

**APPROVE SETTLEMENT AND MUTUAL RELEASE AGREEMENT WITH C&C DAIRY, INC., BOB'S DAIRY SERVICES, TERRY GILLUND d/b/a GILLUND DAIRY and KRYSTAL DAIRY, INC.**

**THE GENERAL COUNSEL RECOMMENDS THE FOLLOWING:**

Approve a settlement and mutual release agreement between C&C Dairy, Inc., Bob's Dairy Services, Terry Gillund d/b/a Gillund Dairy and Krystal Dairy, Inc. (the Dairies") and the Board of Education of the City of Chicago (the "Board"), concerning cost-of-living adjustments in milk contracts entered into by the Dairies and the Board.

**HISTORY:** This case arose from 2001 multi-year milk contracts between the Dairies and the Board. Prior to 2001, milk contracts with the Board had included provisions for annual cost-of-living increases. CPS personnel assured the Dairies that the 2001 contracts would include a provision for cost-of-living adjustments. The contracts, however, did not include these provisions. Consequently, in September 2002, the Board refused to increase payments to the Dairies to include cost-of-living increases.

In March 2003, the Dairies sued the Board for \$277,417, which sum represented the 2.8% cost-of-living increased the Dairies had been denied. Following the Court's denial of the Board's motion to dismiss and extensive discovery, the parties negotiated a settlement whereby the Board would pay the Dairies a total of \$210,000 in consideration for the Dairies' release and dismissal of the litigation.

**RECOMMENDED SETTLEMENT:** The General Counsel recommends settlement of the claims as follows:

1. The Board should pay the Dairies the lump sum payment of \$210,000.00
2. The Board should sign, through the General Counsel, a Settlement and Mutual Release Agreement with the Dairies, mutually releasing each other from any and all claims which have been raised or could have been raised in connection with the 2001 contracts.

**AUTHORIZATION:** Authorize the General Counsel to execute a Settlement and Mutual Release Agreement pursuant to the above-referenced terms.

**LSC REVIEW:** LSC approval is not applicable to this report.

**AFFIRMATIVE ACTION STATUS:** None.

**FINANCIAL:** Charge \$210,000.00 to 0941-270-000-7050-5730  
Budget Classification . . . . . Lunchroom Fund

**GENERAL CONDITIONS:**

Inspector General - Each party to the agreement shall acknowledge that, in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Chicago Board of Education has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.

Conflicts - The agreement shall not be legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3 which restricts the employment of or the letting of contracts to, former Board Members during the one year period following expiration or other termination of their terms of office.

Indebtedness - The Board's Indebtedness Policy adopted July 26, 1995, (95-0726-EX3), as amended from time to time, is hereby incorporated into and made a part of the agreement.

Ethics - The Board's Ethics Code adopted September 27, 1995, (95-0927-RU3), as amended from time to time, is hereby incorporated into and made a part of the agreement.


Contingent Liability - The agreement shall contain the clause that any expenditure beyond the current fiscal year is deemed a contingent liability, subject to appropriation in the subsequent fiscal year budget(s).

Approved,



RUTH M. MOSCOVITCH  
General Counsel

Within Appropriation:



JOHN J. MAIORCA  
Chief Fiscal Officer