



January 5, 2010

The Honorable Colleen Hanabusa  
President of the Senate  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Re: Senate Concurrent Resolution 84, 2009 Legislative Session

Dear Madam President:

This letter responds to Senate Concurrent Resolution 84 (SCR 84) of the 2009 Legislative Session, which requests the State Auditor to conduct an immediate financial statement audit of the Waters of Life Public Charter School for fiscal years 2006-07 and 2007-08.

### Findings

#### **The Waters of Life Public Charter School's Records Are Unauditable**

After completion of our preliminary research and discussion with the Charter School Administration Office (CSAO) and the contract auditor hired to conduct the school's FY2006 financial statement audit, James D. Jennings, CPA, Inc., we have determined that the financial statement audits requested in SCR 84 cannot be performed for the following reasons:

- James D. Jennings, CPA, Inc., issued a disclaimer of opinion for the FY2006 financial statements (which means that the firm was unable to render any opinion) and withdrew from the charter school's FY2007 and FY2008 engagements. The opinion states that the firm was not provided support and was unable to audit virtually every major account within the financial statements. Specific problems include no support for fixed assets, loans and mortgages, payroll, vacation, and other significant expenditures. A copy of the opinion is attached for reference as Attachment 1. The management letter that accompanies the disclaimer of opinion included six material weaknesses and two significant deficiencies highlighting the issues raised above. A copy of the management letter is attached for reference as Attachment 2.
- We spoke with Mr. James Jennings about the difficulties experienced when working with the Waters of Life Public Charter School and the deficiency of its records. Repeated

requests by Mr. Jennings to the school principal for documents and records yielded none and email correspondence with the CSAO corroborated these difficulties. Ultimately, Mr. Jennings concluded that the school's records were unauditabile.

Based on the contract auditor's conclusion that the Waters of Life Public Charter School's records are unauditabile, we conclude there is little to be gained from procurement of another contractor to conduct financial statement audits of the school. Because the school's records are largely missing and cannot be recreated, any attempt to audit the school would be thwarted by a lack of information. Procurement of another auditor would not result in completed audits and would result in additional cost to the state.

### **The Need for the Audits Has Been Rendered Moot by Charter School Review Panel Action**

Further, it is our understanding that SCR 84 was supported by the Charter School Review Panel, the panel responsible by law (Section 302B-3, Hawai'i Revised Statutes) for issuing and revoking charters, approving Detailed Implementation Plan revisions, and conducting charter school evaluations. As stated in its testimony, the panel placed Waters of Life Public Charter School on probation for serious issues related to financial viability, organizational viability, and local school board governance. Independent audits were required by the terms of probation. Due to the disclaimed opinion and withdrawal of the contract auditor, the panel had been unsuccessful in finding another independent auditor willing to immediately undertake the fiscal years 2007 and 2008 audits. Hence, SCR 84 would have filled this void by requesting the State Auditor complete the financial statement audits. Even lacking these audits, however, the panel revoked the school's charter in June 2009 citing ongoing problems and deficiencies, a historical pattern of financial instability and poor fiscal management, and chronic issues with inadequate school facilities. We conclude that the panel's action rendered the audits moot.

### **The Third Circuit Court Enjoined the Charter School Review Panel From Revoking Charters Until the Board of Education Adopts Administrative Rules**

After the panel revoked the school's charter in June 2009, the school sought to enjoin the board and its panel from revocation of the school's charter. By Memorandum of Decision, Order, and Judgment filed July 31, 2009, in the Circuit Court of the Third Circuit, the court issued a permanent injunction preventing the Charter School Review Panel from revoking the school's charter absent the State of Hawai'i Board of Education's adoption of administrative rules governing revocation of the charter of a public charter school. With the court's ruling, no further action may be taken by the Charter School Review Panel to revoke the charter of a public charter school until the Board of Education adopts administrative rules. This ruling and its consequences further negate the need for the audits.

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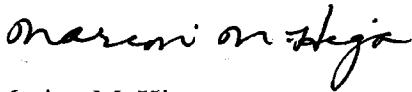
### **Conclusions and Recommendations**

Although we recognize the Legislature's concern regarding the lack of financial management of the State's funds by Waters of Life Public Charter School, we conclude that further attempts at financial statement audits of the school will not yield useful information. If anything, such attempts will spend scarce resources and may do nothing more than confirm that the school's records are unauditabile.

Ultimately, the responsibility to issue and revoke charters rests with the Board of Education and its Charter School Review Panel. The Legislature should urge the board to hasten its efforts to adopt administrative rules to enable implementation of its charter school law. Thereafter, the board and its panel must hold the school accountable for the school's expenditure of state funds and the quality of the school's education.

Please do not hesitate to contact me should you have any questions.

Sincerely,



Marion M. Higa  
State Auditor

c: Carol Taniguchi, Senate Clerk