

February 28, 2012

Hon. Dennis M. Walcott
Chancellor
New York City Public Schools
Department of Education
52 Chambers Street, Room 314
New York, NY 10007

Re: Summit Restaurant Repairs, Inc.
SCI Case #2011-5538

Dear Chancellor Walcott:

An investigation conducted by this office has substantiated that Department of Education (“DOE”) vendor Summit Restaurant Repairs, Inc. submitted fraudulent documents, purportedly emanating from parts suppliers, in order to avoid being assessed financial penalties for failing to complete repairs within the time period required by the contract.

This investigation began in December 2011, when Division of School Food (“School Food”) Director of Services Dillard Campbell contacted the office of the Special Commissioner of Investigation (“SCI”) and lodged a complaint against Summit Restaurant Repairs, Inc. (“Summit”).

SCI investigators met with Director Campbell who said that Summit was one of four vendors under a compliance contract with the DOE to repair cafeteria and kitchen equipment in schools. Campbell explained that an equipment problem would be reported to the district office which would open a work order and send an e-mail message to the vendor. The vendor would have 24 hours to respond to the school and diagnose the problem; if the repair was not completed within five business days, then the vendor would be assessed a \$100 penalty – known as liquidated damages – for every business day that the repair order remained open. Campbell added that, when the repair was completed, the kitchen supervisor signed off on the work order, and a copy was sent to the district office to be closed out. Any liquidated damages would be subtracted from the

vendor's payment. According to Campbell, he learned from Supervisor of Equipment Services Inna Proudnikov that Summit had submitted an unusually high number of letters from Beverage-Air, claiming back ordered parts, to explain Summit's untimely compliance with the contract.

SCI investigators spoke with Supervisor Proudnikov who said that she had been scrutinizing the paperwork submitted by Summit because School Food had received complaints about the vendor's service. Proudnikov added that Summit did not adhere to the procedure to be followed when a repair part was not available. Proudnikov explained that the vendor should submit a letter from the supplier, to show that the part was on back order, and request an extension of the five business day requirement, in order to stop the clock on the liquidated damages. According to Proudnikov, Summit did not submit the letters from Beverage-Air, indicating that parts were on back order, until the company had been assessed liquidated damages and received a lesser payment than the amount billed. Beverage-Air Manager of Technical Services Loran Tucker informed Proudnikov that Beverage-Air did not generate the letters and that Summit was not a Beverage-Air customer.

The assigned SCI investigator contacted Beverage-Air Manager of Technical Services Tucker and faxed copies of the letters in question for his review. Tucker responded that the letters were not generated by Beverage-Air and the company sent no such letter to Summit. Tucker also reported that the Beverage-Air letterhead on the Summit submissions was obsolete and that "Jonathan Grodano," who purportedly authored the letters as the "Parts Manager," was unknown to the company and was not employed there. Moreover, Summit did not have an account with Beverage-Air.

In an interview with investigators from this office, Summit President Paul Pachuta confirmed that the company entered into a compliance contract with the DOE in May 2011. Pachuta acknowledged the requirement that the vendor diagnose a refrigeration problem within 24 hours of opening a work order and diagnose a heating or cooling problem within 48 hours of opening a work order. Pachuta also acknowledged that the company then had five business days to repair the problem or be assessed \$100 in liquidated damages for every day Summit was not in compliance.

Pachuta asserted that the computer program used for the compliance contract paperwork was new and that the office staff was not familiar with the use of the program. Pachuta maintained that, as a result, there were times when Summit was not able to upload letters for back ordered parts and then request an extension of time to avoid liquidated damages. Pachuta said that he had to hire extra office personnel to help with the DOE contract work. Pachuta added that Office Worker Alvin Ramos handled most of the compliance contract paperwork.

In an interview with investigators from this office, Office Worker Ramos also asserted that Summit had to hire extra personnel to help with the work associated with the DOE contract. Ramos said that the DOE required that letters submitted to explain a delay in complying with a contract job be issued on the supplier's letterhead. Ramos claimed that it was hard to keep up with the paperwork and eventually he realized that the DOE was paying Summit less money than was invoiced. Ramos explained that he began to submit letters to School Food in order to contest the liquidated damages. Ramos maintained that the letters claiming back ordered parts, which he submitted to School Food, originally were sent by e-mail from PELCO, the parts division of Prince Electric Corp., the supply house for Summit. Ramos said that he then uploaded the letters into the DOE system so that Summit would not be assessed liquidated damages.

The assigned SCI investigator received an e-mail message from School Food Director of Services Campbell who questioned the validity of a document written on letterhead from "Metro," purportedly emanating from InterMetro Industries, which Summit submitted to avoid liquidated damages. Campbell also forwarded a letter from InterMetro Industries which indicated that Summit did not have an account with the company and that InterMetro Industries did not send the letter to Summit.

SCI investigators spoke with Prince Electric Corp. ("Prince") President Cedomir Mara who reviewed the letters submitted by Summit which Ramos asserted had come from PELCO. Mara responded that PELCO did not generate the letters and did not send the documents to Summit. Mara added that PELCO did not have access to Beverage-Air letterhead or Metro letterhead. According to Mara, a customer who requested a letter for back ordered parts would receive that letter on PELCO letterhead.

In a second interview with investigators from this office, Summit President Paul Pachuta reported that, after SCI investigators questioned him about the validity of the letters from Beverage-Air, he called a staff meeting and, in the course of it, learned that all of the letters were fraudulent. Pachuta asserted that the letters were created by an unidentified Summit employee and Office Worker Ramos then unknowingly forwarded the documentation to School Food in response to the liquidated damages incurred by the company. According to Pachuta, he did not condone the fraudulent letters, but understood that the staff was frustrated by the liquidated damages charges. Pachuta claimed that he did not know Summit was submitting fraudulent letters to School Food and that it was discovered as a result of the investigation.

The assigned investigator received an e-mail message from Supervisor of Equipment Services Proudnikov who reported that School Food had waived \$27,000 of liquidated damages for Summit because Summit had submitted the fraudulent letters about back ordered parts: \$22,300 as a result of the Beverage-Air letters, and \$4,700 based on the letters from Metro.

The assigned SCI investigator received an additional e-mail message from School Food Director of Services Campbell, which contained a letter, submitted by Summit and purportedly sent by another company, Hobart, claiming that parts were on back order. Campbell also forwarded an e-mail message from the Hobart New York City Assistant Branch Manager who reported that Hobart did not send the letter to Summit, that "Robert Munder," who signed the letter as "Hobart Parts Manager," was not a Hobart employee, and that the item claimed to be on back order was available.

It is the recommendation of this office that the DOE stop doing business with Summit Restaurant Repairs, Inc. and that this matter be considered should Summit seek work with the City school system in the future. In addition, the DOE should recover the \$27,000 in liquidated damages which should not have been waived for Summit.

We are referring our findings to Director Marla G. Simpson of the Mayor's Office of Contract Services for whatever action she deems appropriate.

We are referring our findings to Queens County District Attorney Richard A. Brown for whatever action he deems appropriate.

We are forwarding a copy of this letter and of our report concerning this investigation to the Office of Legal Services. Should you have any inquiries regarding the above, please contact First Deputy Commissioner Regina Loughran, the attorney assigned to the case. She can be reached at (212) 510-1426. Please notify First Deputy Commissioner Loughran within 30 days of receipt of this letter of what, if any, action has been taken or is contemplated regarding this investigation. Thank you for your attention to this matter.

Sincerely,

RICHARD J. CONDON
Special Commissioner
of Investigation for the
New York City School District

By: _____

Regina A. Loughran
First Deputy Commissioner

RJC:RAL:gm

c: Michael Best, Esq.
Theresa Europe, Esq.