



**August 31, 2020**

**VIA EMAIL**

Ross Valley Elementary School Superintendent  
Ross Valley School Board and incoming Board Members  
110 Shaw Drive  
San Anselmo, CA 94960

Dear Superintendent Trahan, Ross Valley School District Board, and Incoming Board members:

Ross Valley Charter School (RVC) serves a local student body that is 20% English Learners and 28% students eligible for Free and Reduced Price Lunch. Its test scores demonstrate that it is providing a high quality education to all its students.

Now that it has its own campus, RVC hopes that it and RVSD might get beyond the bad feelings of RVC's beginnings at White Hill and hopefully work together for the benefit of our entire community.

We were disheartened to read that the District is considering adopting a complaint regarding Ross Valley Charter School's application for a Small Business Administration (SBA) Paycheck Protection Program (PPP) loan. Thousands of non-profit organizations throughout the country, including many charter schools such as RVC, applied for and received PPP loans. Staff at our oversight agency and MCOE expressed no concerns when briefed on our application for the PPP, given the profound economic uncertainty in California education funding. RVC's application process and acceptance of the loan were legal, legitimate, and fiscally responsible.

The complaint you are considering contains a great amount of misinformation, and much of it seems to be based on documents that RVC provided to Robin Goldman responding to two of her many dozens of Public Records Act Requests. RVC did not receive any requests for clarifying information from you or your attorney, which might have saved the District thousands of dollars in legal expenses. Instead you have seemed to rely solely on information and analysis provided by Robin Goldman who has been trying to discredit RVC for years and appears now to be working with the District to manufacture another community conflict.

The proposed complaint makes false claims about people associated with RVC and is being considered by the Board to justify its denial of the RVC charter renewal petition, which was submitted to the District on August 10<sup>th</sup>. If the board adopts this complaint, RVC will have 30 days to respond, which we will do with a more detailed rebuttal of the scores of falsehoods in the 10-page complaint letter.

For now, in the hope that you will exercise your discretion and not approve the complaint, we will present the facts that rebut the complaint's four central claims, mostly using evidence provided by the complaint's own Exhibits. That this can be done in a thousand words underscores the weakness of the complaint.

The complaint alleged the following four main claims:

- 1) The April 7 RVC PPP loan application to Westamerica was done without authorization from the Board and without any consideration of economic uncertainty.
- 2) Once Westamerica and the SBA approved the application and provided the loan agreements to RVC on May 8, loan docs were executed by the School Director without authorization of the RVC board.
- 3) The application was altered by someone because the original application made by the Business Official differed in a few aspects from the final application signed by the School Director and so some fraudulent intent was involved in this change.
- 4) When the board authorized the loan on May 14, providing the required statements with documentary evidence supporting the statement of economic uncertainty and other required elements, these statements contained false information meant to defraud the federal government.

### **Claim One – Authorization to Apply**

A Special Meeting was held by the RVC board on April 2, two weeks after the COVID shut down, to review with the board the dramatic change in finances that were going to result from the unfolding economic collapse. The minutes of the April 2<sup>nd</sup> RVC special board meeting, in complaint Exhibit A, clearly indicate that there was a long discussion of the economic uncertainty caused by COVID that created the need for a PPP loan. The minutes also include a discussion of the loan and its attributes (see pp 17-18). What the minutes (a brief summary of the meeting) may not clearly show for those not in attendance is that the board very much wanted to apply for the PPP loan at Westamerica, was worried it might not be able to get the loan before the money ran out (which it in fact did), and wanted its Business Official to focus on submitting the application. But since a loan application does not in any way commit the corporation to accept the loan, no formal board action was required or taken at that meeting.

### **Claim Two -- Authorization to Execute the Loan**

Two weeks prior to the loan documents being executed on May 8, the minutes of the RVC Regular Board Meeting of April 23<sup>rd</sup> in complaint Exhibit H on page 65 include the following:

“Authorization of the Board Chair or School Director to execute a Small Business Administration Payroll Protection Loan Agreement with Westamerica Bank for up to

\$290,000, as soon as available, was duly moved, seconded and approved by roll call vote, 5-0-1.”

Many pages in the complaint are based on asserting that the approval of this motion never happened. But repeating over and over again that the board didn't do what the record clearly shows it did, does not make it true.

### **Claim Three – Changes in the loan application**

The online application in Exhibit B states that RVC Business Official, Mr. Hickey, was the primary contact and authorized to apply for the loan, but that the Principal for the loan would be the School Director. Consequently, when the bank sent the loan docs for signing, it wanted the Principal to make the economic uncertainty and other attestations for the official record, not the primary contact, so it provided the School Director the amended application to sign. In addition, the address discrepancy mentioned in the complaint was clearly explained in the application.

The complaint claim that Mr. Hickey accepted the loan is clearly incorrect. In the email exchange in Complaint Exhibit G page 55, Mr. Hickey was not accepting the loan but rather agreeing to the reduction in loan amount offered from \$295K to \$270K, after consulting with the School Director and School Board Chair. He was not accepting the loan.

### **Claim Four – Accuracy of May 14<sup>th</sup> Board Resolution Documenting Economic Uncertainty**

The complaint includes the following sentence:

Given the timeline of events outlined above, the Board did not [in its April 23<sup>rd</sup> board meeting] undertake any assessment of a COVID-19 related economic need for a PPP loan before or at the time the loan application was submitted as was required by the SBA PPP FAQ #31.

This sentence is a great example of the false nature of the information in the complaint. FAQ #31 was [issued by the U.S. Treasury Department](#) on April 23<sup>rd</sup>, the same day as the board meeting, two weeks after RVC's application had been submitted. And it was not made applicable to small businesses until FAQ#37 was issued on April 28, five days after the RVC board meeting. So, contrary to the misleading paragraph above, the board was in no way required to comply with FAQ 31 and 37 either for the April 9th application or for the April 23rd board meeting. Since every FAQ# has the issue date clearly noted with the FAQ, so the public can know when it went into effect, it is hard to conclude that the misinformation in the paragraph above was unintentional.

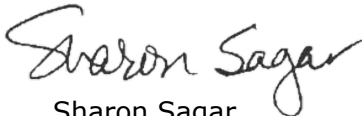
In its May 14 resolution, in complaint Exhibit K, the RVC Board did comply with requirements FAQ 31 and 37 in five pages of great detail (pp 83-88). The primary need for the loan was the likelihood that the state would provide its cash payments from one to five months late. The State budget that was adopted in June, within the eight-week RVC PPP period starting May 8, delayed the June payment of \$153,434 to RVC to July. RVC receives these payments a month late so no State Aid was received in July, causing the RVC cash balance on its balance sheet to fall to \$211,847 on July 31. Without the \$270,536 loan received on May 8, RVC would not have been able to make its July 31 payroll.

In addition, the state budget that was passed within the eight week RVC PPP loan window is going to defer \$550,000 of RVC state aid between February and June of 2021. School Districts have ready access to low interest, short term cash funding loans from the County Treasury that charter schools don't have. In the last month, a state agency began working to create cash funding loans for charter schools at an interest rate of 10%. Districts will pay 1 or 2% for loans to provide the needed cash for the months February to November 2021. During the last recession in 2008-2012, charter schools paid 20% for loans to fund the late state payments of up to 5 months. The MCOE business office, along with other county education business offices in the Bay Area, supported charter schools applying for these PPP loans for this exact reason.

The SBA regulations were amended on May 13<sup>th</sup> with FAQ #46, the day before the May 14 board meeting. These new regulations state that any borrower who received less than \$2 million in loans will be provided a "safe harbor" and will be "deemed to have made the required certification concerning the necessity of the loan request in good faith." This regulatory change removed the legal jeopardy in not adequately documenting such necessity and completely undermines all the references throughout the complaint about violating federal law. Although this eliminates legal jeopardy, RVC fully complied with FAQ#31 on May 14 in laying out its evaluation of economic uncertainty.

We hope that the board will take these facts into consideration and decline to adopt this complaint which is substantially based on falsehoods. We are happy to answer any questions you may have to clarify this information, and as stated, will provide a more detailed formal rebuttal within 30 days should you adopt this complaint.

Sincerely,



Sharon Sagar  
Ross Valley Charter  
Board Chair

cc: Mary Jane Burke  
California Department of Education  
State Board of Education