

Approved *[Signature]*
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E. DIST. OF
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SETTLEMENT AGREEMENT

THIS AGREEMENT is made this 21st day of August, 2003 by and between the Liddell Plaintiffs, the Caldwell/NAACP Plaintiffs, the United States of America, (collectively "the Plaintiffs"), the State of Missouri and the Board of Education of the City of St. Louis

I PURPOSE

This Agreement is made as a compromise between the parties and constitutes a complete, full and final settlement of the claims, differences, and causes of actions with respect to the disputes identified below.

II STATEMENT OF DISPUTES

In 1999, the parties to Liddell, et al v. Board of Education of the City of St. Louis, et al., Case No 72-0100, then pending in the United States District Court for the Eastern District of Missouri, entered into a comprehensive settlement to resolve that litigation (the "Desegregation Settlement Agreement") The Desegregation Settlement Agreement was approved by the District Court with jurisdiction over the Liddell litigation That Agreement provides, *inter alia*, that the State of Missouri shall pay to the Board of Education certain sums for construction and site acquisition costs to accommodate any reasonably anticipated net enrollment increase caused by any reduction or elimination of the voluntary transfer plan. Pursuant to the Desegregation Settlement Agreement, these funds are paid into a separate account (the "Section 10 Capital Account" or "Account").

A disagreement has now arisen as to the use of these funds in the Section 10 Capital Account. The Board of Education asserts that under the Desegregation Settlement Agreement and Missouri state law, it may borrow these funds temporarily to meet other school district expenses, as long as the funds are repaid to the Section 10 Capital Account. The Plaintiffs assert that the funds

may not be borrowed from the Account at any time for any reason. The Liddell and Caldwell/NAACP Plaintiffs have filed a “Motion for Temporary Restraining Order to Obtain Specific Performance of Settlement Agreement” which has been joined by the United States of America (hereinafter the “Action”). The Motion seeks an order prohibiting the Board of Education from temporarily borrowing funds from the Account and requiring that any funds actually borrowed be repaid immediately. The parties are now desirous of resolving their disagreement in order to safeguard and promote the interests of all parties and especially the children of St. Louis.

III TERMS OF SETTLEMENT

In consideration of the mutual covenants set forth herein, the parties agree as follows:

1. The Board of Education will not borrow in excess of \$49.5 million from the Account during fiscal year 2004 (the fiscal year ending June 30, 2004). The total amount borrowed shall be known as the “Original Principal” and shall be equal to the amount of funds borrowed from the Account during Fiscal Year 2004 but not repaid to the Account by the end of the day on June 30, 2004.

2. The Original Principal will be repaid to the Account in accordance with the following schedule (hereinafter the “Scheduled Payments” or individually a “Scheduled Payment”):

June 30, 2005	17% of original principal
June 30, 2006	17% of original principal
June 30, 2007	17% of original principal
June 30, 2008	17% of original principal
June 30, 2009	17% of original principal
June 30, 2010	15% of original principal

If a Scheduled Payment is payable on a day which is a Saturday, Sunday or legal holiday, then such payment shall be due on the next business day.

3. Regardless of the amount of the Original Principal, no Scheduled Payment shall be less than \$7 million until the full amount is repaid.

4. Forty percent (40%) of any amounts actually received by the Board of Education by final judgment or settlement agreement from Board of Education of the City of St. Louis, et al. v. State of Missouri, et al., St. Louis City Circuit Court, Case No. 034-00284, and attributable to fiscal years 2002 and 2003, shall be used to reduce the Original Principal. Such amount shall be credited to the Account within 60 days of actual receipt of the funds. The State of Missouri shall not be required to pay the Board of Education any amounts for breach of the 1999 Settlement Agreement alleged in the above litigation, except pursuant to separate settlement or final adjudication of that litigation.

5. Notwithstanding any other provision to the contrary, the Board of Education reserves the right to prepay the whole or any part of the Original Principal at any time without premium or penalty.

6. Scheduled Payments set forth in Section III.2 shall not be reduced or altered if prepayments of the Original Principal are made (such as a prepayment described in paragraph 4 or 5 above). The Board of Education may, however, in its sole discretion, prepay a Scheduled Payment prior to June 30 of the applicable year. In such event, the next Scheduled Payment shall be due on June 30 of the subsequent fiscal year, assuming a portion of the Original Principal remains due and owing at that time.

7. In no event shall the Board of Education be required to repay more monies to the Account than were borrowed.

8. The Board of Education will not in future fiscal years (beginning with fiscal year 2005) borrow monies from the Account beyond a single fiscal year without the consent of the Plaintiffs.

9. In order to keep Plaintiffs apprised of the fiscal status of the St. Louis Public Schools, the Board of Education shall provide to the Plaintiffs in September of each year the following information:

- (a) A budget summary for the then-current fiscal year,
- (b) To the extent available and not provided in subpart (a), the budget for desegregation programs required by the Desegregation Settlement Agreement,
- (c) The most recently completed external financial audit required by state law;
- (d) A detailed accounting of revenues and expenditures in Funds 331 and 332 (respectively, the funds which track (i) the revenues and expenditures of the Account and (ii) the revenues and expenditures for construction of the vocational school required by Section 17 D of the Desegregation Settlement Agreement). Following provision of this information, the Plaintiffs and Board of Education will schedule a meeting between the Superintendent of the District and the Plaintiffs at a mutually convenient time to discuss the fiscal status of the District, as well as implementation of the Desegregation Settlement Agreement.

10. In September or October of each year, the Board of Education will schedule a public session at which the Superintendent and other school district officers will make themselves available for questions by representatives of the Plaintiffs and their attorneys.

11. This Agreement shall be terminated after the Original Principal has been repaid in full and accounted for pursuant to the terms of this Agreement.

12. The sole remedy for a breach of this Agreement shall be specific performance, which may be secured by orders of the court consistent with the specific performance remedy. In the event of a breach of this Agreement by the Board of Education the plaintiffs shall be entitled to

recover the costs of obtaining compliance, including an award of reasonable attorneys fees and costs

13 This Agreement will be submitted to the United States District Court for the Eastern District of Missouri, which is presently considering the Action, with the request that it be entered as a court order. This Agreement does not modify the Desegregation Settlement Agreement and all parties shall continue to comply with their obligations as set forth in the Settlement Agreement

IV COMPROMISE NOT TO BE CONSTRUED AS AN ADMISSION

This Agreement is executed by the parties hereto for the sole purpose of compromising and settling the matter involved in this dispute and it is expressly understood and agreed, as a condition hereof, that this Agreement shall not constitute or be construed to be an admission on any part of any party to this Agreement, as evidencing or indicating in any degree an admission of the truth or correctness of any claims or defenses asserted in this Action.

V OTHER TERMS

1 This Agreement, including any exhibits, contains the complete agreement between the parties and shall, as of the effective date hereof, supercede all other agreements between the parties relating to the Action. The parties stipulate that none of them has made any representation with respect to the subject matter of this Agreement or the execution and delivery hereof except such representations as are specifically set forth herein. All agreements not expressly set forth herein are null and void (including but not limited to the Letter Agreement Concerning Limited Forbearance from Litigation dated July 2, 2003 between the Board of Education of the City of St. Louis and the State of Missouri) as of the date of this Agreement.

2. No waiver or modification of this Agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and executed by all parties, and no

evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties hereto arising out of or affecting this Agreement, or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing and duly executed by all parties.

LIDDELL PLAINTIFFS

By: W.A. Doughty
Name: William A. Doughty
Title: Attorney for LIDDELL PLAINTIFFS
Date: August 21, 2003

CALDWELL/NAACP PLAINTIFFS

By: William Taylor
Name: William Taylor / Veronica Johnson
Title: Counsel
Date: 8/22/03

UNITED STATES OF AMERICA

By: Jeremiah Glassman
Name: Jeremiah GLASSMAN
Title: Attorney for United States
Date: August 21, 2003

STATE OF MISSOURI

By: _____
Name: _____
Title: _____
Date: _____

BOARD OF EDUCATION OF THE CITY OF ST. LOUIS

By: Dirk DeFong
Name: Dirk DeFong
Title: Counsel for the Board of Educ.
Date: August 21, 2003

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LIDDELL PLAINTIFFS

CALDWELL/NAACP PLAINTIFFS

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

UNITED STATES OF AMERICA

STATE OF MISSOURI

By: _____
Name: _____
Title: _____
Date: _____

By: Paul R. Maguffee
Name: Paul R. Maguffee
Title: Assistant Attorney General
Date: 8/21/03

BOARD OF EDUCATION OF THE CITY OF ST. LOUIS

By: _____
Name: _____
Title: _____
Date: _____

UNITED STATES DISTRICT COURT -- EASTERN MISSOURI
INTERNAL RECORD KEEPING

AN ORDER, JUDGMENT OR ENDORSEMENT WAS SCANNED, FAXED AND/OR MAILED TO THE
FOLLOWING INDIVIDUALS ON 08/21/03 by cahring
4:72cv100 Liddell vs Board of Education

28:1343 Violation of Civil Rights

Robert Baine - 18673 Fax: 314-838-7727
Eric Banks - 35961 Fax: 314-552-7000

Robert Bartman -
P.O. Box 480
Jefferson City, MO 65102

Ralph Beacham - Fax: 314-535-1416
Kenneth Brostron - 2715 Fax: 314-621-6844
Warren Brown - Fax: 636-561-3008
Douglas Copeland - 2872 Fax: 314-726-2361
Dirk DeYong - 22592 Fax: 314-621-6844
William Douthit - Fax: 314-434-7759
John Gianoulakis - 3207 Fax: 314-241-2509
Jeremiah Glassman - Fax: 202-514-8337
Edward Hanlon - 5536 Fax: 314-622-4956
Veronica Johnson - 57348 Fax: 314-454-1911
Mark Keaney - 3530 Fax: 314-241-6056
Andrew Leonard - 3669 Fax: 636-532-0857
John Lynch - 3720 Fax: 314-340-7029
Paul Maguffee - Fax: 573-751-7094
Robert McClintock - 20975 Fax: 636-394-0886
Paul McGuffy - Fax: 573-751-7094
Henry Menghini - 3843 Fax: 314-480-1505

Michael Middleton -
1901 Fairview Road
Columbia, MO 65203

John Munich - 31474 Fax: 314-215-2885
Charles Oldham - 3998 Fax: 314-367-0926
Anthony Sestric - 4332 Fax: 314-351-2396
Shulamith Simon - 4375 Fax: 314-727-9071
Donna Smith - 66563 Fax: 314-432-2560
Frank Susman - 4504 Fax: 314-615-6001
William Taylor - Fax: 202-223-5302
Thomas Tueth - 4575 Fax: 636-237-2601
Susan Uchitelle - Fax: 314-721-8371
Richard Ulrich - 4585 Fax: 314-991-2413
Charles Werner - 4688 Fax: 314-621-2378

SCANNED & FAXED BY
AUG 21 2003
C. D. D.