditures by PMCS actively promoted Shawnee Tabernacle Church, by placing the church's name on its gymnasium floor, the exterior of its school building, and an electronic message board located at the driveway for the charter school and church.

65. On July 31, 2007, Pastor Bloom received a written proposal from Miller Flooring Company, Inc., to install a gymnasium floor in Premises B of the Church's

property for a cost to PMCS of \$124,501.68. (C.R. 458-459, 2773; School District Exhibit 18).

66. The proposal called for thirty-inch (30”) capital lettering spelling “SHAWNEE TABERNACLE” to be painted on the gymnasium floor in two locations along the sides of the basketball court. (C.R. 469-470, 2773; School District Exhibit 18 at p. 1).

67. PMCS paid the full cost of \$124,501.68 to install the gymnasium floor in Premises B. (C.R. 459, 468-469, 2773; School District Exhibit 18).

68. PMCS contracted in late 2010 to have the wording “SHAWNEE TABERNACLE” removed from the gymnasium floor; however, this occurred after the School District questioned this action and initiated revocation proceedings.

69. On June 26, 2007, PMCS and Degler-Whiting, Inc., entered into an agreement for the purchase and installation of the following fixtures for the newly-constructed gymnasium in Premises B of the Church’s property: six (6) Porter Basketball Backstops, Porter Motorized Divider Curtain, Porter Volleyball Equipment and Tennis Sleeves, Fair Play Scoreboards, Corridor Lockers, and Interkal Telescoping Bleachers. (C.R. 472-473, 2787; School District Exhibit 22).

70. PMCS paid over \$200,000 to Degler-Whiting, Inc., for the gymnasium equipment noted in paragraph 69. (C.R. 472-473, 2787; School District Exhibit 22).

71. Tobyhanna Impact Athletic Center is a 501(c)(3) nonprofit corporation. (C.R. 470, 1999 – Transcript at 371, 1741).

72. Pastor Bloom's then teenaged daughter, Priscilla Bloom, was listed with the Department of State as being the president of the Tobyhanna Impact Athletic Center. (C.R. 470-471, 619, 2620; School District Exhibit 15 at Exhibit 7G).

73. Tobyhanna Impact Athletic Center advertised that it offered basketball, volleyball, wrestling, boxing, aerobics, weight-training and after-school programs for a fee in a "state-of-the-art NBA gymnasium." (C.R. 470, 471, 2786; School District Exhibit 21).

74. Tobyhanna Impact Athletic Center was created to offer after-school programs to the community on Fridays. (C.R. 639, 1999).

75. Tobyhanna Impact Athletic Center paid no rent to PMCS for the use of the gymnasium; nor did it reimburse the charter school for utilities. (C.R. 471, 473, 1999, 2000).

76. Shawnee Tabernacle Church also used PMCS's gymnasium every Friday for community outreach. (C.R. 1999, 3308; Charter School Exhibit 39).

77. In October 2007, PMCS and A+Signs, Inc., entered into an agreement for \$39,200 for the installation of a sign with an electronic message board. (C.R. 492, 494-495, 1992, 2888; School District Exhibit 26).

78. Pastor Bloom directly negotiated with A+ Signs, Inc., regarding the payment schedule for the sign, the location of the sign and obtaining the necessary township permit for its installation. (C.R. 495, 2888; School District Exhibit 26).

79. The electronic message board was installed right outside the property fence facing Route 196; the electronic message board sign can change messages and is controlled by a computer. (C.R. 491, 644).

80. PMCS paid the entire cost of the electronic message sign. (C.R. 492, 1992).

81. The sign featured the name “SHAWNEE TABERNACLE CHURCH” and also included the church logo. The bottom of the sign said “Pocono Mountain Charter School.” There is an electronic message board in between top billing for the Church and the lower billing for PMCS. The electronic message board can be used to display messages. (C.R. 491-492, 1994, 3309; School District Exhibit 51).

82. The electronic message board has been photographed displaying the following messages: “DID YOU REMEMBER JESUS TODAY? HE REMEMBERS YOU”; “COME HOME! . . . GOD”; “JESUS IS THE TRUTH AND THE LIGHT.” (C.R. 3309 – School District Exhibit 51).

83. PMCS offered no explanation during the revocation proceedings why the name Shawnee Tabernacle Church appears on the sign or why the church’s name is given top billing over PMCS’s.

84. Despite Pastor Bloom’s testimony that PMCS “wanted the sign,” the November 2007 PMCS Board of Trustee meeting minutes did not reflect any action being taken to approve the agreement with A+ Sign, Inc., or any agreement with Shawnee Tabernacle regarding the placement of the LCD sign. (C.R. 492, 495-496, 2889 – Transcript 393, 396-397; School District Exhibit 27).

85. The newly-constructed building at Premises B on the Church property occupied by PMCS has a large sign affixed to its exterior saying “SHAWNEE TABERNACLE” with the church logo. (C.R. 1430-1431, 3142; Charter School Exhibit 12 at p. 43).

86. Because the building was constructed by the Church, it was reasonable for the Church to have affixed its name to the building.

87. On January 5, 2007, PMCS agreed to pay Otis Elevator Company \$42,900 to install an elevator in the newly constructed building. (C.R. 506, 2900-2916; School District Exhibit 29).

88. PMCS's Business Manager, Loletta Robertson, signed this agreement on behalf of the charter school (C.R. 2900-2916; School District Exhibit 29).

89. PMCS paid the entire cost for the installation of the elevator. (C.R. 506).

90. On November 30, 2006, PMCS and General Supply Company entered into an agreement to install 46 classroom doors in the newly-constructed building for a cost of \$63,825. (C.R. 2963; School District Exhibit 40).

91. On October 25, 2007, PMCS entered into another agreement with General Supply Company for \$6,325 to install "replacement doors at the connecting vestibule." (C.R. 2970; School District Exhibit 40, p. 8).

92. Pastor Bloom testified that PMCS paid for the installation of doors in the newly-constructed building. (C.R. 605).

### **III. Conclusions of Law**

1. The Charter School Law ("CSL"), 24 P.S. § 17-701-A, *et seq.*, governs the application process, the operation and revocation/renewal process and appeals process for charter schools in Pennsylvania.

2. Section 17-1729-A of the CSL governs the renewal and revocation process and provides that a charter may be revoked for any of the following reasons:

- a. One or more material violations of any conditions, standards or procedures contained in the written charter signed pursuant to section 1720-A, 24 P.S. § 17-1729-A(a)(1);
- b. Failure to meet the requirements for student performance set forth in [State Board regulation] . . . or failure to meet any performance standard set forth in the written charter signed pursuant to section 1716-A;
- c. Failure to meet generally accepted standards of fiscal management or audit requirements;
- d. Violations of provisions of the CSL;
- e. Violation of any provision of law from which the charter school has not been exempted including Federal laws and regulations governing children with disabilities; and
- f. Conviction for fraud, 24 P.S. § 17-1729-A(a)(1-6).

3. In regard to violations of the CSL that may serve as grounds for revocation of a charter, the law provides, in pertinent part, that:

- a. “[a] charter school shall be nonsectarian in all operations.” 24 P.S. §17-1715-A(4); and
- b. “[a] charter school shall not provide any religious instruction, nor shall it display religious objects and symbols on the premises of the charter school.” 24 P.S. § 17-1715-A(5).
- c. A charter school shall have the power to “[r]eceive and disburse funds for charter school purposes only. 24 P.S. §17-1714-A(4).

4. In *In re: Eloise and Edith Academy, A Charter School*, CAB Docket No. 1999-13, CAB held that a “strong entanglement” between a charter school and a sectarian school and church violated the requirement of § 17-1715-A(4) that a charter school must be nonsectarian in all operations. *Id.* at pp. 12-13.

5. PMCS has violated § 17-1715-A(4) by impermissibly entangling its operations with Shawnee Tabernacle Church, and many of the factors relied upon in *Eloise* exist in this case as well.

6. *Eloise and Edith Academy* also stands for the proposition that § 17-1715-A(5) prohibits a charter school from being located in a church where students would pass by religious symbols displayed in the church sanctuary during the school day. *Id.* at p. 14.

7. In *In re: Mt. Jewitt Area Charter School for Academic Excellence*, CAB Docket No. 2009-01, CAB interpreted § 17-1715-A(5) as prohibiting a charter school from being housed in a church building with a large cross affixed to its exterior. *Id.* at pp. 2, 9. CAB explained that the cross was a religious symbol which is “likely to be associated with the school that is being attended” by charter school students, thus violating § 17-1715-A(5). *Id.* at p. 9.

8. PMCS has violated § 17-1715-A(5) because the signage placed on the gymnasium floor, the wall of premises B, and at the top of the entrance sign to the property, although not constituting religious objects and/or symbols *per se*, does prominently identify Shawnee Tabernacle Church and streams messages that are clearly religious in nature.

9. PMCS has also violated § 17-1714-A(4) and § 17-1729-A(a)(3) by spending charter school funds for the direct and sole benefit of Shawnee Tabernacle Church and by disbursing public charter school funds for purposes other than those related to the charter school.

10. The above violations individually and collectively constitute material violations of the CSL and support revocation of the school's charter.

#### **IV. Discussion**

##### **A. Procedural Issues**

In its appeal, PMCS raised several procedural arguments.<sup>3</sup> CAB previously held these arguments to be without merit and we adopt our prior reasoning and again conclude that due process and adequate notice were afforded PMCS. *See, Pocono Mountain Charter School v. Pocono Mountain School District*, CAB Docket No. 2010-06, pp. 18-19 (August 5, 2013). These procedural issues were also rejected by Commonwealth Court in its decision. *Pocono Mountain Charter School, Inc. v. Pocono Mountain School District*, 88 A.3d 275 (Pa. Cmwlth. 2014). Thus, they require no further discussion here.

##### **B. Substantive Issues**

The substantive issues in this appeal all involve the relationship between PMCS and the Shawnee Tabernacle Church and whether that relationship comported with law. In the October 6, 2010 adjudication revoking PMCS charter, the School District listed three bases for charter revocation. These bases were:

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<sup>3</sup> PMCS argues it was denied due process because (1) the School District failed to comply with a provision of the school's charter that required the school district to provide PMCS with notice of violations and to allow PMCS 60 days to correct those violations; (2) the revocation motion was oral and only three issues were identified in the minutes of the meeting at which the motion was made and approved; (3) a subsequent written motion sent to PMCS contained twenty-seven (27) reasons for revocation; (4) many of the asserted reasons for revocation were unclear; and (5) the final adjudication did not reference the numbered allegations in the written motion.

1. violation of 24 P.S. §17-1715-A(4), because of PMCS’s strong entanglement with Shawnee Tabernacle Church and its expenditure of substantial charter school funds for the benefit of the church and its pastor;
2. violation of 24 P.S. §17-1715-A(5), because PMCS intentionally exposed its students to religious objects and symbols during the school day; and
3. violation of 24 P.S. §17-1715-A(4) and 24 P.S. §17-1729-A(a)(3), because PMCS disbursed funds for non-charter school purposes and failed to meet generally accepted standards of fiscal management.

(C.R. 4977). These purported reasons for the School District’s revocation of PMCS’s charter will be addressed in the remainder of this discussion and, as explained therein, CAB finds that these violations are substantiated and that the revocation of PMCS charter should be upheld.

**i. Sectarian Operation**

The first basis for the School District’s revocation which must be analyzed is the alleged entanglement between PMCS and Shawnee Tabernacle Church. The backdrop for this analysis is Section 1715-A(4), which provides that “[a] charter school shall be nonsectarian in all operations.” 24 P.S. §17-1715-A(4). This provision of the law has been previously construed and applied by CAB.

The seminal case concerned the Eloise and Edith Academy, in which CAB upheld the denial of the school’s charter application by the Steel Valley and Pittsburgh School Districts on the premise that it was not nonsectarian in its operations. *In re: Eloise and Edith Academy, A Charter School*, CAB Docket No. 1999-13. CAB considered various aspects of the relationship between the Eloise and Edith Charter School and its related

sectarian operations in determining whether such entanglement existed so as to violate the statute. CAB found several factors which established that the charter school was not nonsectarian in all of its operations. First, the primary organizer and potential Chief Executive Officer (CEO) of the charter school was also the CEO of a sectarian day school. Second, both the proposed charter school and the sectarian day school were to share space in a church-owned building and the charter school was to lease the space from the church. *Id.* at 5. Finally, the sectarian school and the charter school were to share certain portions of the church facility and would also share services. For example, the sectarian school was to provide financial and in-kind aid to the charter school. *Id.* at 7. Thus, CAB concluded that the distinction between these two schools and the church was blurred. CAB stated that the relationships between the proposed charter school, the sectarian school and the church “preclude a conclusion that the Charter School would be ‘nonsectarian in all operations’ ....” *Id.* at 13.

In a later case, *Ricci J. Hausley Charter School of Business*, CAB Docket No. 2001-4, the charter applicant was actually a sectarian entity. *Ricci J. Hausley Charter School of Business*, CAB Docket No. 2001-4, at p. 3. The case, however, had similarities to *Eloise and Edith Academy* in that the applicant also operated a sectarian school, and the record established that some facilities would be shared by the schools. *Id.* at 4. Thus, following the precedent set in *Eloise and Edith Academy*, CAB dismissed this appeal because “the cumulative nature of the evidence suggests that ... a sectarian entity was at the time of its Application too strongly entangled with the proposed charter school.” *Id.* at 13.

This precedent is instructive in the instant appeal, even though this appeal involves an existing charter school, which has relationships with a church – the Shawnee Tabernacle Church.<sup>4</sup> In applying the holdings in *Eloise and Edith Academy* and *Ricci J. Hausley* to the facts of this appeal, we find that the charter school was not nonsectarian in all of its operations based upon the entanglement between the charter school and the church. First, Pastor Dennis Bloom is the founder of Shawnee Tabernacle Church, and he served as both Shawnee Tabernacle Church’s Senior Pastor and PMCS’s Chief Executive Officer (“CEO”) since the opening of the charter school until 2010. His wife, the Reverend Grisel Bloom, while serving as Shawnee Tabernacle Church’s First Lady, was also PMCS’s Assistant CEO from the opening of the charter school until 2008. In addition, both of Pastor Bloom’s children also work for the charter school. Lastly, PMCS operates on the grounds of the Shawnee Tabernacle Church and leases a portion of the church facility for school use.

Regarding Pastor Bloom, a 2004 draft audit report of PMCS stated, “it is important to note that Reverend Bloom is a central figure [in the charter school] who has influence and control over the operations and could easily circumvent internal controls that have been put in place.” Pastor Bloom’s exercise of dual control over both PMCS and Shawnee Tabernacle Church has been facilitated by significant turnover among members of PMCS’s Board of Trustees.

As charter school CEO, Pastor Bloom exercised significant influence and control over both school and church operations and oversaw various PMCS expenditures which substantially benefited the church. Regarding these expenditures Pastor Bloom

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<sup>4</sup> Although it might, in retrospect, appear that the approval of PMCS’s charter application in 2003 should have been questioned, the record establishes that many of the issues which have been raised in the course of this revocation proceeding post-dated the granting of the charter.

negotiated or executed legal documents on behalf of both entities and signed checks from both school and church accounts. For example, on June 5, 2003, Pastor Bloom signed the original lease between PMCS and Shawnee Tabernacle Church. Pastor Bloom signed the lease in his capacity as the President of Shawnee Tabernacle Church, even though he was also charter school CEO at that time. Another aspect of entanglement exists under the 2007 Master Lease. The lease gave PMCS use of the leased premises between 7:00 a.m. and 5:00 p.m., Monday through Friday, and only on school days – not during evenings, weekends, school vacation days or the summer break. Insuring that PMCS only utilized the facility during its designated times would require some level of monitoring by the church thus creating undue entanglement between the two entities. CAB therefore concludes that the above constitute improper entanglements by PMCS with a Church, in violation of the Charter School Law, 24 P.S. §17-1715-A(4), which requires that a charter school be nonsectarian in all operations.

The entanglement between PMCS and its landlord, Shawnee Tabernacle Church, is further illustrated by PMCS's payment for an LED sign on which the Shawnee Tabernacle Church was prominently displayed at the top of the sign. Another example of entanglement between the PMCS and the church is the purchase of the church's gym equipment by PMCS for approximately \$40,000, when such equipment is readily available commercially. Moreover, that equipment though purchased by PMCS was not solely used by PMCS.

Based upon the above, CAB finds that PMCS violated section 1715-A(4) of the CSL, that such violation constitutes a material violation and that such violation warrants revocation of PMCS's charter.

**ii. Exposure to Religious Symbols**

Next, CAB must consider the second ground for revocation, whether PMCS violated Section 1715-A(5) by intentionally exposing its students to religious objects and symbols during the school day. The applicable law provides that “[a] charter school shall not ... display religious objects and symbols on the premises of the charter school.” 24 P.S. §17-1715-A(5). CAB is reluctant to expand the category of religious symbols and objects to include church names. However, CAB still finds a violation here because the underlying intent of the law was violated by prominently placing the church name on the sign, the newly constructed building and the gymnasium floor, and by scrolling messages of a clearly religious nature on the electronic message board at the property entrance. The intention of Section 1715-A(5) is to avoid exposing impressionable children who must be in a charter school to items of a clearly religious nature, be it symbols, objects, prayers, devotional exercises or even signage. PMCS, a public school, clearly failed to do this.

Several of the improvements to church-owned facilities paid for by PMCS promoted Shawnee Tabernacle Church. Among such “improvements” was the placement of the church’s name on PMCS’s gymnasium floor, on the exterior of its school building, and purchasing and installing an electronic message board at the driveway into the property. More specifically, in thirty-inch (30”) capital lettering the name “SHAWNEE TABERNACLE” was emblazoned on the gymnasium floor in two locations along the sides of the basketball court, which gymnasium was used by PMCS students. In addition,

in October 2007, PMCS and A+Signs, Inc., entered into an agreement for \$39,200 for the installation of a sign with an electronic message board. Pastor Bloom directly negotiated with A+ Signs, Inc., regarding the payment schedule for the sign, the location of the sign and obtaining the necessary township permit for its installation. The electronic message board was installed right outside the property fence facing the road. The sign features the name, "SHAWNEE TABERNACLE CHURCH," and also included the church's logo at the top. At the bottom, the sign said "Pocono Mountain Charter School." The computerized electronic message board between the two names has been photographed at various times displaying the following messages: "DID YOU REMEMBER JESUS TODAY? HE REMEMBERS YOU"; "COME HOME! . . . GOD"; "JESUS IS THE TRUTH AND THE LIGHT." Despite Pastor Bloom's testimony that PMCS "wanted the sign," the November 2007 PMCS Board of Trustee meeting minutes do not reflect any action being taken to approve the A+ Sign, Inc., agreement or any agreement with Shawnee Tabernacle regarding the placement of the LED sign. Finally, the newly-constructed building at Premises B on the Church property occupied by PMCS has a large sign affixed to its exterior saying "SHAWNEE TABERNACLE" with the church logo.

Thus, the students attending PMCS drove in and out of the school property past a sign reading "SHAWNEE TABERNACLE CHURCH" at the top and seeing messages about Jesus scrolling across the message board beneath the church's name. They then drove up to a building with a sign reading "SHAWNEE TABERNACLE" also containing the church logo. Lastly, during gym or indoor recess they would be on a gymnasium floor prominently displaying the name, "SHAWNEE TABERNACLE."

We find that the above displays of the Shawnee Tabernacle name, the church logo and the messages about Jesus on the message board constitute intentional exposure of students to items of a clearly religious nature by PMCS, that such displays were violative of the CSL and that this violation of law supports the School District's revocation of PMCS's charter.

**iii. Expending Public Funds for Sectarian Purposes**

Finally, we will consider the third ground for revocation, which is whether PMCS violated Sections 1714-A(4) and 1728-A(a)(3) of the CSL by expending charter school funds for the benefit of Shawnee Tabernacle Church and/or failure to meet generally accepted standards of fiscal management. As set forth in law, charter schools are responsible for "disburs[ing] funds for charter purposes only." 24 P.S. §17-1714-A(4). As will be discussed below, CAB concludes that PMCS failed to exercise this responsibility in several respects.

The record in this case establishes numerous instances of Charter School funds being used for the benefit of Shawnee Tabernacle Church. For example, Pastor Bloom testified that he received no salary adjustment or reimbursement for a car lease from Shawnee Tabernacle Church. However, he did have a vehicle provided to him for his use as Senior Pastor. A 2004 draft audit report of PMCS indicated that "on approximately five occasions, the PMCS paid Reverend Bloom's car lease payments; the payments were for approximately \$700 for each payment." These car lease payments should, however, have been paid by Shawnee Tabernacle Church. This issue may have contributed to the auditor's observation that "it is important to note that Reverend Bloom is a central figure [in the charter school] that has influence and control over the

operations and could easily circumvent internal controls that have been put in place.”

Although these payments were reported in the audit, there is no evidence in the record that the church ever repaid PMCS for these expenses.

In addition, under the Second Amended Lease for the school facility PMCS paid Shawnee Tabernacle Church \$18,756.56 each month for a building that was being constructed by the church but was not yet usable. We find that this clearly benefited the church and provided no value to PMCS. Also, regarding the leases, PMCS’s real estate appraiser testified that the 2007 Master Lease between PMCS and Shawnee Tabernacle Church could not be considered an “arms-length transaction” because it was an agreement between two related parties. The appraiser concluded that as of the effective date of his appraisal the fair market “net lease value” of PMCS’s combined leased premises was \$14.50 a square foot. The appraiser’s opinion of value was very close to the actual lease terms of \$14.29 per square foot net, which was the initial rental subject to annual increases. However, PMCS’s appraiser reached his opinion of net lease value as of September 25, 2008 taking into account only the improvements at the property in their condition at that time of his appraisal. He failed to take into account the facts that PMCS had paid approximately \$900,000 to construct various improvements since renewal of its charter in 2006; had paid \$18,756.56 per month in rent for Premises B prior to its completion; and did not have full leased rights to the premises because it was prohibited access during evenings, weekends, school vacations and summer break. Because of these significant omissions in the appraiser’s analysis, it appears that the total amount PMCS has paid to Shawnee Tabernacle Church for the leased premises – rental payment plus the cost of improvements paid for by PMCS – is greatly in excess of fair market value and

provided an unwarranted benefit to the church. Under the 2007 Master Lease PMCS spent over \$900,000 in public funds to make interior and exterior improvements to church-owned property without receiving any abatement or credit from the rent it paid pursuant to its lease.

Another instance where PMCS expenditures benefited a third party is in the area of improvements to the gymnasium. The beneficiary of PMCS's expenditures on the gymnasium was the Tobyhanna Impact Athletic Center ("the Center"), a 501(c)(3) nonprofit corporation. Pastor Bloom's then teenaged daughter, Priscilla Bloom, was the president of the Center. The Center advertised that it offered basketball, volleyball, wrestling, boxing, aerobics, weight-training and after-school programs for a fee in a "state-of-the-art NBA gymnasium." The Center was created to offer after-school programs to the community on Fridays. It used the school gymnasium but paid no rent to PMCS for this use; nor did it reimburse PMCS for any of the cost of utilities used during the time it used the gymnasium. Furthermore, Shawnee Tabernacle Church also uses PMCS's gymnasium every Friday for community outreach. Thus, some of PMCS's costs related to the gymnasium benefit other noncharter school entities in contravention of the CSL.

Regarding the electronic message sign at the entrance to the property, PMCS paid the full cost of the sign. Yet, the sign features the name, "SHAWNEE TABERNACLE CHURCH," and also includes the church logo. The bottom of the sign shows the name "Pocono Mountain Charter School." There is an electronic message board in between the top billing for the Church and the lower billing for PMCS. The electronic message board can be used to display messages. It has been photographed displaying the following

messages: “DID YOU REMEMBER JESUS TODAY? HE REMEMBERS YOU”; “COME HOME! . . . GOD”; “JESUS IS THE TRUTH AND THE LIGHT.” These messages are clearly of a religious nature and intended to benefit the church. Thus, CAB concludes that this sign, which was paid for by PMCS, clearly benefits the church.

The above instances, as well as others in CAB’s factual findings, are material violations of the CSL’s expenditure requirements. These findings support the revocation of PMCS’s charter.

Thus, based upon the findings of fact and conclusions of law set forth above and as discussed in this opinion, the State Charter School Appeal Board makes the following:

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF EDUCATION  
STATE CHARTER SCHOOL APPEAL BOARD**

<b>Pocono Mountain Charter School,</b>	:	
<b>Petitioner</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. 2010-06-A</b>
	:	
<b>Pocono Mountain School District,</b>	:	
<b>Respondent</b>	:	

**ORDER**

**AND NOW**, this 5<sup>th</sup> day of June, 2014, based upon the foregoing and the vote of this Board<sup>5</sup>, the appeal of Pocono Mountain Charter School is **DENIED**. This decision will become effective as of June 21, 2014 in order that the students and teachers at Pocono Mountain Charter School may complete the 2013-2014 school year. At that time, the Pocono Mountain Charter School is directed to dissolve as provided for in the Charter School Law.

For the State Charter School Appeal Board

/s/ Carolyn C. Dumaresq  
Carolyn C. Dumaresq, Chair

Date Mailed: June 5, 2014

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<sup>5</sup> At the Board's meeting of June 3, 2014 the Board voted to deny the appeal by a vote of 5-0 with Board Members Barker, Dumaresq, Henry, Munger and Yanyanin voting.