

CITY OF NEW YORK
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

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VIA ELECTRONIC MAIL

February 28, 2024

Hon. David C. Banks
Chancellor
New York City Public Schools
Department of Education
52 Chambers Street, Room 314
New York, NY 10007

Re: Dwayne Johnson
SCI Case #: 2019-2262

Dear Chancellor Banks:

An investigation conducted jointly by this office and the United States Department of Justice, Anti-Trust Division (“DOJ”) has substantiated that Dwayne Johnson (“Johnson”), a former employee of New York City Department of Education (“DOE”) vendors BenQ Corporation (“BenQ”) and VWR International (“VWR”), engaged in the manipulation of bids (known as “bid rigging”) for DOE contracts in order to secure those contracts for BenQ and VWR at prices above those that may have been secured with an open and competitive bidding process.¹

I. Investigation & Findings:

The investigation began in March 2019, when the office of the Special Commissioner of Investigation for the New York City School District (“SCI”) received a complaint from an attorney (“Attorney A”) for a confidential DOE vendor (“Confidential Vendor A”) who reported possible bid rigging by Vendors VWR; Universal Learning Solutions, LLC (“Universal”); and Blackhawk Group, LLC

¹ Johnson is no longer employed by BenQ or VWR. Johnson pleaded guilty to violating one count of the Sherman Anti-Trust Act, 15 U.S.C. §1, on February 15, 2023, in the United States District Court for the Southern District of New York, and was sentenced on September 7, 2023, to two years of supervised release with a condition of six months of home detention and a fine of \$20,000.00.

(“Blackhawk”). Attorney A reported that the three companies might be colluding in supplying bids on Triumph Board brand interactive electronic presentation screens (“Triumph Boards”) to the DOE.²

a. FAMIS and the DOE Procurement Procedure

DOE’s Financial Accounting Management Information System (“FAMIS”) contains a catalog of goods commonly used by schools whose cost has previously been agreed upon by the DOE and various suppliers. These items can be ordered directly by the schools through FAMIS. If a school wishes to purchase an item that is not listed in FAMIS, then the school must follow the guidelines set forth in the DOE’s published *Procurement Policy and Procedures*.³ According to these guidelines, purchases of goods \$250 or below do not require a competitive bidding process. Purchases of goods above \$250 to \$5,000 require at least two oral or written sealed competitive bids. Purchases of goods above \$5,000 to \$15,000 require at least two written sealed competitive bids. Purchases of goods above \$15,000 require at least three written sealed competitive bids.

b. The Complainant

Investigators spoke with Attorney A, who said that Confidential Vendor A entered into a contract with VWR to be VWR’s sales representative to the DOE in October 2018. Attorney A said that the president of Confidential Vendor A (“President A”) checked FAMIS shortly after this contract and noticed that Triumph Boards were not listed in FAMIS. President A emailed VWR [REDACTED] and Johnson requesting FAMIS information for the Triumph Boards. Attorney A said that President A was told that the DOE had recently removed their FAMIS code, and that VWR had been using the bidding system to process their orders. President A did not agree with this process, and asked VWR to cease processing all orders until they could discuss the matter. Attorney A said that President A was informed by email in January 2019, that only three vendors supplied Triumph Boards – VWR, Universal, and Blackhawk. Attorney A told investigators that VWR used Universal and Blackhawk to install the Triumph Boards, and that Attorney A and President A believed that Universal and Blackhawk were owned by the same people. Attorney A added that President A wrote a letter to VWR Chief Executive Officer Michael Stubblefield and VWR Executive Vice President and General Counsel Justin Miller in February 2019, noting President A’s concerns regarding VWR’s business practices.

c. The Individual Schools

Investigators spoke with several school officials who interacted with Johnson in the past to obtain interactive flat-panel displays. [REDACTED], told investigators that [REDACTED] wanted to purchase Triumph Boards for the school. Sometime in October 2018, [REDACTED] received contact information for Johnson, who was with VWR at the time. [REDACTED] emailed Johnson and said that [REDACTED] was interested in purchasing nine Triumph Boards. [REDACTED] later received an email from Johnson containing three bids with the directions, “Triumph Boards require 3 quotes because the items are not currently listed on FAMIS....[P]lease use these 3 quotes to expedite your purchasing process.”

² Triumph Boards are interactive flat-panel displays which replace conventional dry-erase whiteboards in the classroom.

³ Available at <https://infohub.nyced.org/docs/default-source/default-document-library/departmentofeducationprocurementpolicyandprocedures.pdf> as of February 23, 2024.

██████████ told investigators that she was contacted by Johnson regarding Triumph Boards sometime in November 2018. ██████████ received an email from Johnson on November 28, 2018, that had an attachment with three individual quotes from Blackhawk and three individual quotes from Universal. ██████████ subsequently purchased two Triumph Boards from Universal.

██████████ told investigators that she observed an email from Johnson to ██████████ regarding Triumph Boards. ██████████ contacted Johnson about purchasing Triumph Boards, and ██████████ – who did ██████████ procurement – received an email from Johnson on September 24, 2018, containing three bids. ██████████ said that VWR won the bid for nine Triumph Boards.

██████████, told investigators that her school was looking to purchase interactive flat-panel displays. ██████████ told ██████████ that BenQ interactive displays (“BenQ Boards”) would be best for the school.⁴ ██████████ contacted BenQ for a quote and received an email from Johnson with three bids attached from Blackhawk, Universal, and SmartBoard Guys, LLC (“SmartBoard”). All of the bids were above \$25,000.00, but ██████████ said that the school could only afford \$15,000.00. ██████████ informed Johnson of the limit of P.S. 32’s budget, so Johnson sent a revised quote from Universal for \$14,999.97.

Investigators received an email chain between ██████████ and Johnson in which Johnson attached three bids for interactive flat-panel displays from BenQ, SmartBoard, and Universal.

Investigators received an email from ██████████ in which Johnson attached three bids for interactive flat-panel displays from Blackhawk, VWR, and Universal.

██████████ said that sometime in February 2019, she was looking into the best interactive flat-panel displays to purchase for the school and decided that BenQ Boards would be best. ██████████ received an email from Johnson on March 4, 2019, which contained bids from Blackhawk, SmartBoard, and Universal. The school ultimately purchased from Blackhawk.

██████████, told investigators that he saw a presentation of BenQ Boards, which he thought would be a good fit for his school. After the presentation, ██████████ spoke with Johnson. ██████████ received an email from Johnson on February 27, 2019, with bids from Blackhawk, SmartBoard, and Universal. The school ultimately purchased from Universal.

Investigators spoke with ██████████. ██████████ also saw a presentation of BenQ Boards by Johnson and informed the school secretary that she wanted to purchase BenQ Boards for the school. Johnson emailed three bids to the school secretary, and the school ultimately purchased three BenQ Boards.

⁴ BenQ Boards and Triumph Boards were competing interactive flat-panel displays with slightly different features.

██████████ ██████████ ██████████ told investigators that ██████████ attended a conference where Johnson gave a presentation of BenQ Boards. ██████████ thought the BenQ Boards would work well in the school and instructed ██████████ to begin the procurement process. ██████████ contacted Johnson and received an email on February 15, 2019, with an attachment containing three bids from Blackhawk, SmartBoard, and Universal. The school ultimately bought from SmartBoard.

██████████ told investigators that he was interested in BenQ Boards because they were used at the school at which he had previously been assigned. ██████████ had dealt with Johnson at the previous school, so he contacted Johnson about purchasing five BenQ Boards. ██████████ received an email from Johnson on March 4, 2021, which contained bids from Blackhawk, SmartBoard, and Universal.

██████████ told investigators that she wanted to purchase two BenQ Boards, so a teacher from the school contacted Johnson. Johnson sent an email containing bids from Blackhawk and Universal on November 20, 2020.

██████████ provided investigators with the results of a search for deleted emails between Johnson and ██████████. An email sent from Johnson to ██████████ on April 3, 2019, contained an attachment containing bids for BenQ Boards from BenQ, Blackhawk, and Universal.

d. The Bidding Companies and Dwayne Johnson

Investigators spoke with VWR ██████████ who said that he was Johnson's supervisor when Johnson was employed by VWR. ██████████ said that VWR sold Triumph Boards for Troxell Communications ("Troxell"). Sales of Triumph Boards were declining in 2018, so Troxell withdrew from their contract with the DOE. ██████████ said that Johnson went to technology shows and met with school principals to market the Triumph Boards. ██████████ wanted Johnson to shift his focus to sales outside of New York City because Johnson's sales numbers declined from 2017 to 2018. According to ██████████ Johnson unexpectedly resigned and began working at BenQ. ██████████ had not spoken to Johnson since Johnson left VWR.

Investigators spoke with SmartBoard ██████████, who said that he interacted with Johnson on several occasions when SmartBoard needed to buy BenQ Boards for installation. ██████████ said that SmartBoard was unable to obtain credit from BenQ, so Johnson and Johnson's wife set up a company by the name of "N Rock" or "N Rock Technologies" for the purpose of buying BenQ Boards for SmartBoard. Johnson would charge SmartBoard one percent interest for the purchases. Investigators showed ██████████ bids allegedly submitted to the DOE by SmartBoard. ██████████ confirmed that one was legitimate, but that the other bids were not submitted by SmartBoard. ██████████ added that the other bids also contained contact information for Johnson.

Investigators spoke with Johnson who said that he worked for VWR for approximately five years before leaving because he felt he did not receive enough support from VWR [REDACTED]. Johnson moved to BenQ around December 2018. Johnson believed that BenQ Boards were superior to other interactive flat-panel displays, including the Triumph Boards, which he previously sold. Johnson said that he first learned of the three-bid process from DOE school officials. Johnson claimed that schools would ask him to “do their homework” for them by asking for the names of other vendors so they would know where to solicit the required number of bids. Johnson said he initially only provided leads to other vendors for the school officials to request bids, but eventually “simplified” the process by submitting multiple bids to schools himself from different vendors. Johnson claimed that he did not know his behavior was wrong because none of the school officials told him that it was. Johnson claimed that he only did what he did to make it easier for the schools.

Johnson told investigators that he usually sent bids from BenQ, Blackhawk, SmartBoard, and Universal. Johnson would advise the vendors to set prices within a specific price range to “appease” the schools. Johnson knew that this behavior defeated the purpose of a fair bidding process and said that he “felt dirty like a pig.” Johnson believed that he was “taking the headache” out of the process for the schools. Johnson said that Blackhawk and Universal were so closely aligned that they often sent quotes from both vendors in the same email, generally from Blackhawk [REDACTED]. Johnson denied ever having created a bid on behalf of SmartBoard but admitted that his name may have been used on their bids as a point of contact.

e. Calculation of Restitution

In antitrust cases, the DOJ determines restitution as twenty percent of the volume of commerce that a particular company provides. Following negotiations of non-prosecution agreements with both vendors, BenQ agreed to use \$325,000.00 as the volume of commerce with the DOE for the purpose of calculating restitution. Based on that amount, BenQ agreed to restitution to the DOE in the amount of \$65,000.00. VWR agreed to use \$100,888.79 as the volume of commerce with the DOE for the purpose of calculating restitution. Based on that amount, VWR agreed to restitution to the DOE in the amount of \$20,177.76. Both BenQ and VWR cooperated fully with this investigation, and each fully paid their agreed-upon restitution.

II. Conclusion and Recommendation:

Upon review of the above facts, SCI substantiated that former BenQ Corporation and VWR International employee Dwayne Johnson engaged in the manipulation of bids for DOE contracts in order to secure those contracts for BenQ and VWR at prices that may have been above those that would have been secured with an open and competitive bidding process. As Johnson is no longer employed by BenQ or VWR, and Johnson has already been sentenced in federal court for his criminal actions, it is the recommendation of this office that a problem code be attached to Johnson’s name to serve as a reminder should Johnson seek future employment with the DOE or any of its vendors.

The amount of restitution owed to the DOE by BenQ for this bid rigging was determined to be \$65,000.00, and the amount of restitution owed to the DOE by VWR was determined to be \$20,177.76. Both BenQ and VWR fully cooperated with this investigation, entered into negotiated non-prosecution agreements with the DOJ to pay restitution in these amounts to the DOE, and fully paid their restitution to the DOE. Having met all of the requirements of their negotiated agreements, it is the recommendation of this office that neither BenQ nor VWR be further penalized.

Given the number of school employees involved in this investigation who willingly accepted multiple bids from a single vendor in violation of the guidelines set forth in the DOE's published *Procurement Policy and Procedures*, it is the recommendation of this office that the DOE remind all employees with procurement responsibilities, in writing, that they must be familiar with, and adhere to, these guidelines.

Please respond in writing within 30 days of receipt of this letter as to any action taken regarding Johnson or the recommendations made herein. We are sending a copy of this letter to the DOE Office of Legal Services.

Should you have any inquiries regarding the above, please contact David Casanova, the assigned attorney for this matter, at (212) 510-1419 or dcasanova@nycsci.org.

Sincerely,

ANASTASIA COLEMAN
Special Commissioner of Investigation
for the New York City School District

By: /s/ Daniel I. Schlachet
Daniel I. Schlachet
First Deputy Commissioner

AC:DS:DC:lr

cc: Elizabeth Vladeck, Esq.
Karen Antoine, Esq.
Katherine Rodi, Esq.
Monica Davis-Thorne - Director