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IN THE MATTER OF THE TENURE
HEARING OF CORA BIRNBERG,

TRENTON COMMUNITY CHARTER
SCHOOL, MERCER COUNTY.

NJ DOE Dkt. No. 2011-2

CORA BIRNBERG,

Petitioner,

v.

TRENTON COMMUNITY CHARTER
SCHOOL,

Respondent.

OAL Dkt. No. EDU 03907-2011 S

GLOBAL SETTLEMENT AGREEMENT AND GENERAL MUTUAL RELEASES

This Global Settlement Agreement and General Mutual Release (the "Agreement") is made and entered into by and between Trenton Community Charter School and any of its affiliated entities, predecessors, successors, divisions, insurers, reinsurers, or their respective predecessors, successors and assigns (as well as their respective past or present officers,

directors, trustees, agents, representatives or employees and their respective successors and assigns and personal or legal representatives) (collectively "TCCS"), and the individual Cora Birnberg, [REDACTED], ("Birnberg") to settle any claims which either party may have, whether known or unknown, including but not limited to, all claims which have been or which could have been asserted by TCCS in the matter entitled, IMO the Tenure Hearing of Cora Birnberg, NJ DOE Docket No 2011-2 ("Tenure Charges") and Cora Birnberg, Petitioner, v. Trenton Community Charter School Board of Trustees, Respondent, OAL Docket No.: EDU 03907-2011 and Agency Ref. No.: 67-3-11 ("Petition of Appeal") (collectively the "Actions"). This Agreement is effective as of the last date signed below. In consideration of the promises set forth herein, the parties hereby agree as follows:

WHEREAS Birnberg was a tenured Business Manager employed by TCCS;

WHEREAS on or about September 14, 2010, TCCS certified Tenure Charges against Cora Birnberg alleging conduct unbecoming and insubordination pursuant to N.J.S.A 18A:6-11 and N.J.A.C. 6A:11-6.2;

WHEREAS Birnberg has denied the Charges and is entitled to contest the Charges at a full Arbitration Hearing under the law governing Charter Schools;

WHEREAS in light of the nature of the charges, Birnberg's denials, and potential for protracted litigation, it is in the best interest of the parties to resolve this matter amicably without the need for the issuing of a ruling or an award in this matter pursuant to the provisions of N.J.A.C. 6A:11-6.3;

WHEREAS on or about December 2, 2010 Birnberg filed a Petition of Appeal challenging the abolishment of her position as Business Manager at TCCS;

WHEREAS on or about December 17, 2010 TCCS filed an Answer to the Petition of Appeal denying any wrongdoing. A hearing is now scheduled for January 9, 2012;

WHEREAS the parties seek to resolve and settle both the Petition of Appeal and the Tenure Charges; and

NOW THEREFORE, for and in consideration of the covenants and undertakings hereinafter set forth, and for other good and valuable consideration, which each party hereby acknowledges, it is agreed as follows:

1. Letter of Resignation from Birnberg to TCCS. Birnberg has agreed to resign from her position as Business Manager from TCCS effective as of September 14, 2010 and said Letter of Resignation is attached as Exhibit A to this Agreement. Said Letter of Resignation shall be included in Birnberg's personnel file at TCCS, while this Agreement shall be maintained separately at TCCS and except in the event of an express inquiry as provided below, is understood not to constitute a part of her personnel record for purposes of any inquiry into same. Nothing herein shall be construed as contrary to the Open Public Records Act, Sec. 47:1A-1 *et seq.*, and TCCS's obligations thereunder. Should there be any inquiry made to TCCS regarding the Tenure Charges, TCCS shall include in its response that the Tenure Charges have been withdrawn.

2. Waiver of Salary and Benefits. Birnberg agrees to waive any and all rights to any and all salary and benefits, including, but not limited to medical, dental, vision and prescription

as well as any pension benefits, in perpetuity from the date of resignation of September 14, 2010.

3. Withdrawal of Tenure Charges by TCCS. Upon receipt of this signed Agreement and the signed Letter of Resignation as attached to this Agreement as Exhibit A, TCCS shall withdraw the Tenure Charges. A copy of the letter of withdrawal shall be provided to Ms. Birnberg. The said Charges will be removed from Ms. Birnberg's personnel file. Ms. Birnberg shall not request a letter of reference from TCCS.

4. Withdrawal of Petition of Appeal by Birnberg. Upon receipt of this signed Agreement, Ms. Birnberg shall withdraw the Petition of Appeal. A copy of the letter of withdrawal shall be provided to TCCS.

5. General and Mutual Releases. In consideration for the foregoing, Ms. Birnberg (for herself and present and former agents, attorneys, successors and assigns and any other person or entity claiming by, through or under any of them), and TCCS do hereby agree to and do hereby irrevocably, generally and unconditionally remise, release, acquit and forever discharge each other, from any and all matters, claims, charges, demands, damages, causes of action, debts, liabilities, controversies, judgments, and suits of every kind and nature whatsoever, foreseen or unforeseen, known or unknown, based on any act, event, or omission occurring before or through the effective date of this Agreement, including, but not limited to, any events related to, arising out of or in connection with Ms. Birnberg's employment with, or resignation of employment from, TCCS. Ms. Birnberg specifically waives, releases and gives up any and all claims arising from or relating to any employment with TCCS based on any act, event, or omission occurring before or through the effective date of this Agreement, including, but not

limited to: any claim which could be asserted now or in the future under (a) tenure claims; (b) Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), 29 U.S.C. § 1161 *et seq.*; (c) the common law, including, but not limited to, theories of tort or contract (express or implied), assault, battery, defamation, discrimination, negligent supervision, intentional or negligent infliction of emotional distress, negligent hire/retention/supervision, tortious interference with economic or prospective advantage, wrongful termination, breach of implied covenant of good faith and fair dealing, or violation of public policy; (d) any policies, practices, or procedures of TCCS; (e) any federal, state or local law, statute or regulation expressly including, but not limited to: the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 *et seq.*, the Rehabilitation Act of 1973, 29 U.S.C. §701 *et seq.*; the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. §651 *et seq.*; the Worker Adjustment and Retraining Notification Act, 29 U.S.C. §2101, *et seq.*; the Fair Credit Reporting Act, 15 U.S.C. §1681 *et seq.*, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et seq.* as amended, 42 U.S.C. §§ 1981 through 1988, the Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.*, the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.*, the New Jersey Family Leave Act, N.J.S.A. 34:11B-1 *et seq.*, the anti-retaliatory provisions of the New Jersey Workers’ Compensation Act, N.J.S.A. 34:15-39.1, the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, *et seq.*, the New Jersey Wage Payment Act, N.J.S.A. 34:11-4.1 *et seq.*, the New Jersey State Wage and Hour Law, N.J.S.A. 34:11-56a *et seq.*, the New Jersey Equal Pay Act, N.J.S.A. 34:11-

56.1, *et seq.* and the Equal Pay Act, 29 U.S.C. § 206(d) *et seq.*; (f) any claims for personal injury, economic or other wage-based damages, compensatory or punitive damages or attorneys' fees and costs; (g) any contract of employment, express or implied; (h) any provision of the Constitution of the United States, the State of New Jersey, or any other state; and (i) any provision of any other law, common or statutory, or regulations, of the United States, New Jersey, any other state, or any county, city or municipality. Both parties agree that the releases as set forth in this Agreement may be pled as a complete bar to any action or suit before any court or administrative body regarding any claim released herein up to the date of this Agreement.

6. Enforcement of Agreement. Both parties agree that the releases as set forth in this Agreement, which both parties are granting, does not include or cover claims arising (i) out of the enforcement of this Agreement, or (ii) after the date this Agreement is signed.

7. Covenant Not to Sue. Birnberg represents that with the exception of the Petition of Appeal, she has no pending lawsuits, charges or other claims of any nature whatsoever against TCCS in any state or federal court, or before any agency or other administrative body. Birnberg further agrees that to the fullest extent permitted by law, she will not file suit or otherwise submit any other charge, claim, complaint, or action to any agency, court, organization, or judicial forum (nor will she permit any person, group of persons, or organization to take such action on her behalf) against TCCS arising out of any actions or non-actions that have occurred on the part of TCCS through the date of this Agreement. Said claims, complaints, and actions include, but are not limited to, any claims Birnberg may have arising out of or relating to her employment with, or resignation of employment from, TCCS, any conduct occurring during the course of

defending or in connection with the Actions or negotiation and execution of this Agreement, any claim of unjust or tortious discharge, any common-law claim (including but not limited to fraud, negligence, intentional or negligent infliction of emotional distress, negligent hire/retention/supervision, or defamation), or any claims of violations arising under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 *et seq.*, the Rehabilitation Act of 1973, 29 U.S.C. § 701 *et seq.*; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.*; the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101, *et seq.*; the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et seq.* as amended, 42 U.S.C. §§ 1981 through 1988, the Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.*, the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.*, the New Jersey Family Leave Act, N.J.S.A. 34:11B-1 *et seq.*, the anti-retaliatory provisions of the New Jersey Workers' Compensation Act, N.J.S.A. 34:15-39.1, the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, *et seq.*, the New Jersey Wage Payment Act, N.J.S.A. 34:11-4.1 *et seq.*, the New Jersey State Wage and Hour Law, N.J.S.A. 34:11-56a *et seq.*, the New Jersey Equal Pay Act, N.J.S.A. 34:11-56.1, *et seq.* and the Equal Pay Act, 29 U.S.C. § 206(d) *et seq.*), the Consolidated Omnibus Budget Reconciliation Act of 1985("COBRA"), 29 U.S.C. § 1161 *et seq.*, and any provision of any other law, common or statutory, or regulations, of the United States, New Jersey, any other state, or any county, city or municipality.

8. No Assistance Unless Required By Law. To the fullest extent permitted by law, Birnberg agrees that she will refrain from assisting any person or providing any information to any person concerning any of the facts relating to her employment at, or resignation of employment from, TCCS, or any matter involving TCCS absent a lawful subpoena or judicial process. Should Birnberg receive any such subpoena or judicial process, Birnberg shall notify TCCS within 48 hours of receipt, at the following addresses: TCCS c/o Gregory Johnson, Esq. Wong Fleming, P.C., 821 Alexander Road, Suite 150, Princeton, New Jersey 08540.

9. Non-Admission. The parties to this Agreement agree that nothing herein constitutes an admission by any party hereto of any wrongdoing, either in violation of an applicable law or otherwise, and that nothing in this Agreement is to be construed as such by any person. TCCS specifically denies that it has ever committed any wrongdoing whatsoever with respect to Birnberg and further denies that it is liable to Birnberg for damages of any kind.

10. No Re-Employment. As an inducement for TCCS to enter this Agreement, Birnberg hereby waives any and all rights to reapply for, or otherwise seek, employment with TCCS and specifically promises not to apply for or accept future employment, or seek retention as a consultant or other type of non-payroll worker, with TCCS, its divisions, or affiliated entities, or any successor thereto.

11. Non-Disparagement. Birnberg shall not make any derogatory or disparaging statements to anyone regarding TCCS. Birnberg further agrees that she will not take any action intended, or which may reasonably be expected, directly or indirectly, to impair the goodwill,

reputation or good name of TCCS. Notwithstanding the foregoing, Birnberg may testify truthfully, whether or not such testimony is deemed disparaging, if subpoenaed, to enforce this Agreement (if this Agreement is allegedly breached by any of the parties), or if otherwise legally required to testify.

12. Consultation with Attorney. Birnberg hereby acknowledges that she has consulted with, or had adequate opportunity to consult with, an attorney of her choice prior to executing this Agreement.

13. Knowing and Voluntary Agreement. Birnberg acknowledges that she is freely and voluntarily executing this Agreement as a conscious act of her own free will. Birnberg also acknowledges that she has read this Agreement and that she understands all of the provisions herein. Birnberg also represents that she has no legal impediments (including bankruptcies) to fully and completely settling all claims released herein and to signing this Agreement.

14. Entire Agreement and Severability. The parties hereto agree that this Agreement may not be modified, altered, or changed except by a written agreement signed by the parties hereto. The parties further acknowledge that this constitutes the entire agreement between them, superseding all prior written and oral agreements. If any provision of this Agreement is held to be invalid, the remaining provisions shall remain in full force and effect.

15. Binding Effect. This Agreement shall be binding on and inure to the benefit of Birnberg; Birnberg's attorneys, heirs, executors, administrators, representatives, successors and assigns; TCCS and TCCS's affiliated entities, predecessors, divisions, or successors, officers, directors, agents, attorneys, employees, administrators, representatives and assigns.

16. Effect of Copies. Separate copies of this document shall constitute original documents which may be signed separately but which together will constitute one single agreement.

17. No Reliance. The parties have not relied on any representations, promises, or agreements of any kind made to them in connection with this Agreement, except for those set forth in the Agreement.

18. Attorneys' Fees and Costs in Event of Breach. All parties agree to bear their respective costs and attorneys' fees in the Action. However, in the event any litigation arises out of the alleged breach of this Agreement, the party prevailing with respect to said litigation shall be entitled to reasonable attorneys' fees and expenses.

19. Waiver. The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver thereof nor deprive that party of the right thereafter to insist upon strict adherence to that term. No waiver or modification of this Agreement shall be binding unless it is in writing and signed by the parties hereto, and expressly states that it is a waiver or modification of this Agreement.

20. Interpretation. Birnberg and TCCS agree and acknowledge that they, and/or their counsel, have reviewed and negotiated this Agreement and that the usual rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

21. Headings and Syntax. The headings set forth in this Agreement are for

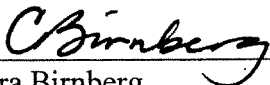
convenience and reference only and are not intended to modify, limit, describe or affect in any way the content, scope or intent of this Agreement. All references made and pronouns used shall be construed in the singular or the plural and in such gender as common sense and circumstances require.

22. Authority. The parties executing this Agreement represent and warrant that they do so with full legal authority including, in the case of TCCS, that the appropriate officers and directors have reviewed and approved this Agreement in accordance with applicable bylaws and law.

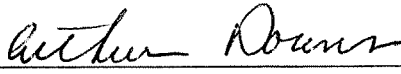
23. Applicable Laws. The laws of the State of New Jersey shall govern the interpretation and enforcement of this Agreement.

FOR THE EMPLOYEE

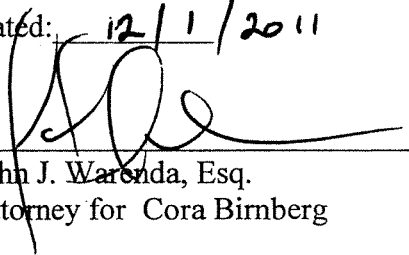
FOR THE TRENTON COMMUNITY CHARTER SCHOOL



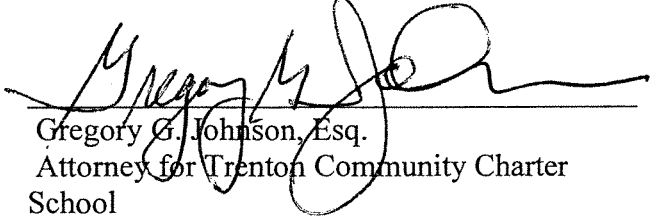
Cora Birnberg



Arthur Downs, Vice President, Trenton
Community Charter School

Dated: 12/1/2011


John J. Warenda, Esq.
Attorney for Cora Birnberg

Dated: November 7, 2011


Gregory G. Johnson, Esq.
Attorney for Trenton Community Charter
School

Dated: December 1, 2011

Dated: November 7, 2011

EXHIBIT A

July 11, 2011

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

Dear Ms. Pemberton:

I hereby resign my tenured position as Business Manager with TCCS effective as of
September 14, 2010.

Very truly yours,

A handwritten signature in black ink, appearing to read 'C. Birnberg', with a stylized flourish at the end.

Cora Birnberg