

Office of School Board Attorney  
Johnny Brown, Board Attorney

**SUBJECT: APPROVAL OF SETTLEMENT AGREEMENT  
SCHMER, INC., D/B/A/POPPY STREET FOOD PRODUCTS V. GHALTCHI  
VENDING COMPANY, D/B/A MAGIC DISTRIBUTING, AND THE  
SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, CIRCUIT  
COURT CASE NO. 99-18711 CA-01**

The School Board was served with this lawsuit on August 10, 1999. The Plaintiff is a dry goods food vendor who was awarded a bid to provide dry grocery goods (breakfast cereals) for the school district. Plaintiff alleged that as part of the bid award, it was required by the School Board to deliver the food products to a "jobber", a distributor (the co-defendant in this lawsuit) selected by the School Board, and to obtain payment for these goods sold and delivered to the school district from the jobber.

In its amended Complaint, Plaintiff alleged that the School Board breached its contract when the School Board's jobber failed to pay it over \$104,000 for food items sold to the School Board. The contract with the food vendor, provided that the vendor would receive payment within a specified number of days. Plaintiff also alleged that the jobber was in fact the agent for the School Board, making the School Board liable for the non-payment. Eventually, the jobber defaulted on its contract and subsequently went into liquidation. While the School Board paid the jobber for the food items received by the school district, the Plaintiff was never paid and Plaintiff maintains that the School Board owes it over \$104,000.00, plus interest from the date of default, costs, and attorney's fees.

After court ordered mediation held on September 27, 2002, a settlement was negotiated that is being submitted to the Board for approval. A copy of the Settlement Agreement has been forwarded to the Board under separate cover. The Office of the School Board Attorney and administration recommend that the School Board authorize and approve the settlement as being in the best interest of the School Board.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida, authorize the settlement of Schmer, Inc., d/b/a Poppy Street Food Products v. Ghaltchi Vending Company, d/b/a Magic Distributing, and The School Board of Miami-Dade County, Florida, Circuit Court Case No. 99-18711 CA-01 for the sum of \$112,500. The settlement will release the School Board from all claims including damages, attorney's fees and costs.