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Lancaster I.S.D.
Superintendent Investigation
FINAL REPORT

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TO THE LANCASTER INDEPENDENT SCHOOL DISTRICT BOARD OF TRUSTEES (THE "BOARD");

The Board hired our firm to investigate irregularities in the performance of Superintendent Dr. Larry Lewis. The Board also asked us to determine whether Dr. Lewis failed to provide timely and accurate information vital for Board knowledge and oversight of the overall operations and finances of Lancaster I.S.D. (the "District"). We verbally reported preliminary findings to the Board on November 3, 2008 about a variety of issues. We make this final report to focus only on any critical, indisputable failures of Dr. Lewis.

I.

DR. LEWIS FAILED TO ADEQUATELY AND TIMELY COMMUNICATE WITH AND WITHHELD MATERIAL INFORMATION FROM THE BOARD

The most recent edition of the Board's 2006 Code of Conduct and Standard Operating Procedures (the "Code") requires Dr. Lewis to flow weekly information to the Board, and to "phone or e-mail all Board members any urgent situations that cannot wait until the weekly update." §VII:G. Section I:H of the Code requires the Superintendent and his team to ensure all information needed for informed decision-making is supplied to each Board member at least five working days prior to a Board meeting. Dr. Lewis is also supposed to accurately represent facts to the Board (District Policy DJCF – LOCAL).

Dr. Lewis withheld material and key information from the Board on more than one occasion in 2008. By *failing* to communicate with the Board about critical information, Dr. Lewis caused his representations to the Board about budget and finances to be materially misleading.

A. *Dr. Lewis Withheld the Preliminary TEA Audit Report from the Board*

The TEA audited Lancaster I.S.D. in October and November of 2007. The TEA dated its Preliminary Audit Report (the "Preliminary Report") on February 22, 2008. A few days later, Dr. Lewis received one copy of the Preliminary Report in an envelope with a letter that read, "cc: Board Members." This led Dr. Lewis to believe that the Board separately received their own copies. In reality, the TEA did not send copies to the Board.

Dr. Lewis called then-President Ed Kirkland to discuss the Preliminary Report. It was at that time Dr. Lewis learned the Board had not received copies. Dr. Lewis verbally updated Mr. Kirkland on the contents of the report, but did not send him a copy. Mr. Kirkland confirms he did not get a copy at that time, but that Dr. Lewis told him what it said in basic terms.

At least five members of the prior Board confirmed that they never received a copy of the Preliminary Report. Three of those people are strong Lewis supporters. *We*

find that no member of the Board ever received a full set of copies of the Preliminary Report – at any time.

Dr. Lewis could easily have attached a scanned version of the Preliminary Report in an e-mail or mailed copies to the Board. His failure to do so was not mere oversight. We know this because of how many times Dr. Lewis worked on drafts of a response to the Preliminary Report. The Preliminary Report was clearly on Dr. Lewis' mind. He put a great deal of work into the response and clearly believed the response was critical to the District's status with the TEA. Ultimately, as hindsight shows, Dr. Lewis failed to satisfy the TEA with his response to the Preliminary Report; the final Audit Report was not very much different from the Preliminary Report and the District was forced to accept a conservator. The Board should have been able to view the Preliminary Report to assist in the analysis and response.

Our inspection of Dr. Lewis's e-mail revealed multiple revisions of the District's proposed response to the Preliminary Report throughout March of 2008. Some of those e-mails were sent very early in the day or very late. Dr. Lewis solicited input and opinions from various employees about the language and substance of the response. Dr. Lewis sent the actual response on March 21, 2008 at 5:05 p.m. to the TEA. During this entire process, it would have been far better for Dr. Lewis to send a copy of the Preliminary Report (and the proposed response) to the Board.

It is easy to understand why Dr. Lewis might have been reluctant to bring the Board up to speed on the Preliminary Report. The TEA's findings were not good news. The Preliminary Report faulted the District for erroneous coding, being over budget by more than 10%, irregular budget amendments, over-reporting of attendance, PEIMS discrepancies, improper expenditures, unjustified purchase orders, lack of a fixed asset ledger, unlawful *per diem*, credit card abuse, and misuse of bond proceeds.

Since he is employed in a contentious environment, Dr. Lewis might have feared leaks by Board members to the media. Another motive might have been to increase his chances of a salary raise, contract renewal, and confidence of the Board. (His contract was renewed on March 11, 2008 at a rate of almost \$200,000 a year.)

Regardless of his motives, Dr. Lewis *did* withhold the Preliminary Report. That was improper. Even though the Board President knew *about* the Preliminary Report, it was incumbent on Dr. Lewis to immediately make sure the Board had the Preliminary Report *verbatim*.

B. *Dr. Lewis Willfully Failed to Inform the Board About the Budget-to-Payroll Mismatch of 18 Employees*

Six unbudgeted employees were hired into the middle school and twelve unbudgeted employees were hired into the high school for the 2008-2009 school year. Almost all of the 18 out-of-budget employees hired for the 2008-2009 school year have 10-month contracts now. These 18 out-of-budget employees are due to receive over

\$800,000 in aggregate salaries, which will in all likelihood mean a far greater budget shortfall.

On July 23, 2008 the middle school principal e-mailed administration (including Dr. Lewis) to complain about the breakdown in communication about the hiring process, warning that the District would end up overstaffed. The middle school principal faults the hiring process as a “disorganized fiasco.” When he started in July, he did not know how many vacancies he had, or how many teachers he needed to hire. Critical information was not relayed. The result was “complete disorganization.”

The middle school principal remembers a meeting with Dr. Lewis where he told Dr. Lewis he could not cut any vacancies because he was understaffed as it was. He claims Dr. Lewis agreed to let him keep all his vacancies. *Nothing in writing memorializes this exchange.* The middle school principal says he never heard anything about the matter again, and once he figured out exactly how many people he needed, he stayed within his limit.

The high school principal also had trouble knowing how many cuts and hires he had to make for 2008-2009. The principal says the high school had 35 vacancies in the summer of 2008. In July, he remembers that Dr. Lewis called him and told him he had to cut 20 vacancies. The principal simply could not do it, because many of his vacancies were in legally required Math and Science spaces.

The high school principal remembers telling Dr. Lewis at the Staff Retreat in Frisco in August that the high school could cut only 12 vacancies. The principal says Dr. Lewis agreed to this. *Neither of them put the agreement in writing.* Later, after some schedule shifting, the principal was able to cut two more vacancies, bringing the total to 14. The principal confirms that after the problem was revealed on October 1, 2008 nobody asked him to cut positions – and he does not have any to cut.

Dr. Lewis thought the principal initially told him: “I have 15 math teachers, but I’ll live with 12.” Another time Dr. Lewis told us the high school principal “was supposed to give us 17 cuts but he only gave us 11 – three in math.”

Sometime after September 26, 2008, but before October 1, 2008, the Payroll Manager discovered the fact that the District had hired more people than the budget allowed. The Payroll Manager informed the HR Director, the Budget Coordinator, the CFO, and Dr. Lewis.

On or about October 1, 2008, Dr. Lewis took the Payroll Manager and the HR Director to the high school to meet with the principal and repetitively go line by line through the list of personnel to check on the issue. Everyone except Dr. Lewis confirms that there was a moment of silence (one person said it was an “oh sh – t” moment and another said it was an “oh hell” moment) when all four of them realized the District had gone over and outside the budget.

The manual mistake appears to have been made by the Budget Coordinator, but contributing causes appear to include a lack of automation in the position control process

(available software was not utilized) and a lack of coordination between Finance, Budget, Payroll, HR, campuses, and superintendent. Not everyone agrees on who is to blame for the initial manual error. Dr. Lewis blames the Payroll Manager, the Budget Coordinator, the HR Director, and the high school principal. Everyone else, except the Budget Coordinator, faults the Budget Coordinator. The Budget Coordinator blames HR.

Everyone, including Dr. Lewis himself, agrees that Dr. Lewis never announced a plan – formal or informal – to remedy the problem and never informed the Board about the issue, in any way, at any time. No decision or plan to fix the over-budget error was ever communicated to the Budget Coordinator.

All agree that:

- The numbers do not match up. There was a mismatch of 18 employees unbudgeted for.
- Dr. Lewis knew about this mismatch as early as late September and no later than the first day of October.
- Dr. Lewis never communicated a plan to fix the problem.
- Dr. Lewis never forbade anyone to tell the Board about it, but he himself never informed the Board either.
- To this day, Dr. Lewis has not informed the Board about the mismatched, unbudgeted 18 employees.

When asked whether Dr. Lewis should have told the Board right away, one employee theorized: “Maybe Dr. Lewis wanted to avoid a state of panic,” as this problem came right on the heels of the revenue shortfall presented by Dr. Lewis on Tuesday October 14th. *The timeline for this theory is wrong. Dr. Lewis knew about the approximately \$800,000 of extra out-of-budget salaries since October 1, 2008.*

One employee admitted it would have been better for Dr. Lewis just to tell the Board about the issue. “It might make the shortfall \$2.3 million instead of \$1.5 million.” She thinks Dr. Lewis’ “fix” is to hope for other vacancies and hope for attrition.

When would Dr. Lewis have told the Board? His answer to us was unclear. The best interpretation of what he said seems to be that *if* a shortfall remained and *if* this mismatch contributed to any shortfall, *then* he thinks he might have told the Board. Dr. Lewis appears to remain in denial about this issue. He told us: “If we were really an extra \$815,000 short from these teachers, then how come we have a \$582,000 balance?”

As the most prominent leader of the District, Dr. Lewis is supposed to set an example of honest and ethical behavior. Dr. Lewis failed to exercise good and sound judgment in failing to report the 18 employees who were “out of budget.” District Policy CAA (LOCAL) forbids “impropriety...in the reporting of District financial transactions.” Silence about the signing of approximately \$800,000 in unbudgeted salaries qualifies. Dr. Lewis should have reported this problem to Mr. Damm and the Board in the first

week of October 2008. For him to have the financial and budget conversations he was having during the entire month of October *without* revealing the “\$800,000/18 employee error” was misleading.

The superintendent failed to provide accurate, timely information to the entire Board, including (a) failing to send entire copies of the Preliminary Report to the Board (and advance copies of the proposed response to the TEA) and (b) failing to alert the Board at or before the next Board meeting in early October that the District had mistakenly hired 18 employees outside the approved budget.

II.

DR. LEWIS APPROVED AND MADE ILLEGAL ZERO INTEREST LOANS AND ADVANCES OF DISTRICT FUNDS TO DISTRICT EMPLOYEES

Loans or advances of District funds are not permitted under District Policy DEA (LEGAL), case law and the Texas Constitution, at Article III, Section 52. The public policy seems obvious. Why should a struggling homeowner have to take out a second 30 year mortgage at 8 or 9 or 10% to pay his school taxes into public trust, only to have that money be loaned out at zero interest for unspecified reasons?

Nevertheless, Dr. Lewis allowed, approved, administered, and hid a zero interest employee loan program that favored his inner circle of well-paid administrators. The following loans were made during 2008 alone:

Date	Amount	Check No.	Int. Rate	Loan approved by Dr. Lewis?	Promissory Note signed?	Who signed the note for the District?	Repayment terms
1/03/08	\$2,500	308398	0%	Yes	Yes – for \$3,000	CFO and Payroll Admin.	\$312.50 a month
1/03/08	\$3,000	308399	0%	Yes	Yes – for \$3,000 + \$3,000	CFO and Payroll Admin.	\$750 a month
2/25/08	\$4,077.41	309151	0%	Yes – funds to be withheld till June	Created (but not signed by maker)	Payroll Admin.	\$1,019.35 a month
3/31/08	\$900.00**	309577	0%	Yes	Yes	CFO and Payroll Admin.	\$180 a month
4/08/08 4/04/08 6/13/08	\$1,000 \$2,800 \$200.00	309670 309644 311465	0%	Yes	Yes, for \$2,800 or \$3,800	Asst. Super. and Payroll Admin.	\$3,800 one time payment***
4/16/08	\$2,000	309801	0%	Yes	Yes	Payroll Admin.	\$400 a month deducted
4/25/08	\$3,500	309919	0%	Yes	Yes	CFO and Payroll Admin.	\$1,750 a month
5/02/08	\$1,700	309988	0%	Yes	Yes	Payroll Admin.	\$566.67 a month

Date	Amount	Check No.	Int. Rate	Loan approved by Dr. Lewis?	Promissory Note signed?	Who signed the note for the District?	Repayment terms
5/23/08	\$1,959.06	311185	0%	No	Yes	CFO and Payroll Admin.	\$1,959.06 one time payment
6/19/08	\$500.00	311498	0%	Yes	Yes	Payroll Admin. and Dr. Lewis	\$250 a month
7/18/08	\$4,622.53	311811	N/A	Yes	None	None	None
9/12/08	\$4,000*	312179	0%	Yes	Yes	CFO and Payroll Admin.	\$1,000 a month

*This loan exceeds the employee's net monthly salary of \$3,769.45.
** This request mentioned only "urgent emergency matters" without explanation. She was paid the same day.
*** This loan was made to a high-ranking employee who makes a six figure salary.

It is clear that:

- **These payments were loans.** A loan is any advance of money that is made to or on behalf of an obligor, the principal amount of which the obligor has an obligation to pay the creditor. TEX. FIN. CODE § 301.002 (Vernon 2007). The instant the money was paid to the employee, it was a loan.
- At least three zero interest loan checks were paid to the District's CFO.
- **The loans are approved only by Dr. Lewis.**
- The promissory notes are prepared by the Payroll Manager. The District Accounts Payable Clerk "staples together the manual check request, the promissory note, and the method of pay back, which we call the distribution report." Dr. Lewis *did* know about the use of promissory notes – he even signed one of them.
- The loans are paid from the District liability account.
- The repayments were not all scheduled for the next pay period.
- Checks under \$5,000 can have automated signatures. The Board members who "signed" the checks had no knowledge of this practice; their signatures were automated. The Board never authorized a loan program – whether in the guise of loans or pay advances.
- **Dr. Lewis has inconsistently denied loan requests.** For instance, in September of 2008, an employee who faced "disconnection of my electricity" and asked for a "loan from my payroll" was informed to go through the chain of command. Dr. Lewis received the e-mail (which

used the word "loan") and e-mailed the employee's principal that "it is my understanding we have helped her before? If so, I say no this time." (*Others received multiple loans for unspecified reasons*).

- One employee in Finance says: "We shouldn't do these, because we are not a bank."

We found that Dr. Lewis moved payday for the whole District up at times. In January 2008, payroll should have occurred on 1/25/2008, but Dr. Lewis authorized early pay on 1/18/2008; and in August, payroll should have occurred on 8/25/2008, but the District paid payroll on 8/22/2008. He lacked authority to do so.

Dr. Lewis also *advanced* paychecks *without* promissory notes, including his own in the following amounts on the following dates:

- \$3,000.00 (12/6/07)
- \$1,085.00 (10/22/07)
- \$8,233.33 (9/18/07)
- \$8,234.00 (8/7/07)

Other employees who received their paychecks early included the CFO, the Acting Superintendent, the Payroll Manager and the HR Director.

In summary, Dr. Lewis routinely allowed and approved the gift and/or loan of public funds in violation of state law. Dr. Lewis' "sweetheart" secret loan program and routine pay advance program render him unfit to be a superintendent.

III.

DR. LEWIS PAID CASH AWARDS TO EMPLOYEES WITHOUT AUTHORITY AND PROPER FUNDING

We looked into the way that Dr. Lewis funded cash awards for the employee of the year program. Teachers of the Year are recognized at an April 22, 2008 banquet. Two of those teachers received the Class Act Award for Region 10 and attended a special region-wide banquet and celebration. Employees of the Year are also announced at the April Banquet along with the Teachers of the Year and the Class Act Award winners.

At the close of school convocation in late May, Dr. Lewis announced to the entire District his intention to award cash prizes to the Class Act winners and Employees of the Year. This would have been unbudgeted and unauthorized. However, Dr. Lewis stated he intended to get donations from local businesses for the cash. Dr. Lewis wanted to obtain the donation from Lawrence Engineering, a Dallas engineering firm that does construction projects for local cities and school districts.

Nothing prevents Dr. Lewis from soliciting donations for the District. The Texas Education Code, Sec. 45.163 states, "The board of directors may accept donations, gifts,

and endowments to be held and administered as may be required by the respective donors, to the extent that those requirements do not contravene law.” However, the promise of funds does not give the Superintendent the authority to utilize public monies for that purpose while waiting on the donation.

In August when school began again, the five winners repeatedly called Payroll and Finance wondering when their cash prizes would be paid out. Dr. Lewis told Payroll to go ahead and cut the prize checks, and that he would get the sponsorship money. LISD paid checks to the five winners on August 28, 2008. Each employee received a check for \$1,000.00 minus taxes and Medicare. The donation had not arrived at that point – nor had it been paid by the end of October.

Lawrence Engineering confirms Dr. Lewis asked for \$6,000 to fund a program in August, but states that Dr. Lewis did not indicate that he needed the money right away. Lawrence Engineering confirmed it never paid the monies in August, September or October.

The same Constitutional provision that prohibits a school district from lending money also prohibits a school district from gratuitous grants of public funds for a private purpose. TEX. CONST. ART. III, Sec. 52. Paying the cash awards out of public money was an illegal expenditure of public funds. Every taxpayer in the District has standing to bring suit against the District, and even seek an injunction preventing the illegal expenditure. *See Osborne v. Keith*, 142 Tex. 262, 177 S.W.2d 198, 200 (Tex. 1944).

Dr. Lewis’ actions in paying out those funds could even be considered criminal under TEXAS PENAL CODE §§ 31.03 and 32.45.

IV.

DR. LEWIS WAS UNTRUTHFUL TO THE INVESTIGATORS

Dr. Lewis was dishonest to us in our investigation. He denied the existence of a loan program. *In fact, he knew it exists.* He denied any participation in it, but he was involved in virtually every loan. He said no advance exceeded the size of the employee’s next paycheck. *It did.* He said he never saw a promissory note. He *signed* at least one promissory note.

In our first meeting on the issue, Dr. Lewis was emphatic in his denial: “No. There has never been an employee loan program at the District. Never. I never heard of such a practice. I was never involved in it or heard of it.” He said there are *no* promissory notes from an employee *to* the District. He denied any promissory notes made *by* an employee payable to the District. He noted that employee loans never showed up on the audits.

He did freely admit early pay could be approved according to a protocol. He did not seem to think this was wrong. The only early payroll he claimed he remembered in 2008 was a situation involving an expensive funeral issue. “That is the only one I

remember.” He ruled out that it ever involved a promissory note or repayment terms. *In fact it did.*

The protocol he described was quite arbitrary:

- A request for early pay could come as a request to him, Ms. Peoples, or Ms. Mitchell.
- Only he or Mr. Young could approve the early paycheck.
- It has to be an emergency.
- There are no written criteria and there is no verification of the emergency.
- There is no Board policy prohibiting it.

However, Dr. Lewis clearly denied:

- Any loans by the District to any employee.
- The presence of an employee loan program.
- Any payments by the District to any employee with any promise to repay by the employee.
- Any payment to any employee by the District that had a repayment schedule – it was always due in full the next paycheck.
- Any payment by the District to any employee of an amount that was not already “due” the employee (because the work was done before the pay).
- Ever seeing, approving or hearing of promissory notes.
- Ever approving a loan by the District to an employee.
- Ever seeing a check for pay going out with a stamp of Ed Kirkland’s signature on it.
- Letting employees use his own signature stamp in the 2007, 2008 and/or 2009 school years.
- Ever approving an early pay advance in an amount more than the employee’s next paycheck.

In our second meeting, Dr. Lewis continued to be adamant that he never authorized the use of any promissory notes in the District. We gave Dr. Lewis multiple opportunities after that to correct his tale. He never admitted the truth. Instead, he used those chances to cast blame on other employees: “If the people downstairs had employees sign promissory notes, I never knew about it. When I got the paperwork, I never saw any promissory notes attached. I was down in Beaumont from Wednesday evening on – back Monday – so a lot of times I wouldn’t have been around.” *This was not impressive leadership – to blame others for something he alone authorized and perpetuated despite warnings from his subordinates.*

Thus, he misrepresented facts to us about his role in the District's loan program, the fact that loans were made, the frequency of funds advanced, his knowledge of the use of promissory notes, the size of the loans, and the terms of repayment. He did not correct these misrepresentations in any of our many interviews. His lack of honesty added thousands of dollars to the cost of our investigation to the District.

Dr. Lewis violated District Policy CAA (LOCAL), undermined our investigation, and failed to adequately monitor his financial department and safeguard District funds from abuse. This dishonesty alone should be reason enough for his termination.

V.

DR. LEWIS EXHIBITED A LACK OF SERIOUS LEADERSHIP

Dr. Lewis failed to lead a coherent position control. He allowed yet another year to pass using an antiquated, error-prone, hodge-podge of spreadsheets, e-mail, hiring packages, leveling, and guesswork. Dr. Lewis failed to lead a solution when he was made aware of overstaffing by the middle school principal in July of 2008. Dr. Lewis failed to lead the *discovery* of the mismatched 18; instead, he opposed objective fact-finding. When it was undeniable to everyone that the District had erroneously hired 18 people out of budget, Dr. Lewis did not communicate a plan. He failed to lead any type of solution.

Dr. Lewis confirmed (a) he had no plan – and never communicated any plan because (b) he thought the problem would fix itself before he ever had to tell the Board. "It wasn't an issue to tell the Board because it didn't play out."

Dr. Lewis' staff (both loyalists and critics) admits they have never seen or heard any plan by Dr. Lewis to deal with the 18 unbudgeted teachers. The only position he appears to have communicated to one employee in Finance (which echoes what he told us) is it is a "no harm, no foul" situation: "Those teachers are technically in the budget, because although they are not budgeted for in payroll, the 2008-2009 budget predicts a \$1 million surplus – so instead of a million dollar surplus, we'll have a surplus of \$200,000." (*This is not a convincing reason for non-disclosure – and does not take into account the recently publicized \$1.5 million dollar revenue shortfall and how that might affect calculation of budget cuts*).

We could not corroborate that Dr. Lewis coerced silence. Rather, it seems the other employees were *waiting for leadership*. Dr. Lewis's "plan" appears to have been to *hope* for attrition, *hope* the issue never came up, *hope* it would "fix itself," and *hope* it would just go away.

There is no excuse for Dr. Lewis' lack of leadership and failure to alert the Board.

Dr. Lewis' duties include demonstrably "effective planning and management of administration, finances, operations and personnel" under District Policy BJA-LOCAL. Section 3g of District Policy BJA allows the superintendent to delegate responsibilities, but he remains accountable.

The failure to make sure (a) position control was done effectively, (b) Pentamation was widely trained and used effectively, (c) hiring matched and stayed within budget, and (d) there is an easy way to determine how the mismatch happened all point to ineffectiveness, a lack of forethought, and mismanagement by Dr. Lewis.

Dr. Lewis failed to lead. His abdication of leadership was serious and damaging to the District.

CONCLUSION

Dr. Lewis, for all these reasons taken individually and/or jointly, should no longer serve as superintendent of this District. He abused his position, committed unauthorized and illegal acts, was dishonest in this investigation, abdicated his leadership duties, and repetitively failed to notify the Board about critical information.

SIGNED this 13th day of November, 2008:



HAROLD D. JONES