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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

In re Highlands Community Charter and Technical Schools, Debtor and Debtor in Possession.	Case No. 26-25868 Chapter 11 Adv No. 26-02134 DCN: SMR-1
Highlands Community Charter and Technical Schools, Plaintiff, v. Twin Rivers Unified School District Board of Trustees and California State Board of Education, Defendants.	<u>Hearing Information</u> Judge: Hon. Christopher D. Jaime Date: November 10, 2026 Time: 11:00 a.m. Place: Courtroom 32, Department B 501 I Street Sacramento, California 95814

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REPLY IN SUPPORT OF MOTION FOR ORDER EXTENDING STAY TO THE REVOCATION APPEAL UNDER BANKRUPTCY CODE SECTIONS 105(a) AND 362

Highlands Community Charter and Technical Schools, the above-captioned debtor and debtor-in-possession ("HCCTS" or, the "Debtor"), in the above-captioned chapter 11 case (the "Case" or the "Main Case"), submits this omnibus Reply in support of the Debtor's *Motion for Order Extending Stay to the Revocation Appeal Under Bankruptcy Code Sections 105(a) and 362* (Docket No. 6) (the "Motion")[1] to address both the Opposition to the Motion filed by Defendant California State Board of Education (Docket Nos. 18-20) and the Opposition filed by Defendant Twin Rivers Unified School District Board of Trustees (Docket Nos. 14-16). The omnibus Reply is further supported by the concurrently filed *Reply Declaration of Ori Katz in Support of Motion for Order Extending Stay to the Revocation Appeal Under Bankruptcy Code Sections 105(a) and 362* ("Katz Reply Decl."), the concurrently filed *Exhibits in Support of Reply Declaration of Ori Katz in Support of Motion for Order Extending Stay to the Revocation Appeal Under Bankruptcy Code Sections 105(a) and 362* ("Katz Reply Exhibits"), and concurrently filed Declaration of R.J. Guess *in Support of Motion for Order Extending Stay to the Revocation Appeal Under Bankruptcy Code Sections 105(a) and 362* ("Guess Decl.").

I. PRELIMINARY STATEMENT

Both Twin Rivers and the SBE (each as defined below), in reliance on *Law v. Siegel*, argue that this Court may not issue the requested injunction under section 105(a) of the Bankruptcy Code because such an injunction would contravene section 362(b)(4)'s exception to the automatic stay related to the exercise of regulatory powers. That argument fails in three ways.

First, it crumples beneath the weight of authority[2] cited in the Debtor's opening brief (authority not addressed in either of the opposition briefs) and below, consistently recognizing the issuance of such injunctions over a period of decades.

[1] Capitalized terms not otherwise defined herein have the meanings set forth in the Motion and accompanying Memorandum in support thereof.

[2] *See e.g.*, *In re Bel Air Chateau Hosp., Inc.*, 611 F.2d 1248, 1250–51 (9th Cir. 1979); *In re Pizza of Hawaii, Inc.*, 12 B.R. 796, 799 (Bankr. D. Haw. 1981); *In re Pacific Land Sales, Inc.*, 187 B.R.

Second, and more telling, is the failure to acknowledge the very legislative history of section 362(b)(4) itself, which states in no uncertain terms: "The effect of the [police powers] exception is not to make the action immune from injunction. The court has ample other powers to stay actions not covered by the automatic stay. Section 105 . . . grants the power to issue [such an injunction]." (Debtor's Memorandum at 25:7-12).

Third, neither Twin Rivers nor the SBE offer any relevant discussion of *Law v. Siegel*, which was a chapter 7 case involving the surcharge of an individual's homestead exemption and said nothing about the automatic stay, section 362(b)(4), or a bankruptcy court's ability to issue an injunction. Because there is no serious question regarding this Court's authority to issue the requested injunction under section 105(a), the focal point of the analysis should center around the well-established four-factor test that courts throughout the Ninth Circuit and beyond have applied for decades. Each of the four factors is discussed in detail below, but the first factor (likelihood of success of the reorganization) merits special attention.

Twin Rivers does not argue the merits of the four-factor test, so the inquiry centers on the SBE's position. But the SBE's brief demonstrates a fundamental misunderstanding of the reorganization process and the standard to be applied. Although it cites to *Excel* in its brief, the SBE ignores the Ninth Circuit's express statement in that case showing a reasonable likelihood of successful reorganization is "not a high burden." *Excel Innovations*, 502 F.3d at 1097. That weakness is compounded by the SBE confusing the regulatory identity of the successor school with the debtor's ability to implement a chapter 11 plan and reorganize – two completely different concepts.

The Debtor's bylaws make the following abundantly clear: "The purpose of the corporation is to manage, operate, guide, direct and promote one or more California public charter schools."[3] The Court, with the Debtor's purpose in mind, need reach no further than the express

302, 315 (B.A.P. 9th Cir. 1995); *In re First All. Mortg. Co.*, 264 B.R. 634, 651-52 (C.D. Cal. 2001).

[3] A copy of the bylaws is attached as Exhibit E to the Katz Reply Exhibits. Notably, the bylaws are silent as to HCCTS and CICA.

language of the Bankruptcy Code for authority in support of the Debtor's proposed reorganization as set forth in the Motion and this brief. For example, section 1123(a)(5)(B) expressly contemplates transferring estate property to another entity, including one organized after confirmation. And sections 1123(a)(5)(C)–(D) contemplate mergers, consolidations, and asset sales as means of implementing a plan. Indeed, these are all statutorily established methods for implementing plans of reorganization, which reflect the proper view of a "successful reorganization," in stark contrast to the SBE's narrow and artificial construct of reorganization as requiring HCCTS and CICA to continue under their current charter. It cannot be the case that a reorganization involving a successor entity is not a "successful reorganization." Doing so turns a blind eye to the hundreds (if not more) chapter 11 cases holding otherwise. It also ignores that in the case of non-profit entities, courts have recognized it is a legitimate use of the Bankruptcy Code for debtors to file for chapter 11 relief in order to protect and continue their charitable mission. *See, e.g. In re Roman Catholic Bishop of Oakland*, Case No. 23-40523 (WJL), 2026 WL 3094274, at *26 (Bankr. N.D. Cal. Oct. 15, 2026) (reasoning the Debtor has the right to seek relief under the Bankruptcy Code to propose a plan that will allow it to "continue its mission to serve the religious needs" of its constituents).

Finally, the SBE ignores the dual-track nature of the Debtor's path to a successful reorganization, which includes a potential value-maximizing sale transaction.[4] Such a transaction may be implemented pursuant to section 1123(b)(4), which recognizes the permissibility of a chapter 11 plan providing for a sale of substantially all estate property and distribution of the proceeds. As the Ninth Circuit Bankruptcy Appellate Panel reasoned in *In re Deer Park,* a liquidating plan may be contemplated in a valid chapter 11 plan of reorganization, because a debtor's continuing participation in a planned, orderly liquidation may be necessary to maximize recovery for creditors compared with the amount that could be realized in a forced sale. 136 B.R. 815, 818 (B.A.P. 9th Cir. 1992); *see also In re Family Snacks, Inc.*, 257 B.R. 884, 895 (B.A.P. 8th

[4] *See* Motion, at 27:5-12 (referencing the Debtor's potential dual-track approach, which might include a going concern sale to maximize value and avoid disruption).

Cir. 2001) ("While 'reorganization' is not a statutorily defined term, it is generally understood to include all types of debt adjustment").

II. INTRODUCTION

The Debtor brought this Motion to keep a single administrative proceeding from deciding the outcome of this chapter 11 case before the Case has meaningfully begun. If the Revocation Appeal goes forward on November 12, Defendant California State Board of Education ("SBE") may terminate the Charters under which the Debtor operates the Schools, serves approximately 2,000 adult students, and generates substantially all of its revenue, and it may do so before any creditors' committee has been formed and before Sutter County has acted on the Debtor's application for a new charter. The Debtor asks the Court to hold the Revocation Appeal in place for the limited time necessary to protect the estate and permit an orderly reorganization. At this time, the Debtor is not asking the Court to pass on the merits of the revocation or to displace the authority of Twin Rivers or SBE over the Charters.

Neither Defendant has identified any harm that would result from a short delay. Defendant Twin Rivers Unified School District Board of Trustees ("Twin Rivers" or the "District") is the appellant seeking relief in the Revocation Appeal, yet it declines to take any position on the Motion and instead defers to SBE, which is charged with "adjudicating" the appeal rather than prosecuting it. SBE, for its part, is not required by law to issue its decision until January 2027. Even if SBE did not act within that period, the only consequence would be that the District would be deemed to have exhausted its administrative remedies and could seek relief in the courts. A brief injunction would therefore deprive neither Defendant of any right or remedy.

Defendants identify no current conduct at the Schools, and no risk of future conduct, which requires immediate regulatory action. The findings on which the Revocation Appeal rest are historical, and the record shows that the Debtor has since cured or refuted each of them. Nor can Defendants reasonably dispute that the Charters are necessary to any reorganization of the Debtor.

SBE held independent statutory authority to act against the Schools for years and never exercised it, yet it now contends that the Revocation Appeal must go forward within weeks of the Petition Date. The catalyst for every administrative action now pending against the Debtor is the

State Auditor's June 2025 Audit Report. The consequences that flowed from that report, most significantly CDE's determination that the Debtor owes more than $186 million, led directly to the Debtor's decision to seek chapter 11 protection, and obtaining the breathing room to address that liability is central to the Debtor's reorganization. CDE's determination is now the subject of the Audit Appeal, and the Department of Finance has agreed to honor the automatic stay as to that proceeding. Defendants offer no principled reason why the Revocation Appeal, which arises from the same events, should be treated differently.

The Debtor therefore asks the Court to enter, at a minimum, an interim injunction as to the Revocation Appeal until Sutter County has made its decision on issuing the Debtor a new charter, and to grant the Motion in full.

III. RESPONSE TO UNSUPPORTED FACTUAL AND PROCEDURAL STATEMENTS IN DEFENDANTS' OPPOSITIONS

A. The SBE's Prior Inaction and Its Concessions That There is No Impending Deadline Undermine Its Now-Asserted Need for the Revocation Appeal to Proceed

The SBE seeks to distract from its years of inaction by contending that the Debtor made an "eleventh-hour decision" to file its petition (SBE Opp'n at 1), despite the evidence submitted by the Debtor with its Motion. SBE's Opposition is devoid of any supporting factual evidence or legal authority that there is an alleged urgency to the Revocation Appeal proceeding, which is apparent from its glib and vague reference to the Revocation Appeal as "advancing public policy." (SBE Opp'n at 1-2). Even if SBE's assertions were plausible or had any evidentiary support (they do not), the SBE acknowledges there is no impending deadline or need for urgency. For example, SBE concedes that under California Education Code section 47607(i)(2), the SBE can make any charter revocation "effective on a future date." (SBE Opp'n at 20).

Both Defendants' submissions relating to the Revocation Appeal all refer to and are based on events long predating the June 2025 notice of violation, which the Debtor established were cured (as to which Twin Rivers' staff and counsel concurred), and the SCOE determined that the Schools' Charters should not be revoked. The SBE's assertion that public school students would be harmed in some unspecified way if the Revocation Appeal does not go forward on November

12 (SBE Opp'n at 20) is blatantly unsupported in light of the Debtor's uncontradicted evidence, that the Schools' students would be irreparably harmed if the Revocation Appeal goes forward. The unrebutted evidence in the record uniformly establishes that the Schools' students, its teachers, and its staff will indeed be irreparably harmed if the Schools' Charters are revoked. (*See* Katz Exhibits [Docket Nos. 9-12], Exs. A-D).

Equally troubling is the SBE's assertions – in the total absence of any evidence – that somehow revocation of the Schools' Charters "may be warranted to avoid the possibility of future violations and misappropriations" which calls into question SBE's role in the Revocation Appeal. (SBE Opp'n at 13). SBE concedes that it alone hears and decides the Revocation Appeal (SBE Opp'n at 3-4), by evaluating whether or not substantial evidence exists regarding the revocation of the Schools' Charters. Allowing the Revocation Appeal to proceed when SBE here plainly indicates it is not an impartial adjudicator, has already made its determination, or likely may not apply the requisite substantial evidence standard further underscores the need for the Debtor's requested injunction. This is likewise evident from SBE's request for this Court to deny the Debtor's requested relief based solely on accusations (SBE Opp'n at 17) – despite other State agencies, including the SCOE, determining there was no basis to revoke the Schools' Charters. In a similar vein, the SBE urges this Court to *assume* and speculate in a total absence of proof that (1) alleged harm occurred in past and (2) on that basis adjudicate that the Schools' continued operation "could potentially cause further harm." (SBE Opp'n at 17).

The State and the District knew of the alleged issues at the Schools for years, yet SBE never used its own authority to revoke the Schools' Charters. SBE's unsupported assertion that it is "imperative" that the Revocation Appeal proceed at the November 12-13, 2026 meeting belies years of inaction by all entities charged with oversight responsibility, beginning with Twin Rivers and extending up through all other involved state agencies. (SBE Opp'n at 1).

1. The SBE Did Not Act

Almost ten years ago, in December 2016, the SCOE entered into an agreement with the Fiscal Crisis and Management Assistance Team ("FCMAT"), a state agency, to conduct an audit of the Schools to assess whether fraud, fund misappropriation, or other illegal fiscal activities may

have occurred. (Raymond Exhibits, Ex. B (Audit Report), pp. 10, 45). The FCMAT audit was published in May 2018. FCMAT did not find any fraud, including with respect to Average Daily Attendance (ADA), although it did specifically recommend that Twin Rivers address other issues raised and that state agencies be notified and take action. (*Id.*). Seven years later, in June 2025, the Audit Report found that Twin Rivers and other state oversight agencies did not adequately follow up on the 2018 FCMAT audit. (*Id.*, pp. 45-47). The Audit Report found that there was inadequate oversight of the Schools by the very entities charged with overseeing the Schools' compliance, including by the California Department of Education ("CDE"), Twin Rivers, the California Commission on Teacher Credentialing, and the SCOE, and others. (*Id.*, pp. 45-59). The State Auditor also made recommendations to each of these entities, along with the Legislature. (*Id.*, pp. 61-68). SBE now attempts to erase the past by maintaining silence and contending that the District's Notices of Violation to the Schools did not "rel[y] on the findings from either the FCMAT Audit or the CSA Audit." (SBE Opp'n at 4-5). But this very assertion is belied by the District's own admissions and inaction, as detailed below and in the Debtor's Memorandum.

At any time, the SBE could have acted but did not. The Legislature gave SBE independent authority, in consultation with the Superintendent of Public Instruction, to take appropriate action against any charter school in California, up to and including revocation, upon findings of gross financial mismanagement, illegal or substantially improper use of charter school funds, or substantial and sustained departure from measurably successful practices. *See* Cal. Educ. Code § 47604.5. SBE does not need a chartering authority – such as Twin Rivers – to act first, and it does not need to wait for an appeal to reach it. SBE's brief cites the fiscal mismanagement ground as a principal reason the Revocation Appeal is urgent (SBE Opp'n at 1), yet nowhere mentions that SBE could have acted on that ground directly at any time.

Press reports on the matters now cited surfaced approximately two years ago. The State then requested hundreds of documents from the Debtor, which the Debtor produced. State personnel reviewed them and met with representatives of both Twin Rivers and the Debtor to go over the State's concerns. The State Auditor issued the Audit Report in June 2025. (Raymond Exhibits, Ex. B). In responding to it, CDE told the State Auditor, the Legislature, and the public

that it would "continue to monitor Highlands and follow-up as needed with Highlands, Twin Rivers[], and [SCOE] to confirm that Highlands meets the conditions of funding," and would "determine the best course of action to ensure appropriate compliance." (Raymond Exhibits, Ex. B (Audit Report), pp. 163-64). Six days after the report issued, CDE instead sent determination letters demanding more than $180 million. (Raymond Decl., ¶¶ 34, 43). At no point in the nearly two years since the State began its review, and at no point in the sixteen months since the Audit Report issued, did SBE invoke Section 47604.5. It sat on its hands, and it allowed the Schools to remain open and to cure.

2. Twin Rivers Delayed for Years

Twin Rivers likewise failed to promptly act. At least as early as May 2018, Twin Rivers was on notice of potential issues identified in the FCMAT audit. The June 2025 Audit Report repeatedly raised Twin Rivers' failure to work to establish policies and procedures and to address and resolve issues, including those dating back to the 2018 FCMAT audit. (Raymond Exhibits, Ex. B, pp. 45-49). The Audit Report specifically mentions that throughout that time period, Twin Rivers never issued a Notice of Violation or other corrective action. (*Id.*, p. 54). In Twin Rivers' response to the State Auditor's recommendations, including its failure to issue a Notice of Violation, Twin Rivers essentially responded with a rote statement asserting that Twin Rivers was in compliance with all its oversight requirements (*id.,* pp. 145-151) which was again disputed by the State Auditor's comments on Twin Rivers' response (*id.*, pp. 153-155).

Notably, whatever the merits of the historical findings, the State Auditor found that the Debtor fully implemented all 18 of the Audit Report's recommendations, including those concerning credentialing and attendance accounting. (Raymond Decl., ¶ 38). The Audit Report made no finding of fraud, and it stated expressly, "We do not recommend that Highlands be fined." (Raymond Exhibits, Ex. B, p. 143). A certified fraud examiner retained to review the same historical period found no evidence of fraud. (Raymond Decl., ¶ 41; Raymond Exhibits, Ex. C). The Audit Report's findings concerned principally HCCS's classroom-based program, and CICA, the independent study program, drew few findings at all. (Raymond Exhibits, Ex. B).

Even when Twin Rivers finally took action, those actions were based on past conduct and expressly acknowledged that years passed while Twin Rivers failed to act. For example, Twin Rivers' November 5, 2025 Notice of Intent to Revoke the Schools' Charters acknowledges that the WIOA partnership question it now cites as a violation of law "was previously raised during the 2018 FCMAT audit," and that Twin Rivers at that time agreed "with the interpretation of law as outlined by HCCTS in its letter dated June 22, 2018." (SBE Request For Judicial Notice ("RJN"), Ex. I). As to other issues in the Notice of violation, for grade levels, the Debtor communicated the change to grades 9, 10, and 12 to Twin Rivers staff when it was made beginning in the 2020-2021 school year, and Twin Rivers itself later asked the Debtor to add grade 11. (RJN, Ex. G (citing its Exs. A-C)). As to the Marysville site, Twin Rivers issued notices of concern in March, June, and August of 2024 and exchanged correspondence with the Debtor throughout that year. (*Id.*). Twin Rivers waited until June 2025 to issue its Notice of Violation. (RJN, Ex. A).

3. Twin Rivers Recognized the Schools' Resolved Issues

Twin Rivers' own Notice of Intent to Revoke found "clear and convincing evidence that HCCTS has changed staffing practices and reformed to comply with the law" on credentialing and that the Debtor "remedied this violation to the satisfaction of the District." (RJN, Ex. I, pp. 10-11). The Debtor ended all non-student participation in its WIOA programs in January 2025, disciplined the responsible employee, and suspended the truck driving program pending full compliance. (RJN, Ex. G). It prepared and its Board approved a material revision to conform the charter's grade levels to its actual program and submitted it to Twin Rivers. (*Id.*) It vacated the San Diego office, and CDE's own staff report confirms that lease was terminated on November 15, 2025. (RJN, Ex. N). Its 2024-2025 independent audit contains no findings on attendance accounting or credentialing. (Debtor's Memorandum at 22). WASC reviewed the Schools, including the changes implemented after the Audit Report, and renewed HCCS's accreditation for six years. (Raymond Decl., ¶ 39; RJN, Ex. K).

Twin Rivers' staff and legal counsel recommended that the Twin Rivers Board *not revoke* the Charters, finding that the Schools had fully cured or refuted every issue in the Notice of Violation. (Raymond Decl., ¶ 53). The Twin Rivers Board revoked anyway, relying on "the

findings of fact contained in the Notice of Intent to Revoke and its exhibits, as initially set forth in the Notice of Violation" of June 2025, and made the revocation "effective immediately." (RJN, Ex. O). The Sacramento County Board of Education reversed after a lengthy public hearing and review of the administrative record. (RJN, Ex. M; Raymond Decl., ¶ 54). The Revocation Appeal now before SBE asks only whether Twin Rivers' June 2025 findings were supported by substantial evidence. *See* Cal. Educ. Code § 47607(i)(2).

IV. LEGAL ARGUMENT

A. Section 105 of the Bankruptcy Code Grants Authority to Enjoin Actions That Fall Within the Police Powers Exception to the Automatic Stay

Even if the Revocation Appeal fell within Bankruptcy Code Sections 362(b)(4) or (b)(15), those provisions establish only that the automatic stay does not arise by operation of law, and they do not limit the Court's authority to enjoin a governmental proceeding under Section 105(a) where that proceeding threatens the estate. *See, e.g., In re First All. Mortg. Co.*, 264 B.R. 634, 651-52 (C.D. Cal. 2001) ("[B]ankruptcy courts have the legal authority to enjoin prosecution even of governmental actions that fall within the regulatory and police powers exception."). SBE's own authorities confirm the point. *See In re Bel Air Chateau Hosp., Inc.*, 611 F.2d 1248, 1251 (9th Cir. 1979); *In re Thomassen*, 15 B.R. 907, 910 (B.A.P. 9th Cir. 1981). In *Thomassen*, the Ninth Circuit Bankruptcy Panel held that it had "no doubt that the trial court had the power to stay the instant [governmental proceeding] pursuant to 11 U. S.C. § 105(a)." *Thomassen*, 15 B.R. at 910 (denying injunctive relief only because evidence of medical malpractice, professional incompetence and fraud was sufficient for court to determine that public at large would be injured by the continuation of the debtor's medical practice). *See also In re Excel Innovations, Inc.*, 502 F.3d 1086, 1093 (9th Cir. 2007) (bankruptcy court has the power to stay actions that "threaten the integrity of a [debtor's] estate").

Courts have exercised that authority in precisely these circumstances, where a regulatory proceeding threatened to strip a debtor of the governmental authorization on which its business and its reorganization depended. For example, in *In re Pizza of Hawaii, Inc.*, 12 B.R. 796, 799 (Bankr. D. Haw. 1981), the court stayed a liquor commission's refusal to renew the debtor's

license under Section 105 upon finding the license "necessary for the successful rehabilitation of Debtor," (*id.* at 799) upon evidence that its loss would cause the "loss or diminution of its valuable good will, the loss of the most profitable portion of its business operations, and the loss of customers to competitive businesses." (*id.* at 798). Injunctive relief is likewise available to protect an estate's rights against an FCC licensing proceeding. *In re Pac. Land Sales, Inc.*, 187 B.R. 302, 315 (B.A.P. 9th Cir. 1995). And courts have recognized that where the regulatory authorization is the business, its loss leaves "essentially . . . no business left to reorganize." *In re Burgess*, 234 B.R. 793, 799 (D. Nev. 1999).

B. The Debtor Met Its Burden for an Injunction Under Section 105(a) Enjoining the Revocation Appeal

Defendants have not submitted any evidence in their Oppositions and thus have not rebutted or even challenged Debtor's showing as to each of the four factors: (1) a likelihood of success on the merits; (2) irreparable harm absent the injunction; (3) that the balance of hardships tips in the movant's favor; and (4) that the injunction serves the public interest. *See*, *e.g.*, *Am. Imaging Servs., Inc. v. Eagle-Picher Indus., Inc. (In re Eagle-Picher Indus. Inc.)*, 963 F.2d 855, 858 (6th Cir. 1992).

1. The Debtor Has a Substantial Likelihood of Success on the Merits

In the bankruptcy context, the "likelihood of success" factor focuses on "the prospect of a successful reorganization . . . and whether the debtors are substantially more likely to reorganize with the injunction in place." *In re Purdue Pharma L.P.*, 666 B.R. 461, 469 (Bankr. S.D.N.Y. 2024). There is no requirement for "certainty of the successful reorganization" because there only need be "reasonable prospects of such." *Ball v. Soundview Composite Ltd. (In Re Soundview Elite Ltd.)*, 543 B.R. 78, 119 (Bankr. S.D.N.Y 2016). The Debtor's unrebutted showing of its likelihood for successful reorganization, subject to the requested stay, remains unrebutted by any evidence from the Defendants.

Here, SBE contends that the Debtor cannot reorganize because a new charter from Sutter County would carry a new charter number and a new county-district-school code and would therefore establish "an entirely new school operating as a different legal entity." (SBE Opp'n at

18-19). The argument conflates the Schools with the Debtor. The Debtor is HCCTS, the nonprofit public benefit corporation that, in SBE's own words, "currently operates two separate charter schools." (SBE Opp'n at 2). Twin Rivers agrees that the Schools "are operated and governed independently by [HCCTS] and its Board of Directors." (RJN, Ex. O). The same corporation, governed by the same Board, would operate the new school, and if approved, all academic programs, employees and students would transfer to that new school. (Raymond Decl., ¶ 56). A charter number and a county-district-school code are administrative identifiers the State assigns to a school. They do not change the identity of the legal entity that filed the Case and that will propose a plan in it. Nothing in the Bankruptcy Code requires a debtor to emerge from chapter 11 holding the same contracts or authorizations it held on the petition date. Debtors routinely reorganize by exiting unworkable relationships and entering better ones.

There is no dispute that absent the Revocation Appeal, the Charters will expire on June 30, 2027. (SBE Opp'n at 2, 18). This is already accounted for in the Debtor's dual track approach to reorganization, which contemplates a new charter to begin the academic year on July 1, 2027. (Raymond Decl., ¶¶ 56, 69). The Debtor seeks to (i) maintain the status quo of the Schools under the existing charter with Twin Rivers long enough to transfer the schools and their students to a new school operated under a new charter with Sutter County, while also addressing the $186 million in liabilities associated with the Audit Findings or (ii) alternatively, operate the Schools long enough to sell them as a going concern while maximizing value with the least disruption to students. (Raymond Decl., ¶ 66). This likewise debunks SBE's suggestion that a stay "has no bearing" on the Sutter County path. (SBE Opp'n at 19). For the transition to a new charter to occur, there must be something – the Schools' students, management, and employees – to transition. An adverse ruling in the Revocation Appeal at any point before the Sutter County decision in December would extinguish that possibility entirely, by either eliminating the Debtor's authority to operate the Schools in the interim or by draining the estate of the resources.

2. The Schools' Students Have No Realistic Alternative

Without an injunction, the Debtor and its estate will suffer irreparable harm that cannot be remedied or undone and is not in the public interest. It would terminate the Debtor's authority to

operate, eliminate its funding that is substantially all of its revenue, force the closure of the Schools, end the educational opportunities for approximately 2,000 current students, and destroy the going-concern value that is the premise of any reorganization.

SBE's public interest argument rests principally on the assertion that a "vast ecosystem of adult education opportunities" could absorb the Schools' students. (SBE Opp'n at 3, 22-23). SBE relies solely on its Request for Judicial Notice as a basis for this vague, conclusory statement. The exhibits on which SBE relies are a statewide provider directory, a one-page program handout from a single adult school, and a webpage listing another charter operator's sites. (RJN, Exs. D, E, F). None of these meet the requirements for judicial notice *of their contents* because Federal Rule of Evidence 201 only permits a court to notice a fact that is "not subject to reasonable dispute" which can be "accurately and readily determined from sources whose accuracy cannot reasonably be questioned." *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018). Judicial notice only permits a court to establish that those documents exist or the date of the document or that it is available on a website but not every statement or "fact" in the document itself. *Id.* at 999-1000 ("Just because the document itself is susceptible to judicial notice does not mean that every assertion of fact within that document is judicially noticeable for its truth."). There is a difference between the existence of record and the truth of its contents. *Lee v. City of Los Angeles*, 250 F.3d 668, 689–90 (9th Cir. 2001) (judicial notice of another tribunal's decision is "not for the truth of the facts recited therein, but for the existence of the opinion, which is not subject to reasonable dispute over its authenticity.").

SBE's Request for Judicial Notice, Exhibits D through F do not and cannot establish that any listed program has room for 2,000 additional adult learners in the middle of a semester, offers comparable instruction, admits students mid-year, provides the counseling and support services the Schools' students need, serves the same population at all, or does not charge fees. SBE does not even attempt to make any of those showings.

a. SBE failed to identify any locations that would serve the Schools' students whose average age is over 39 years

The Debtor's Schools serve adults aged 22 and older. (Raymond Decl., ¶ 19). The average age of an HCCS student is 39.2 years. (Guess Decl., ¶ 8). SBE incorrectly asserts that John Muir Charter Schools would be "able to serve the community around Sacramento and Twin Rivers" by relying on a website that lists locations. (SBE Opp'n at 3; RJN, Ex. F). However, John Muir Charter Schools "exclusively serves re-engaged high school dropouts who are enrolled in certain programs, including but not limited to the California Conservation Corps, Local Conservation Corps, and YouthBuild." (Guess Decl., ¶ 5). With few exceptions, it "serves and enrolls students up to 26 years of age." (*Id.*, ¶ 6). Its Sacramento site is a feeder program for the Sacramento Conservation Corps, which has its own age limits. (*Id.*, ¶ 7). Its CEO attests that, given the age of the Schools' students, John Muir "would only be able to enroll only a few, if any, HCCS students." (*Id.*, ¶ 8).

b. SBE failed to identify other schools that would provide assistance with societal necessities including transportation

Many of the Schools' students are refugees from Afghanistan who were relocated to Sacramento with the permission of the United States government because they assisted the United States during the war and their lives were at risk if they remained. (Raymond Decl., ¶ 23). Some are learning to read, to write, and to do basic arithmetic for the first time, in addition to learning English. *Id.* Many are required to remain enrolled in an educational program as a condition of receiving housing or other public assistance. (*Id.*, ¶ 24). Many have no vehicle, rely on food assistance and county human assistance programs, and depend on the bus passes the Schools provide to reach class. (Katz Exhibits, Ex. D [Docket Nos. 11-12]). Some examples are set forth below:

- Student Aziz Mohammad Popal explains he would lose access to English classes if Highlands closed "because traveling long distances to attend another school would be very difficult" and one of the "main reasons" he chose Highlands "is that the school is close to my home, making it convenient for me to attend classes regularly." (*Id.*, [Docket No. 11], A. Popal Decl., ¶¶ 6-7, pp. 56-57);

- Student Olga Potrebkova "receive[s] a transit pass, which helps because I take two buses to reach school." (*Id.*, O. Potrebkova Decl., ¶ 6, p. 61);

- Student Fataneh Sadat explains "the school has supported me in my education and helped me with practical needs, including a bus pass." (*Id.*, F. Sadat Decl., ¶ 3, p. 113); and

- Student Monica Orellana explains Highlands helps "with many community resources they have and provide to those students with no mode of transportation with free bus passes." (*Id.*, [Docket No. 12], M. Orellana Decl., ¶ 5, p. 29)

Because the Schools are funded at a higher per-student rate than adult education programs, they provide counselors, career navigators, and wrap-around services that students who have survived war and displacement often need in order to stay enrolled, including a food pantry, clothing, mental health counseling, and help finding doctors, dentists, and other providers who speak their language. (Raymond Decl., ¶ 21; Katz Exhibits, Exs. B-D [Docket Nos. 9-12]). Just some examples of the special assistance and support provided by the Schools are highlighted below:

- Teacher Joshua Nghiem explained the Schools provide "workforce opportunities . . . contact local businesses for employment opportunities, provide mock interview trainings, assist in resume writing to prepare our students find employment for them." (Katz Exhibits, Ex. B [Docket No. 9], J. Nghiem Decl., ¶ 7, p. 75);

- Teacher Ryan Lutgen similar explains the Schools "have built strong partnerships in the community and connected students with job opportunities and community colleges and training programs to continue building their post-graduation lives." (*Id.*, R. Lutgen Decl., ¶ 7, p. 150);

- Teacher Tom Pearson notes that the Schools "have long connected students with other resources and been a touchpoint for students in crisis or trauma. Teachers and staff go beyond their job descriptions to help students find solutions to myriad problems and obstacles." (*Id.*, T. Pearson Decl., ¶ 7, p. 181);

- Project Management Specialist Ekaterina Koliadina is a Highlands graduate who regularly provides practical support to students, explaining "Whether a student needed assistance filling out a form for Medi-Cal or another agency, had substandard living conditions, needed help paying electricity bills, or was going through a family crisis, we always had someone who could translate for them, connect them to resources, and follow up afterward to ensure that help was actually provided." (Katz Exhibits, Ex. C [Docket No. 10], E. Koliadina Decl., ¶ 7, p. 64);

- Paraeducator Parvin Monsef is a former Highlands student who does his best to now support current students and explains that the "Student Services department helps students find affordable housing, and school supplies are provided free of charge." (*Id.*, P. Monsef Decl., ¶ 5, p. 109); and

- Student Mohammad Sabir Salar "I have been helped by Highlands staff in many other ways such as assisting me schedule my medical appointments, housing, and language support" and "[l]osing this support would leave me uncertain about where to turn for the assistance I need to continue my education and manage the challenges of everyday life." (Katz Exhibits, Ex. D [Docket No. 12], M. Salar Decl., ¶¶ 4, 6).

As confirmed by the Debtor's prior submission, many of the Schools' teachers are themselves graduates of the Schools, speak multiple languages, are trained to teach adult English learners, and share their students' experiences. (Katz Exhibits, Ex. B [Docket No. 9]). A few illustrative examples from the many provided are highlighted below:

- Science Teacher and Lead Teacher Anna Mozghova "was once a student at this very school" who "personally experienced the opportunities and support" unique to Highlands: "a combination of English language instruction, academic education, and individualized support that helped me not only improve my English but also earn my diploma, complete college, and, most importantly, regain the confidence and sense of purpose I had before immigrating to the United States." Based on that experience she is "deeply committed" to providing students the same transformative opportunities she experienced. (*Id.*, A. Mozghova Decl., ¶ 3, pp. 10-11);

- English Language Development Teacher Joshua Nghiem "experienced very traumatic events similar to our student population" when his family escaped the Vietnam War as refugees. He understands "how difficult it is to lose everything and start over fresh with nothing in a foreign country with a different culture and language" and it is his "personal mission to ensure that we create a bridge and pathway" for students at Highlands by providing "tools, resources, training, and guidance for success, whether it be higher education or finding a job that can provide for their families." (*Id.*, J. Nghiem Decl., ¶ 3, pp. 73-74);

- English Teacher Khalida Nezami and her family "escaped Afghanistan after the Taliban took over" and went through "a difficult time and didn't know where to start my life in a new country" and then she enrolled at Highlands and "with support and encouragement" she continued her "education and became a teacher." Both of her "sisters graduated from Highlands two years ago and now they are attending college to become medical assistants." Her parents also attend Highlands and are learning English. She shares this common experience with many of her students who are immigrants and refugees, some of whom have never been to school before, and are learning English for the first time. (*Id.*, K. Nezami Decl., ¶¶ 3-4, pp. 88-89); and

- Elementary Mathematics Teacher Olga Musteata first attended Highlands when she came to the United States, and through the school she "learned about opportunities to work as a substitute teacher" and through that became a teacher's aide at a local public school. Her "journey has come full circle" and she now focuses on helping her "students build their skills, gain confidence, and discover new opportunities for their own futures." She credits Highlands with allowing her family to become more financially independent and not rely on public assistance and as a motivating force for her daughter who is now in her third year of college, studying for a career in education. (*Id.*, O. Musteata Decl., ¶¶ 3, 6, pp. 126-127).

The fifteen-mile radius SBE invokes reaches as far as Davis and Elk Grove. For students who struggle to travel three to five miles by bus, a trip that can take an hour, those programs are out of reach. Adult education programs funded at lower rates do not provide the counseling and support services described above. And no evidence suggests that a mere website listing locations of programs, individually or collectively, have the capacity to absorb 2,000 additional adult learners in the middle of a semester.

3. SBE Fails to Address Enrollment Windows, Wait Lists, and Availability of Comparable Programs to the Schools

Admission is rolling for the Schools, so a student can enroll at any point in the year. CICA's independent study model allows students to complete coursework on any day of the week, around jobs and childcare, which is the only way many working parents can attend school at all. And many students are enrolled in career technical education certificate programs that they have pursued, in some cases for years, toward credentials that would allow them to earn a living wage.

Many adult education programs admit students only on fixed entry dates, so closure in November would leave students without any program for a period of months. Programs such as American River College require a high school diploma or equivalency and minimum English proficiency for admission, and many are not offered at no cost. A career technical program in one trade cannot absorb a student midway through a certificate in another, based on a totally different set of course requirements, so a student who has spent years training for one certificate would have to start over.

4. There is No Probative Evidence that the Revocation Appeal Must Be Adjudicated Immediately.

The District asserts that it is "no longer in control" of the Revocation Appeal and now the SBE must "take action" by a "specified deadline" yet fails to provide any such deadline. (TR Opp'n at 2). The District is referring to the regulation that governs "Appeal of Charter Revocation to the State Board of Education and Submission of the Administrative Record" codified under title 5 of California Code of Regulations ("CCR"), section 11968.5.5(f). Subsection (f) establishes the applicable time limit – 165 days from the date the District submitted its reply brief in the

Revocation Appeal. The District represented that its reply brief was submitted on July 31, 2026, which sets the deadline for SBE to "take action" as January 12, 2027 – well after the November 12 scheduled meeting and after the Sutter County determination. (TR Opp'n, Ex. E).

Even if SBE elected not to "take action" by January 12, 2027, the District can still seek revocation of the Schools' Charters. Under the governing regulation, SBE's failure to take action permits the District to seek judicial review because at that time, "the appellant [the District] is deemed to have exhausted its administrative remedies." 5 CCR § 11968.5.5(f). Well established California precedent confirms that "exhaustion of the administrative remedy is a jurisdictional prerequisite to resort to the courts." *See Abelleira v. Dist. Ct. of Appeal*, 17 Cal. 2d 280, 293 (Cal. 1941) (explaining "where an administrative remedy is provided by statute, relief must be sought from the administrative body and this remedy exhausted before the courts will act."). Should SBE not take action before the deadline, the District will be entitled to judicial determination on the Charters because the prerequisite that a litigant "must show that he invoked and exhausted the remedy before he may obtain judicial review of the administrative action taken" will be met by operation of law under California Code of Regulations § 11968.5.5(f). *Env't L. Fund, Inc. v. Town of Corte Madera*, 49 Cal. App. 3d 105, 111–12 (Cal. Ct. App. 1975).

California courts have also recognized and authorized the issuance of preliminary injunctions to stay immediate revocation of school charters and cessation of funding even during administrative proceedings. *See, e.g., Am. Indian Model Schs. v. Oakland Unified Sch. Dist.*, 227 Cal. App. 4th 258, 272 (Cal. Ct. App. 2014). The parties' positions were reversed in *American Indian Model Schools* where a decision to immediately revoke the schools' charters was issued at the county level, and the charter schools sought to appeal that decision to the SBE. Before initiating that appeal, the schools sought judicial intervention, which was granted. *Id.* at 291. In granting the preliminary injunction, the trial court found irreparable harm would result and that a preliminary injunction was necessary to maintain the status quo: the schools had demonstrated that otherwise they would lose both their faculty and student body and the students would be "deprived of the opportunity to obtain an education at schools that have enabled those students to obtain Academic Performance Index (API) and SAT test scores." *Id.* at 292. Notably, despite the fact that

the schools could not meet the exhaustion requirement, the appellate court found the preliminary injunction was properly issued under the irreparable harm exception to the exhaustion doctrine. *Id.*

5. The Balance of Harms Weighs Heavily in Favor of Granting Injunctive Relief

The Court need not resolve every question the Oppositions raise to decide whether the Revocation Appeal should go forward on November 12. "At present, Sutter County is scheduled to meet on December 5, 2026 to decide if it will issue HCCTS a new charter." (Raymond Decl., ¶ 68). If Sutter County meeting confers a new charter during its meeting on December 5, 2026, the Debtor will begin its new chapter on July 1, 2027, when school operations start up again for the 2027-2028 academic year. (*Id.*, ¶ 69). SBE first observes that "nothing in California Education Code section 47607(i)(2) prevents SBE from making the revocation effective on a future date." SBE Opposition at 20, 23. Accordingly, a limited injunction that would enjoin the Revocation Appeal until after Sutter County's December 5, 2026 meeting and resulting decision on the new charter takes place – a delay of a mere few weeks – would likely aid in maintaining the status quo and preventing the dismemberment of the estate during this Chapter 11 Case.

Courts routinely grant temporary injunctions of exactly this kind to give a debtor room to stabilize its operations and to formulate a plan. *Dunaway v. Purdue Pharma, L.P. (In re Purdue Pharma L.P.)*, 619 B.R. 38, 58-59, 62 (S.D.N.Y. 2020) (affirming temporary injunction to facilitate mediation and plan negotiations); *In re The Roman Catholic Diocese of Syracuse, N.Y.*, 628 B.R. 571, 580-83 (Bankr. N.D.N.Y. 2021); *In re Diocese of Buffalo, N.Y.*, 652 B.R. 574, 576 (Bankr. W.D.N.Y. 2023). A key tenet of the automatic stay is to preserve a level playing field for all parties and to prevent preferential treatment for certain parties. *See, e.g., In re Conejo Enters., Inc.*, 96 F.3d 346, 353 (9th Cir. 1996) (affirming the bankruptcy court's consideration of preserving a level playing field for negotiation of a consensual reorganization plan in denying relief from the stay); *In re Medicar Ambulance Co., Inc.*, 166 B.R. 918, 928 (Bankr. N.D. Cal. 1994) (noting that the automatic stay is intended to prevent preferential treatment).

If the SBE were allowed to proceed to hearing the Revocation Appeal at the November 12-13, 2026 meeting, Twin Rivers, which holds the second highest unsecured claim against the Debtor with an unsecured claim of $2,413,709.68 (*see* Main Case Docket No. 5, Chapter 11 []List

of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders), would obtain preferential treatment in that it will be permitted to proceed with revoking the charter, thereby likely absolving itself of its own documented failures to provide sufficient oversight and monitoring as set forth in the Audit Report, as well as any resulting liabilities in the Audit Appeal, which is ironically stayed because the Department of Finance is complying with the automatic stay. This is the precise unequal playing field that the automatic stay is meant to prevent because, while other creditors and parties are respecting the automatic stay, Twin Rivers is attempting to circumvent the automatic stay to better position itself in the Audit Appeal (which will be heard at a later time) and avoid liability for its inadequate oversight. Enforcing the automatic stay, whether under Section 362 or 105(a) of the Bankruptcy Code, to enjoin the Revocation Appeal preserves a level playing field for all parties and prevents Twin Rivers from being able to use the automatic stay to shield itself from its own failures and liabilities.

An interim order also preserves the Court's ability to revisit the question on a fuller record. After December 5, 2026, the Court will know whether Sutter County has granted the new charter, an official committee of unsecured creditors will likely have been appointed and able to weigh in, and the parties will be in a position to address whether a longer injunction through the end of the academic year is warranted. Nothing about that sequence prejudices Defendants. It simply ensures that the most consequential decision in this case is not made by default in the first five weeks after the petition date.

C. The Automatic Stay Also Applies to the Revocation Appeal

The fundamental objectives of the automatic stay include maintaining the status quo, protecting the estate against a multiplicity of lawsuits in various forums, and preserving the relative priorities of creditors, pending a distribution of estate assets. *See Village Nurseries dba Southern Counties Landscape v. Gould (In re Baldwin Builders)*, 232 B.R. 406, 412 (B.A.P. 9th Cir. 1999); *see also In re Synergy Development Corp.*, 140 B.R. 958, 959 (Bankr. S.D.N.Y. 1992) ("The purpose of the automatic stay is to allow a debtor to maintain the status quo"). Indeed, the Supreme Court has explicitly said that the automatic stay "serves to maintain the status quo and

prevent dismemberment of the estate during the pendency of the bankruptcy case." *Ritzen Grp., Inc. v. Jackson Masonry, LLC*, 589 U.S. 35, 42 (2020) (internal quotations omitted).

Permitting the SBE to proceed with hearing and deciding the Revocation Appeal at the scheduled November 12-13, 2026 meeting would certainly not maintain the status quo at the Schools, which are currently in the middle of the semester and are providing ongoing vital services to the most vulnerable populations in the local community. Rather, it would open the door to a potential revocation of the Charters either immediately or at an unknown future date that is out of the Debtor's control. Either result would inevitably lead to a systematic and irreversible dismemberment of the estate due to the Schools' inability to operate, which in turn would leave thousands of disadvantaged students with no viable educational opportunities, hundreds of employees without jobs, and a multitude of creditors and vendors with no clear pathway to getting paid.

1. 362(b)(4) Does Not Apply to the Revocation Appeal

Although the scope of the automatic stay is broad, the police and regulatory power exception in Section 362(b)(4) is to be "read narrowly." *In re Dunbar*, 235 B.R. 465, 470–471 (B.A.P. 9th Cir. 1999). The police power exception exists so that government may act to "prevent or stop" ongoing violations of "fraud, environmental protection, consumer protection, safety, or similar police or regulatory laws." *In re Universal Life Church, Inc.*, 128 F.3d 1294, 1298 (9th Cir. 1997) (quoting legislative history) (cited at SBE Opposition at 8-9). *In Thomassen*, the State's interest lay "in punishing such misconduct and in preventing future acts of the type which [the debtor] has been accused." 15 B.R. at 909. In *Universal Life*, revocation of a tax exemption assured the public and potential donors that future contributions would be used for charitable purposes. 128 F.3d at 1298. In each case, the governmental action addressed a *continuing risk* created by the debtor's present conduct. Here, the Defendants are unable to establish a continuing risk because the Revocation Appeal is based on alleged conduct in the distant past.

Where, as here, an agency acts purely as an adjudicator of state law, the police and regulatory power is not being employed. For example, courts have consistently held that the § 362(b)(4) exception *does not apply* to an agency's actions to enforce state-law contractual rights

against a debtor and that such actions are subject to the automatic stay. *See Enron Corp. v. California ex rel. Lockyer (In re Enron Corp.)*, 314 B.R. 524, 535-36 (Bankr. S.D.N.Y. 2004); *Corporacion de Servicios Medicos Hospitalarios de Fajardo v. Mora (In re Corporacion de Servicios Medicos Hospitalarios de Fajardo)*, 805 F.2d 440, 445 (1st Cir. 1986); *University Med. Ctr. v. Sullivan (In re Univ. Med. Ctr.)*, 973 F.2d 1065, 1075 (3d Cir. 1992). *See also Chao v. Hosp. Staff Servs.*, Inc., 270 F.3d 374, 382 (6th Cir. 2001) (finding that because "the Secretary has undertaken this ... action not in furtherance of public policy but primarily to assert and protect the private rights of certain individuals ... the police power exception does not apply [and] the automatic stay governs"); *see also Joe DeLisi Fruit Co. v. Minnesota Dept. of Agric. (In re Joe Delisi Fruit Co.)*, 11 B.R. 694, 696-97 (Bankr. D. Minn. 1981) (holding that § 362(b)(4) was not applicable to action brought by Minnesota Department of Agriculture that was "not to restrain or punish any violation of the statute... or to determine licensing requirements or to collect damages from the debtor for violation .... The action is by and for the benefit of the creditors of the debtor"). Importantly, the "application of § 362(b)(4), however, is not automatic. State or local governments cannot, by the exercise of their police or regulatory powers, subvert the relief afforded by the bankruptcy laws." *In re Dunbar*, 235 B.R. 465, 471 (9th Cir. BAP 1999) (citing *Thomassen*, 15 B.R. at 909).

As more particularly briefed in the Debtor's Memorandum (p. 20), the federal courts have created two tests to determine whether a state agency's administrative actions fall within the scope of the § 362(b)(4) exception, the "pecuniary purpose" and the "public policy" tests.

a. The Revocation Appeal involves a pecuniary purpose

SBE's attempt to divorce the Revocation Appeal from the Audit Appeal and the State's attempt to obtain payment of $186 million is untenable. The Revocation Appeal is related to the Audit Report, just as the Audit Appeal is related. The Audit Appeal has been stayed by the State in recognition of the automatic stay, and that result should control to likewise stay the Revocation Appeal. It is well established that government enforcement actions seek money or "restitution" are not excepted from the automatic stay. *See In re Commonwealth Cos., Inc.*, 913 F.2d 518, 523 (8th Cir. 1990) (Section 362(b)(4) "does not include governmental actions that would result in a

pecuniary advantage to the government vis a vis other creditors of the debtor's estate"); *In re Dunbar*, 235 B.R. at 474-75 (state agency proceeding seeking restitution for state code violations are not excepted from the automatic stay); *Poule v. Registrar of Contractors of the State of California* (*In re Poule)*, 91 B.R. 83, 87 (9th Cir. BAP 1988) (subsection 362(b)(4) does not except from stay state order of restitution payment); *In re Eagle Bus Mfg., Inc*., 158 B.R. 421, 426-29 (S.D. Tex. 1993) (affirming bankruptcy court's refusal to modify automatic stay to permit action against estate, because state agency's claim was not exempted under section 362(b)(4) as agency was seeking to enforce its own pecuniary interests).

Here, SBE admits it has a pecuniary interest when it asserts that the SBE has a responsibility to ensure that future education funds are not misappropriated "*as those funds can then be appropriated to all of the other state's public schools*." (SBE Opp'n at 11 (emphasis added)). Despite this concession, SBE's pecuniary purpose argument nonetheless hinges on the red herring argument that "neither the SBE nor Twin Rivers stand to recoup any money as a result of the Revocation Appeal." (SBE Opp'n at 10). The District quotes *Universal Life* for the proposition that the stay will be imposed only if the action is pursued "solely" to advance a pecuniary interest. (TR Opp'n at 4). *Universal Life* itself frames the inquiry as whether the action relates "primarily" to the government's pecuniary interest. 128 F.3d at 1297.

The pecuniary purpose test determines "whether the government action relates primarily to the protection of the government's pecuniary interest in the debtor's property or to matters of public safety and welfare." *Id*. Its rationale is that the government "should not be able to use its police and regulatory powers to circumvent the relief available to both debtors and general creditors under the Bankruptcy Code." (Debtor's Memorandum at 21 (citing *Thomassen*, 15 B.R. at 909)). And the Ninth Circuit has made clear that "police or regulatory power" does not include "regulatory laws that directly conflict with the control of the res or property by the bankruptcy court." *City & Cty. of S.F. v. PG&E Corp*., 433 F.3d 1115, 1123 (9th Cir. 2006) (citing *Hillis Motors, Inc. v. Haw. Auto. Dealers' Ass'n*, 997 F.2d 581, 591 (9th Cir. 1993)) (cited in SBE Opp'n at 9). A revocation that ends the Debtor's operations, eliminates the estate's going concern

value, and removes from the case the only party positioned to contest the State's $180 million claim conflicts directly with this Court's control of the estate.

Twin Rivers holds a scheduled unsecured claim of $2,413,709.68, the second largest in the case. (Main Case Docket No. 5, Chapter 11 []List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders). It collected $12.9 million in oversight and facilities fees that the State Auditor found it "cannot justify," some portion of which was charged to CICA in excess of the statutory limit, all of which the estate may seek to recover. (Raymond Exhibits, Ex. B (Audit Report), p. 55; *see also* Cal. Educ. Code § 47613). The Audit Report places responsibility for the oversight failures it describes on Twin Rivers along with CDE, the Commission on Teacher Credentialing, and the Sacramento County Office of Education. (Raymond Exhibits, Ex. B (Audit Report), pp. 45-59). To the extent the State's $180 million determination is sustained at all, there is a substantial question whether Twin Rivers, through its failed oversight and through its appointee's participation in governance, bears responsibility to the estate and its creditors for some share of it.

If the Charters are revoked, the Schools will immediately close, and with them go the staff, the records, and the counsel best positioned to explain Twin Rivers' role to the creditor body and to any committee. The estate would be left with no revenue and no realistic means of litigating either the Audit Appeal or claims against Twin Rivers. Creditors would be left with what remained after a liquidation. Twin Rivers, meanwhile, would be relieved of the most likely source of scrutiny of its own conduct. Twin Rivers' insistence on proceeding now, before any committee is formed and while the Audit Appeal is stayed, is consistent with nothing so much as an interest in ensuring that those questions are never asked. That is a pecuniary interest in the most direct sense.

CDE asserts a claim of more than $180 million against the estate, and it has agreed to hold its own determination in abeyance through the Department of Finance while SBE presses forward on a proceeding that would leave no one to contest that claim. (Debtor's Memorandum at 9, 16). The State also has a contingent exposure through Twin Rivers. If Twin Rivers, one of the larger school districts in the region, were held responsible for a significant share of the liabilities at issue,

the State would be obligated by statute to support it financially, because a California school district cannot seek relief in bankruptcy and instead relies on the State. *See* Cal. Educ. Code §§ 41320, 41320.1, 41320.2, 41325, 41326.

The State's own staff previously asked the Legislature to fund the Schools at the lower rate applicable to adult education programs, and the Legislature rejected that proposal. Shifting 2,000 students from the Schools into lower-funded adult education programs, which is SBE's stated answer to the closure it seeks (SBE Opp'n at 3, 22-23), would achieve administratively the funding reduction the Legislature declined to enact. SBE's own brief describes its interest as ensuring that "future education funds" can "be appropriated to all of the other state's public schools." (SBE Opp'n at 11). That is a description of a fiscal interest, and SBE's contention that the pecuniary purpose test "looks to the 'government's pecuniary interest in the debtor's property,' and not to future funding," *id.*, cannot be squared with its own reliance on the same future funding as the public welfare justification for the appeal.

A proceeding fails the public policy test when it is "brought primarily to advantage discrete and identifiable individuals or entities rather than some broader segment of the public." *Lockyer v. Mirant Corp*., 398 F.3d 1098, 1109 (9th Cir. 2005) (cited at SBE Opp'n at 12).

2. 362(b)(15) Does Not Apply to the Revocation Appeal

Section 362(b)(15) excepts an action "by a State licensing body regarding the licensure of the debtor as an educational institution." Neither Defendant is a State licensing body, and the Revocation Appeal does not concern licensure. Twin Rivers is a local school district. SBE concedes that it is not the chartering authority for either School, that Twin Rivers "serves as the authorizer for the two charter schools," and that SBE's role in the Revocation Appeal is appellate. (SBE Opp'n at 2, 4, 7).

A charter is in any event not a license but "a detailed contract between the school's founders and an authorizing entity that sets out the school's educational program, governance structure, academic goals, financial plan, and accountability measures." (Raymond Decl., ¶ 13). SBE itself emphasizes that "charter schools are part of California's single, statewide public school system." (SBE Opp'n at 3 (quoting *Wilson v. State Bd. of Educ*., 75 Cal. App. 4th 1125, 1137

(1999)). Once a charter is approved, the charter school is part of that system, not a private applicant licensed by it, just as no one would describe a school district as "licensed" by the State to operate its schools. The closest analogue to educational licensure in this record is the Schools' accreditation, which comes from Western Association of Schools and Colleges ("WASC") and which WASC has renewed. (Raymond Decl., ¶ 39).

Section 541(b)(3), on which SBE relies, excludes from the estate "any accreditation status or State licensure of the debtor as an educational institution." A charter is neither. In *In re Draughon Training Institute, Inc*., 119 B.R. 927, 930-31 (Bankr. W.D. La. 1990), which both sides cite, illustrates the distinction. The court there held that the school's eligibility certifications to receive state and federal educational funding were property of the estate, even as it treated accreditation as "mere status." *Id.* at 931. The Charters are the instrument through which the Schools receive public funding, as SBE's own focus on "future funding" confirms. (SBE Opp'n at 11). SBE's effort to distinguish *Draughon* on the ground that it involved for-profit "proprietary schools," (SBE Opp'n at 16), overlooks that the Debtor too is a private corporation and not a public agency. The Debtor is a nonprofit public benefit corporation that Twin Rivers itself describes as operating and governing the Schools "independently" through its own Board of Directors. (RJN, Ex. O). That the Debtor operates for charitable rather than commercial ends makes the public interest in preserving its operations stronger, not weaker.

SBE dismisses *Today's Fresh Start, Inc. v. Los Angeles County Office of Education*, 57 Cal. 4th 197, 214 (2013), on the ground that it addressed a due process claim. SBE Opposition at 16. *Today's Fresh Start* holds that once a charter is granted, the charter school holds a property interest in it protected by law. Section 541(a)(1) sweeps into the estate "all legal or equitable interests of the debtor in property," and that definition is construed broadly. *U.S. v. Whiting Pools*, Inc., 462 U.S. 198, 204 (1983) (quoting 11 U.S.C. § 541(a)(1)). SBE's observation that SBE will afford the Debtor a hearing (SBE Opp'n at 16), confirms that a cognizable interest is at stake. It does not show that the interest falls outside the estate.

Regardless of how the Charters are characterized, it is undisputed that the Debtor cannot operate the Schools without a valid charter. The Debtor's reorganization plan for its business

necessarily requires a valid school charter. The Ninth Circuit has long treated state-issued authorizations to operate a business as estate property. *In re Farmers Markets, Inc.,* 792 F.2d 1400, 1403-04 (9th Cir. 1986) (liquor licenses); *Matter of Pro. Bar Co., Inc*., 537 F.2d 339, 340 (9th Cir. 1976) (same). Other courts have done the same for FAA landing slots, broadcasting licenses, racing licenses, and the funding eligibility certifications of an educational institution. Memorandum at 23-24 (collecting cases). SBE's response that the debtors in those cases were for-profit businesses (SBE Opp'n at 17), identifies no principle that would exclude a nonprofit's charter. Nothing in Section 541 turns on whether the debtor seeks a profit. A revocation would extinguish the Debtor's interest in the Charters and, with it, the estate's ability to operate. It is therefore an act "to exercise control over property of the estate" within Section 362(a)(3).

The Debtor has met its burden, the Defendants have not advanced any evidence or rebutted the Debtor's evidentiary showing. The short delay requested for the Revocation Appeal – to allow the Debtor a breathing spell and the ability to reorganize – is well supported and an injunction should issue.

V. CONCLUSION & PRAYER

WHEREFORE, for the reasons set forth above, the Debtor respectfully requests that this Court enter one or more orders: (1) declaring that the automatic stay applies to the Revocation Appeal and any enforcement of a Charter revocation by Twin Rivers; (2) declaring that any such enforcement acts, including any revocation of the Charters, violate the automatic stay and are void; and (3) independently, issuing an injunction under Section 105(a) extending the automatic stay under 362(a) to the Revocation Appeal and any revocation of the Charters during the pendency of this Case, and granting such other relief as the Court deems just and proper.

Dated: November 3, 2026 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By */s/ Ori Katz*
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