

**NEW JERSEY DEPARTMENT OF EDUCATION
OFFICE OF CHARTER SCHOOLS**

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**In the Matter of the Tenure Hearing of
Joan Tucker, Respondent**

NJDOE Docket No. 2011-1

**Trenton Community Charter School,
Mercer County, Petitioner**

**Arbitrator: Joseph Licata
Consent Award
Issued: June 29, 2011**

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INTRODUCTION

On April 6, 2011, the undersigned Arbitrator was designated by the New Jersey Department of Education, Office of Charter Schools, to preside over a dispute involving the removal of Respondent, Joan Tucker, from her position as third grade teacher based on Tenure Charges as certified to on August 24, 2010 by the Board of Trustees of Trenton Community Charter School, Petitioner.

On May 5 and 12, 2011, I conducted an arbitration hearing, pursuant to N.J.A.C. 6A:11-6.3 and N.J.S.A. 2A:24-1 et. seq. The locale of the hearing was the New Jersey Department of Education Office, located at 100 Riverview Plaza, Trenton, New Jersey. Gregory G. Johnson, Esq. of Wong Fleming, P.C. appeared before me on behalf of the Petitioner. Arnold M. Mellk, Esq. of Wills, O'Neill & Mellk appeared before me on behalf of Respondent Tucker. At all times, the parties were expertly represented by Counsel.

After opening the record on May 12, 2011, in my presence, the parties reached a full and final resolution of all issues presented by way of NJDOE Docket No. 2011-1. A

true copy of the Transcript of Proceedings of the May 12, 2011 settlement is attached to this Consent Award as Exhibit A, and incorporated by reference herein. On May 23, 2011, consistent with the terms of the settlement, Respondent tendered a letter of resignation, a true copy of which is attached hereto as Exhibit B.

CONSENT AWARD

In exchange for the mutual agreements, promises, and covenants set forth in the attached Transcript copy, Exhibit A, the Tenure Charges Certified to by Petitioner's Board of Trustees on August 24, 2011 and issued against Respondent, Joan Tucker are hereby dismissed. I am satisfied that the settlement and dismissal of this matter complies with the public interest, including the welfare of the students of Trenton Community Charter School. The within Consent Award is final and binding upon the Petitioner and Respondent. This Consent Award is subject to challenge only in a judicial forum pursuant to N.J.S.A. 2A:24-7, et. seq.

Respectfully submitted,


Joseph Licata

Dated: June 29, 2011

State of New Jersey)
):SS
County of Bergen)

On the 29th day of June, 2011, before me personally came and appeared Joseph Licata, to me known and known to me to be the person described herein who executed the foregoing instrument and he acknowledged to me that he executed the same.


Notary Public

JAMES JISOO KIM
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES AUGUST 22, 2011

EXHIBIT A

DEPARTMENT OF EDUCATION

TRENTON, NEW JERSEY

CHARTER TEN.

DOCKET NO. 2011-11

1 IN THE MATTER OF: :

2 TENURE HEARING OF JOAN TUCKER, :

3 Respondent : CIVIL

4 vs. : ACTION

5 TRENTON COMMUNITY CHARTER SCHOOL, :

6 MERCER COUNTY, :

7 Petitioners,

8 B E F O R E: JOSEPH LICATA, Arbitrator

9 Department of Education

10 100 Riverview Plaza - 4th Floor

11 Trenton, New Jersey

12 May 12, 2011 - 11:00 a.m.

13 GUY J. RENZI & ASSOCIATES

14 Certified Court Reporters & Videographers

15 Golden Crest Corporate Center

16 2277 State Hwy #33, Suite 410

17 Trenton, New Jersey 08690

18 TEL: (609) 989-9199 TOLL FREE: (800) 368-7652

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A P P E A R A N C E S:

WILLS, O'NEILL & MELLK, ESQS.

BY: ARNOLD M. MELLK, ESQ.

Mellk@yahoo.com
10 Nassau Street
P.O. Box 614
Princeton, New Jersey 08542
Tel: (609) 924-0700

For the Respondents.

WONG & FLEMING, P.C.

BY: GREGORY G. JOHNSON, ESQ.

Gjohnson@wongfleming.com
821 Alexander Road
Suite 150
P.O. Box 3663
Princeton, New Jersey 08543
Tel: (609) 951-9520

For the Petitioner.

ALSO PRESENT:

Tim Ryan
Christi N. Pemberton

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(NO EXHIBITS MARKED)

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DESCRIPTION	PAGE-LINE
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(NO REQUESTS)

1 THE ARBITRATOR: Good morning. My name
2 is Joseph Licata, I am the Arbitrator in a
3 continuation of the matter of Joan Tucker Tenure
4 Hearing versus Trenton Community Charter School.

5 I ask counsel to please
6 reintroduce themselves, beginning with the
7 Charter School

8 MR. JOHNSON: Good morning. Gregory
9 Johnson with the firm of Wong Fleming. We
10 represent the Petitioner, the Trenton Community
11 Charter School and I have with me, our resource
12 person and witness, Christi Pemberton, the
13 Principal of the school

14 THE ARBITRATOR: Good morning
15 counsel and Ms. Pemberton.

16 MR. MELLK: Arnold Mellk; Wills,
17 O'Neill & Mellk based in New Jersey on behalf of
18 Respondent, Joan Tucker. With me is respondent
19 Ms. Tucker and Tim Ryan, UniServe representative
20 from New Jersey Education Association who is my
21 resource person.

22 THE ARBITRATOR: Good morning
23 gentlemen and Ms. Tucker. My understanding is
24 the parties have off-the-record resolved the
25 differences underlying this dispute; is that

1 accurate, Mr. Johnson

2 MR. JOHNSON: Yes, we have a
3 proposed settlement that is acceptable to the
4 Trenton Community Charter School through
5 Principal Pemberton as the lead person.

6 THE ARBITRATOR: Mr. Mellk, is it my
7 understanding that you have reached a settlement
8 as well?

9 MR. MELLK: Yes, Mr. Arbitrator.

10 THE ARBITRATOR: What I think we
11 should do is one the attorneys will read off the
12 Terms of the Settlement for the other's review
13 and comment, and once we have the terms
14 satisfactorily established on the record, we will
15 conclude and one of the parties will have the
16 responsibility of preparing an Order of
17 Settlement for my signature attaching the
18 Settlement Agreement and I will be able to close
19 out the matter with the Department of Education
20 in that fashion.

21 MR. MELLK: Okay.

22 THE ARBITRATOR: Which counsel would
23 like to read the terms?

24 MR. MELLK: I will start and
25 Mr. Johnson, interrupt me if you disagree.

1 MR. MELLK: The terms of the
2 Settlement for consideration by the Arbitrator
3 for the issuance of his award of settlement are
4 as follows:

5 That the Board will dismiss the
6 tenure charges. Ms. Tucker will waive any claim
7 to the four month's pay which were withheld from
8 her during the course of this proceeding.

9 Ms. Tucker will issue a written
10 Letter of Resignation effective June 1, 2011
11 which will be attached to the proposed order of
12 award by the Arbitrator and the matter will
13 thereby be deemed closed and resolved.

14 THE ARBITRATOR: Okay.

15 MR. MELLK: Did I miss any points
16 Mr. Johnson?

17 MR. JOHNSON: Resignation will be
18 effective June 1 --

19 MR. MELLK: Right.

20 MR. JOHNSON: -- 2011. And does your
21 client have any school property or anything of
22 that nature?

23 MS. TUCKER: No I do not.

24 MR. MELLK: No.

25 MR. JOHNSON: No swipe cards or

1 anything like that.

2 MS. PEMBERTON: No.

3 MR. JOHNSON: Fine. So those are
4 the basic terms that are acceptable to the
5 Charter School and I will prepare a Settlement
6 Agreement with the Order. I will make sure that
7 I will draft it, I will forward it on to you for
8 review, I can get that to you before the end of
9 the day.

10 MR. MELLK: Great.

11 MR. JOHNSON: We should have it to
12 you by tomorrow morning.

13 THE ARBITRATOR: Okay. What I'd ask
14 the parties to do, we are proceeding under the
15 Arbitration Statute as well as the Title 6A,
16 under the Arbitration Statute arbitrators could
17 sign off on consent awards, so the proposed form
18 of order should really have a title saying
19 Consent Award and I will then put an introductory
20 language into the Consent Award and then I will
21 have it signed and notarized attaching this
22 Settlement as the body of the Consent Award.

23 MR. JOHNSON: Sure.

24 THE ARBITRATOR: We will proceed
25 under the Arbitration Statute, the regulation

1 does not provide any real guidance, so I will
2 proceed under the Arbitration Statute and issue a
3 Consent Award in this matter, that is the parties
4 written settlement signed off on by the parties
5 and then I will put that to the Consent Award and
6 then I will have it notarized and it will be the
7 final document in matter.

8 MR. MELLK: And the final decision.

9 THE ARBITRATOR: And the final
10 decision.

11 MR. JOHNSON: Sure.

12 THE ARBITRATOR: I think the only
13 thing I would ask Mr. Mellk, is if you could, at
14 the question Ms. Tucker on her understanding and
15 her acceptance of the terms and her satisfaction
16 with the representation.

17 J O A N T U C K E R, sworn.

18 EXAMINATION BY MR. MELLK:

19 Q. Ms. Tucker, you the respondent in
20 this matter are you not?

21 A. Yes.

22 Q. And I am your counsel, am I not?

23 A. Yes.

24 Q. You have been present while we have
25 put on the record the terms of a Settlement of

1 the tenure charges against you?

2 A. Yes.

3 Q. And the charges are to be dismissed
4 based upon your agreement to waive 120 days pay
5 which has previously been withheld from you?

6 A. Yes.

7 Q. That you will tender a written
8 resignation effective June 1, 2011 from your
9 employment with the Trenton Community Charter
10 School?

11 A. Yes.

12 Q. Have you entered into this
13 Settlement Agreement freely and willingly?

14 A. Yes.

15 Q. Have you been coerced by anyone?

16 A. No.

17 Q. Have you been under any duress to
18 accept the terms of this charge?

19 A. No.

20 Q. Are you satisfied with my
21 representation during these proceedings?

22 A. Yes.

23 Q. Okay.

24 THE ARBITRATOR: Thank you.

25 MR. MELLK: Thank you.

1 THE ARBITRATOR: All parties are in
2 agreement that the Consent Award is going to
3 resolve on all the charges specifications and
4 that neither party is making an admission of
5 wrongdoing, guilt or innocence; that is the
6 understanding.

7 MR. MELLK: Yes.

8 MR. JOHNSON: That's correct.

9 THE ARBITRATOR: So it is without
10 prejudice to either parties position coming into
11 this matter.

12 MR. JOHNSON: Sure.

13 MR. MELLK: We will have that in the
14 order.

15 THE ARBITRATOR: Mr. Mellk did
16 provide me with the transcript from the first day
17 of the proceeding and the transcript that comes
18 down from these proceedings.

19 MR. MELLK: Yes.

20 THE ARBITRATOR: Anything else to be
21 said on the record Mr. Johnson?

22 MR. JOHNSON: I would like to thank
23 you for serving as the arbitrator and I think
24 this has been resolved and hopefully the future
25 is bright for both.

1 THE ARBITRATOR: My pleasure, thank
2 you. Mr. Mellk, anything you want to close with?

3 MR. MELLK: No. I appreciate very
4 much your attention to detail in this matter,
5 your involvement helped us resolve it, quite
6 frankly, and I am pleased along with Mr. Johnson
7 dealing with Charter School Tenure Charter Number
8 One.

9 THE ARBITRATOR: It is my pleasure
10 to serve the parties and as soon as I receive the
11 information from counsel, I will sign the Order
12 and send it out to you and a copy will go to the
13 Department of Education. Thank you everyone for
14 your participation in the hearing.

15 MR. MELLK: Thank you.

16 (Whereupon the hearing was concluded
17 at 11:17 a.m.)

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C E R T I F I C A T E

I, LINDA L. PSYLLOS, a Certified Court Reporter, License XI 1184, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Linda L. Psyllos



Notary Public of the State of New Jersey

My Commission Expires June 30, 2012

Dated: May 12, 2011

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EXHIBIT B

Joan Tucker
126 E. Maple Ave., Apt. C24
Morrisville, Pennsylvania, 19067

May 23, 2011

Christie Pemberton, Principal
Trenton Community Charter School
363 West State Street
Trenton, New Jersey 08618

Re: Letter of Resignation

Dear Principal Pemberton,

I hereby resign from my teaching position with the Trenton Community Charter School, effective June 1, 2011.


Joan Tucker