

STATE OF INDIANA  
COUNTY OF MADISON

SS:

MADISON CIRCUIT/SUPERIOR COURT  
CAUSE NO. **48C012011ADR27** **APR 27 AM 9:29**  
**CC 00532**

STATE OF INDIANA *ex rel.*  
GREGORY F. ZOELLER,  
ATTORNEY GENERAL OF INDIANA,

Plaintiff,

v.

JO ELLEN COPE and INDIANA  
INSURANCE COMPANY,

Defendants.

*William J. ...*  
MADISON CIRCUIT/SUPERIOR COURT  
ANDERSON, INDIANA

### COMPLAINT TO RECOVER PUBLIC FUNDS

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana (the "State"), by Luke P. Hodgin, Deputy Attorney General, for its Complaint to Recover Public Funds due and owing, states as follows:

#### FACTS

1. The State Board of Accounts ("SBOA"), pursuant to Ind. Code § 5-11-1-9, performed an examination of the books, accounts, and records of the Special Education Department of the Anderson Community School Corporation (the "School"). The results of the examination are set forth in SBOA Audit Report B38598, dated April 1, 2011. Said Audit Report is attached hereto and incorporated herein as Exhibit A.

2. The Defendant, Jo Ellen Cope ("Cope"), was the Special Education Secretary for the Anderson Community School Corporation from January 1, 2006 until she was placed on administrative leave in June 2010.

3. The Audit Report disclosed malfeasance, misfeasance, or nonfeasance on the part of Cope, and was placed by the State Examiner with Attorney General Gregory F. Zoeller pursuant to Ind. Code § 5-11-5-1(a).

4. The Audit Report also disclosed public money that had been unlawfully expended, obtained by fraud or any unlawful manner, or wrongfully withheld from the public treasury pursuant to Ind. Code § 5-11-6-3.

5. The Defendant, Indiana Insurance Company (“Indiana”), is a corporation duly authorized to conduct business in Indiana. Indiana is now, and was at all times relevant to this action, engaged in the business, among others, of issuing insurance policies in the State of Indiana.

6. The public funds that the State seeks to recover upon this Complaint were found by the SBOA to be either:

- a. misappropriated, diverted, or unaccounted;
- b. illegally received;
- c. illegally retained;
- d. unaccountable for or not paid over any money so received;
- e. obtained by fraud or in any unlawful manner; and/or
- f. wrongfully withheld from the public treasury.

7. The Defendants are either delinquent officers, sureties of the officers, or any other proper persons against whom recovery of such misappropriated, diverted, or unaccounted for funds may be had.

8. This Complaint is brought for the benefit of the Anderson Community School Corporation.

9. This Complaint is brought by Attorney General Gregory F. Zoeller in the name of the State of Indiana pursuant to Ind. Code § 5-11-7-1.

### COUNT I

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Jo Ellen Cope, and says:

10. During the audit period, Cope had a duty to properly account for funds of the Anderson Community School Corporation's Special Education Department (the "Department"), to assure that the funds of the Department were expended as authorized by law, and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

11. During the audit period, Cope wrongfully or negligently failed to properly account for, expend, and/or deposit the funds of the Department or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

12. The nature of the breach by Cope was so egregious as to constitute gross negligence or an intentional disregard of her duties.

13. The total amount of loss to the Anderson Community School Corporation is as follows:

a.	Misuse of Grocery Store Charge Card	\$8,729.87
b.	Additional Misuse of Grocery Store Charge Card	\$2,646.16

14. As a direct and proximate result the breach of Cope's duty to the Anderson Community School Corporation, the School suffered a pecuniary loss in the amount of Eleven Thousand Three Hundred Seventy Six and 3/100 Dollars (\$11,376.03).

15. Jo Ellen Cope is liable to the State of Indiana and to the Anderson Community School Corporation in the amount of \$11,376.03.

16. Demand has been made upon the Defendant, Jo Ellen Cope, for payment and no payment has been received as of the date of this filing.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, requests the Court to enter judgment for the State and against the Defendant, Jo Ellen Cope, in the amount of \$11,376.03, plus costs, attorney fees, prejudgment interest, and all other just and proper relief.

## COUNT II

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Jo Ellen Cope, and says:

17. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Count I, and those paragraphs are incorporated in Count II as if wholly set forth herein.

18. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
  - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
  - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;

- (5) A reasonable amount to compensate the person suffering loss for time used to:
  - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
  - (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
  - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
  - (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

19. The State is a party suffering a pecuniary loss as a result of a violation by Defendant Cope of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38598.

20. The State is a party suffering a pecuniary loss as a result of a breach by the Defendant Cope, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendant by law to properly account for public funds for the Anderson Community School Corporation.

21. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is Thirty Four Thousand One Hundred Twenty Eight and 9/100 Dollars (\$34,128.09), plus attorney fees, costs, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to: (1) enter judgment for the State and against the Defendant, Jo Ellen Cope, (2) grant the State the relief described in Ind. Code § 34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

### COUNT III

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Indiana Insurance Company, and says:

22. The State restates and pleads each and every allegation contained in the previous paragraphs, inclusive of Counts I and II, and those paragraphs are incorporated in Count III as if wholly set forth herein.

23. Indiana executed a series of blanket commercial crime policies in the amount of Five Hundred Thousand Dollars (\$500,000.00) per year for the period beginning October 15, 2005 and ending October 15, 2006; the period beginning October 15, 2006 and ending October 15, 2007; the period beginning October 15, 2007 and ending October 15, 2008; the period beginning October 15, 2008 and ending October 15, 2009; and the period beginning October 15, 2009 and ending October 15, 2010 that covered all employees of the Anderson Community School Corporation. Said policies are attached hereto and incorporated herein as Exhibit B.

24. During the terms of said insurance coverage, Cope wrongfully and negligently failed to account for, expend, and/or deposit the funds of the Anderson Community School Corporation, used School funds for personal purchases, or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

25. Cope's acts, or failures to act, constitute dishonesty, gross negligence, or an intentional disregard of the requirements of her office.

26. The total amount of funds that Copes misappropriated, diverted, or misapplied during the term of said insurance is \$11,376.03.

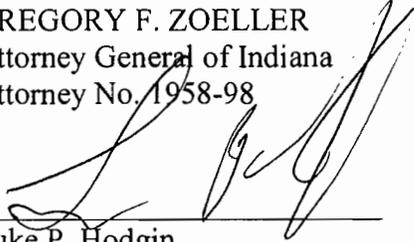
27. As a result of the matters alleged in the rhetorical paragraphs above, Indiana Insurance Company is jointly and severally liable with the Defendant Cope in the amount of \$11,376.03.

28. Demand has been made upon the Defendant, Indiana Insurance Company, for payment and no payment has been received as of the date of this filing.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, requests the Court to enter a judgment for the State and against the Defendant, Indiana Insurance Company, in the amount of \$11,376.03, plus costs, attorney fees, prejudgment interest, and all other just and proper relief.

Respectfully submitted,

GREGORY F. ZOELLER  
Attorney General of Indiana  
Attorney No. 1958-98

By: 

Luke P. Hodgkin  
Deputy Attorney General  
Attorney No. 27162-49

Office of the Indiana Attorney General  
302 West Washington Street  
Indiana Government Center South, Fifth Floor  
Indianapolis, IN 46204-2770  
Telephone: (317) 232-6356

**STATE BOARD OF ACCOUNTS**  
**302 West Washington Street**  
**Room E418**  
**INDIANAPOLIS, INDIANA 46204-2769**

AUDIT REPORT  
OF

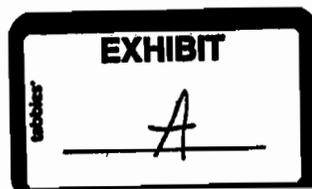
SPECIAL EDUCATION DEPARTMENT - CHARGE CARD USAGE  
ANDERSON COMMUNITY SCHOOL CORPORATION  
MADISON COUNTY, INDIANA

January 1, 2006 to August 10, 2010



**FILED**

04/01/2011



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### SCHOOL OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Special Education Secretary	Jo Ellen Cope	01-01-06 to 06-30-11
Special Education Director	Rosetta Cummings Angie Vickery	01-01-06 to 06-30-10 07-01-10 to 06-30-11
Treasurer/Business Manager	Kevin Brown	01-01-06 to 06-30-11
Superintendent of Schools	Dr. Timothy Long Dr. Mikella Lowe Lennon Brown (Interim) Dr. Felix Chow	01-01-06 to 07-31-06 08-01-06 to 06-30-09 07-01-09 to 12-31-10 01-01-10 to 06-30-11
President of the Board of School Trustees	Keith Millikan Tobi Jones Teddy Bohnenkamp Philip Morgan Dr. Scott Green	01-01-06 to 06-30-07 07-01-07 to 06-30-08 07-01-08 to 06-30-09 07-01-09 to 06-30-10 07-01-10 to 06-30-11



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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STATE BOARD OF ACCOUNTS  
302 WEST WASHINGTON STREET  
ROOM E418  
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513  
Fax: (317) 232-4711  
Web Site: [www.in.gov/sboa](http://www.in.gov/sboa)

TO: THE OFFICIALS OF THE ANDERSON COMMUNITY SCHOOL CORPORATION

We have audited the records of the Special Education Department – Charge Card Usage, Anderson Community School Corporation for the period January 1, 2006 to August 10, 2010, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Audit Results and Comments. The financial transactions of this office are reflected in the Annual Reports of the Anderson Community School Corporation for the years ended June 30, 2006, 2007, 2008, 2009, and 2010.

STATE BOARD OF ACCOUNTS

January 18, 2011

SPECIAL EDUCATION DEPARTMENT – CHARGE CARD USAGE  
ANDERSON COMMUNITY SCHOOL CORPORATION  
AUDIT RESULTS AND COMMENTS

MISUSE OF GROCERY STORE CHARGE CARD

The Special Education Department has a program that teaches functional skills to special needs students ranging in age from preschool to high school. Food items are a central theme in the program. The School Corporation established a charge card with a local grocery store in order to facilitate timely and easily attainable purchase of food items by Special Education teachers for use in their functional skills classes.

A School Corporation charge card was used by a school employee for unallowable and unauthorized purchases that appeared to be personal in nature. School Corporation Officials first became aware of the situation in June 2010 and placed the employee, Jo Ellen Cope, Special Education Secretary, on unpaid administrative leave.

The internal controls and procedures associated with the physical custody of the charge card were that the card was to be maintained in the Special Education Department in the custody of Jo Ellen Cope. School Corporation policy was for a log to be maintained showing each time the card was distributed, to whom was distributed, and when returned. However, no such log was presented for audit and Special Education personnel indicated a log was not maintained by Ms. Cope. Instead, when a Special Education functional skills teacher needed food supplies, they would come to the Special Education Department and obtain the card directly from Ms. Cope. The teacher would return the card and the paid receipt after obtaining the supplies. Jo Ellen Cope would retain all receipts until the monthly billing statement was received from the grocer's billing offices. The statement, receipts, and authorized purchase order were turned over to the Accounting Office of the School Corporation for processing and payments.

The current Special Education Director advised us Jo Ellen Cope was also authorized to make purchases with the charge card, but only for Special Education Departmental events, such as coffee or cookies for a meeting. At no time was Jo Ellen Cope authorized to purchase food items that could be used in the functional skills classroom setting, nor items for her personal use.

During the School Corporation's initial inquiry, School Corporation Officials learned that Jo Ellen Cope was actually in possession of approximately 10 charge cards with the same account number. Additional cards were believed to have been ordered by Jo Ellen Cope without anyone's knowledge or approval. School Corporation Officials also observed several store receipts they thought were questionable and contacted the grocer for more details.

Since a charge card was used, at the time of payment the purchaser signed a sales draft at the cash register. The grocer was able to provide School Corporation Officials limited information for some purchases made in April and May of 2010. From the grocer provided information, Jo Ellen Cope signed the sales draft at the cash register (otherwise known as the credit card swipe machine located at the register) on three specific occasions. Additionally, for each of those purchases, Ms. Cope used a "Kroger Customer Plus" (Customer Plus) card with an account number ending in "4666" or "2582." A Customer Plus card can be used/swiped at the cash register in order for the customer to receive additional cost savings for certain items purchased. When the Customer Plus card is used, the cardholder's Customer Plus account number is shown on the register receipt with all but the last four digits concealed for security purposes.

We obtained and reviewed all charge card payments to the grocer for the period January 1, 2006 through August 10, 2010, that were paid from Special Education funds. We noted in reviewing the store cash register receipts used to support the charge card payments made, a Customer Plus card was used for almost every purchase. We noted in numerous instances receipts showing items purchased that would not be for use in a functional skills class but appeared to be more personal in nature.

SPECIAL EDUCATION DEPARTMENT – CHARGE CARD USAGE  
 ANDERSON COMMUNITY SCHOOL CORPORATION  
 AUDIT RESULTS AND COMMENTS  
 (Continued)

The receipts for these items which appeared to be personal indicated a Customer Plus card ending in 4666 was used in all but one instance. The Customer Plus card number used ended in 2582 for the other instance. Both of these Customer Plus account cards were linked to Jo Ellen Cope as described above. Several of the receipts questioned as not relating to school business were for purchases made on weekends, holidays, or other times when school would not normally be in session. Based on our understanding of the internal controls over the use of the grocery store card, the card should not have been used at such times. Below is a general listing of the type of items we noted being purchased with these two Customer Plus numbers:

Alcohol (tequila, vodka, beer); books; magazines; meat; laundry detergent; shrimp; gift cards; Mother's Day, Father's Day and other miscellaneous greeting cards; vitamins; aspirin; toiletries (body wash, lotion, shampoo, toothpaste, ladies deodorant, hairspray); trash bags; toilet paper; flowers; milk; eggs; whole frozen turkey; ham; hearing aid batteries; light bulbs; diet Sprite; and other miscellaneous grocery items.

We grouped these unallowable purchases by calendar year as follows:

<u>Year</u>	<u>Amount</u>
2006	\$ 818.49
2007	1,395.76
2008	2,813.25
2009	3,016.41
2010	<u>685.96</u>
Total	<u>\$ 8,729.87</u>

Public funds may not be used to pay for personal items or for expenses which do not relate to the functions and purposes of the governmental unit. Any personal expenses paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Indiana Public School Corporations, Chapter 13)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Indiana Public School Corporations, Chapter 9)

We have requested Jo Ellen Cope, Special Education Secretary, reimburse the School Corporation \$8,729.87 for the misuse of the School Corporation charge card to purchase the unallowable items described above. (See Summary, page 10)

ADDITIONAL MISUSE OF GROCERY STORE CHARGE CARD

We observed in addition to the unallowable purchases made using Customer Plus savings cards 4666 and 2582 described in the Audit Result and Comment (ARC) "Misuse of Grocery Store Charge Card," numerous other purchases made with different Customer Plus cards that did not appear to be for items that would have been used in the functional skills classes. These other purchases appear to be

SPECIAL EDUCATION DEPARTMENT – CHARGE CARD USAGE  
 ANDERSON COMMUNITY SCHOOL CORPORATION  
 AUDIT RESULTS AND COMMENTS  
 (Continued)

personal in nature and were made in the same manner as described in the previous Audit Result and Comment. However, in these instances, fourteen different Customer Plus savings cards and account numbers were used separate from the ones we could directly attribute to use by Jo Ellen Cope, Special Education Secretary.

We asked School Corporation Officials to contact the grocer and attempt to identify who used these other account numbers. School Corporation Officials were told by the grocer that either the information was no longer maintained as the transaction was too old or the grocer could not provide the information citing privacy policies.

Although these other purchases were made with fourteen different Customer Plus accounts, the timing and types of items purchased were similar in nature to those items known to have been purchased by Jo Ellen Cope, Special Education Secretary, as described in ARC "Misuse of Grocery Store Charge Card." Below is a general listing of the type of items we observed:

Books; magazines, whole frozen turkey; flowers, gift cards; laundry detergent; toiletries; socks; balloons; printer toner; diet Sprite; and other miscellaneous grocery items.

We grouped these unallowable purchases by calendar year as follows:

<u>Year</u>	<u>Amount</u>
2006	\$ 724.85
2007	367.85
2008	152.75
2009	<u>1,400.71</u>
Total	<u>\$ 2,646.16</u>

Public funds may not be used to pay for personal items or for expenses which do not relate to the functions and purposes of the governmental unit. Any personal expenses paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Indiana Public School Corporations, Chapter 13)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Indiana Public School Corporations, Chapter 9)

As described in the previous Audit Result and Comment "Misuse of Grocery Store Charge Card," Jo Ellen Cope, Special Education Secretary, was custodian of the grocery store charge cards. As such, she would be responsible for the proper use and payment concerning the charge card. We have requested Jo Ellen Cope, Special Education Secretary, to reimburse the School Corporation \$2,646.16 for the misuse of the School Corporation charge card for the purchase of the unallowable items described above. (See Summary, page 10)

SPECIAL EDUCATION DEPARTMENT – CHARGE CARD USAGE  
ANDERSON COMMUNITY SCHOOL CORPORATION  
AUDIT RESULTS AND COMMENTS  
(Continued)

**BLANKET COMMERCIAL CRIME COVERAGE**

The following is a schedule of blanket commercial crime coverage for employees of the School Corporation:

<u>Surety</u>	<u>Period of Coverage</u>	<u>Coverage Amount</u>
Indiana Insurance	10-15-05 to 10-15-06	\$ 500,000
Indiana Insurance	10-15-06 to 10-15-07	500,000
Indiana Insurance	10-15-07 to 10-15-08	500,000
Indiana Insurance	10-15-08 to 10-15-09	500,000
Indiana Insurance	10-15-09 to 10-15-10	500,000

**AUDIT COSTS**

Additional costs were incurred by the State of Indiana during the current audit due to misuse of the grocery store charge card.

Audit costs incurred because of theft or shortage may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Indiana Public School Corporations, Chapter 9)

SPECIAL EDUCATION DEPARTMENT – CHARGE CARD USAGE  
ANDERSON COMMUNITY SCHOOL CORPORATION  
EXIT CONFERENCES

The contents of this report were discussed on January 18, 2011, with Dr. Scott Green, President of the Board of School Trustees; Dr. Felix Chow, Superintendent of Schools; Kevin Brown, Treasurer/Business Manager; Elizabeth Clark, Human Resources Manager; and Janet Windlan, Supervisor of Accounting. The official response has been made a part of this report and may be found on page 9.

The contents of this report were mailed via certified mailing to Jo Ellen Cope, Special Education Secretary, on January 20, 2011.



# Anderson Community School Corporation

Kevin J. Brown, Business Manager and Treasurer

E-mail: kbrown@acsc.net

February 10, 2011

Mr. Bruce A. Hartman, C.P.A.  
State Examiner  
Indiana State Board of Accounts  
302 W. Washington Street, Room E418  
Indianapolis, IN 46204-2765

Re: Supplemental Audit Report  
For the period ended  
June 30, 2010

Dear Mr. Hartman:

This letter is in response to the "Audit Results and Comments" discussion draft discussed in the exit conference on January 18, 2011 of the Anderson Community School Corporation for the audit period ending June 30, 2010 regarding the supplemental audit report.

Regarding the misuse of the grocery store charge card, the Anderson Community School Corporation has always taken pride in having internal controls that would prohibit as much as possible any theft from occurring. If followed and properly supervised, such procedures are effective in ensuring proper internal control.

In the noted instance, the employee in question violated corporate procedure by not appropriately maintaining the credit card, securing additional cards without authority and by misusing the card for personal gain. In addition, the immediate supervisor did not adequately review all processes and procedures prior to approval. As a result of these breaches, we have tightened the access to the card and have instituted a 100% required review of all purchases to be performed by the Director of Special Education prior to submission for payment.

Thank you for the opportunity to respond to this audit report.

Sincerely,

Handwritten signature of Dr. Felix H. Chow.

Dr. Felix H. Chow  
Superintendent

Handwritten signature of Kevin J. Brown.

Kevin J. Brown  
Business Manager and Treasurer

FHC/KJB/at

Cc: Executive Cabinet

101 West 29th Street • Anderson, Indiana 46016 • 765-641-2010 • FAX 765-641-2081

SPECIAL EDUCATION DEPARTMENT – CHARGE CARD USAGE  
 ANDERSON COMMUNITY SCHOOL CORPORATION  
 SUMMARY

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Jo Ellen Cope, Special Education Secretary: Misuse of Grocery Store Charge Card, pages 4 and 5	\$ 8,729.87	\$ -	\$ 8,729.87
Additional Misuse of Grocery Store Charge Card, pages 5 and 6	<u>2,646.16</u>	<u>-</u>	<u>2,646.16</u>
Totals	<u>\$ 11,376.03</u>	<u>\$ -</u>	<u>\$ 11,376.03</u>

AFFIDAVIT

STATE OF INDIANA     )  
                                  )  
MADISON COUNTY )

We, Todd E. Caldwell and Lori A. Allen, Field Examiners, being duly sworn on our oaths, state that the foregoing report based on the official records of the Special Education Department, Anderson Community School Corporation, Madison County, Indiana, for the period from January 1, 2006 to August 10, 2010, is true and correct to the best of our knowledge and belief.

Todd E. Caldwell

Lori A. Allen  
Field Examiners

Subscribed and sworn to before me this 9<sup>th</sup> day of March, 2011.

Lara M. Spruitt  
Notary Public

My Commission Expires: 9/26/2014

County of Residence: Madison

STATE OF INDIANA  
COUNTY OF MADISON

SS:

STATE OF INDIANA *ex rel.*  
GREGORY F. ZOELLER,  
ATTORNEY GENERAL OF INDIANA,

Plaintiff,

v.

JO ELLEN COPE and INDIANA  
INSURANCE COMPANY,

Defendants.

FILED  
IN THE MADISON COURT  
CAUSE NO. **48C01-1104** 00532  
APR 27 9:30 AM '11

*Shirley A. Copple, Clerk*  
MADISON COUNTY COURT  
MADISON, INDIANA

**STATE OF INDIANA'S VERIFIED MOTION FOR  
TEMPORARY RESTRAINING ORDER**

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana (the "State"), by Luke P. Hodgin, Deputy Attorney General, respectfully moves this Court pursuant to Rule 65 of the Indiana Rules of Trial Procedure and Ind. Code § 34-26-1-6 to issue a Temporary Restraining Order against the Defendant, Jo Ellen Cope, and her agents, representatives, successors, and assigns to temporarily restrain and enjoin from dissipating, distributing, transferring, encumbering, assigning, paying over, or otherwise disposing in any manner or by any means property in the Defendant's possession or control pending hearing on the State's Verified Motion for Preliminary Injunction. In support of this Motion, the State shows the following:

1. On April 27, 2011, the State filed its Complaint in this action alleging that Jo Ellen Cope, Special Education Secretary for the Anderson School Corporation (the "Corporation"), wrongfully or negligently failed to properly account for funds of the Corporation, or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance

which resulted in the misappropriation, diversion, and misapplication of public funds totaling \$11,376.03. The allegations in the State's Complaint are incorporated herein and made a part of this Motion by reference. *See also* Affidavit of Todd Caldwell, attached hereto and incorporated herein as Exhibit A.

2. If the Defendant, Jo Ellen Cope, is not restrained from dissipating, distributing, transferring, encumbering, assigning, paying over, or otherwise disposing in any manner or by any means property in the Defendant's possession or control including, but not limited to, real estate; 2000 Pontiac Grand Prix SE, bank accounts, and any retirement plans, including, but not limited to, an account with Valic, an account with Veba, and an account with PERF, the State will be irreparably harmed.

3. There is the likelihood that such property has been or may be sold, conveyed, or otherwise disposed of with the intent to cheat, hinder, or delay the State of Indiana or the Anderson School Corporation.

4. A temporary restraining order is necessary to preserve the status quo until the issues raised in the State's Verified Motion for Preliminary Injunction can be heard and considered by this Court.

5. There is substantial likelihood that the State will prevail on its Complaint in this action, and the State does not have an adequate remedy at law to protect the interests of the State of Indiana and the Anderson School Corporation in the matters raised in this Motion.

6. Pursuant to T.R. 65(B)(1) the State verified its Motion and attached an affidavit.

7. Pursuant to T.R. 65(B)(2) the State gave oral notice to the Defendant on the morning of April 20, 2011, of the State's intention to file this Motion, and will provide written notice via personal service in the afternoon of April 20, 2011.

8. The State of Indiana is a governmental organization and is not required to offer security pursuant to T.R. 65(C).

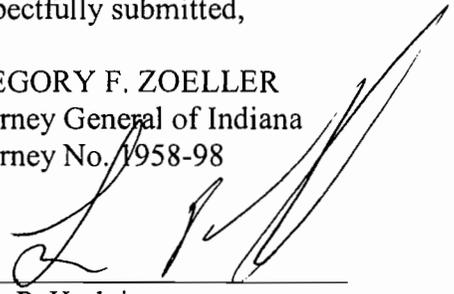
9. The State requested, and the Court granted, a hearing on the State's Verified Motion for Preliminary Injunction within ten days; specifically, April 5, 2011, at 9:30 (a.m.) / p.m.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests that the Court: (1) issue an order temporarily restraining the Defendant, Jo Ellen Cope, and her agents, representatives, successors, and assigns from dissipating, distributing, transferring, encumbering, assigning, paying over, or otherwise disposing in any manner or by any means property in the Defendant's possession or control pending hearing on the State's Verified Motion for Preliminary Injunction, and (2) grant the State all other just and proper relief.

I affirm under the penalties of perjury that the foregoing representations are true and correct to the best of my knowledge.

Respectfully submitted,

GREGORY F. ZOELLER  
Attorney General of Indiana  
Attorney No. 1958-98

By: 

Luke P. Hodgin  
Deputy Attorney General  
Attorney No. 27162-49

Office of the Attorney General  
Indiana Gov't Center South, Fifth Floor  
302 West Washington Street  
Indianapolis, IN 46204-2770  
Telephone: (317) 232-6356  
Facsimile: (317) 232-7979

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing pleading was duly served upon the parties listed below by personal service (Cope), and U.S. Mail, Certified (Indiana), on this 20<sup>th</sup> day of April, 2011:

Jo Ellen Cope  
P.O. Box 2238  
Anderson, IN 46018

Indiana Insurance Company  
350 E. 96th Street  
Indianapolis, IN 46240



---

Luke P. Hodgkin  
Deputy Attorney General

Office of the Attorney General  
Indiana Government Center South, Fifth Floor  
302 West Washington Street  
Indianapolis, IN 46204-2770  
Telephone: (317) 232-6356  
Facsimile: (317) 232-7979

STATE OF INDIANA  
COUNTY OF MADISON

SS:

IN THE MADISON \_\_\_\_\_ COURT  
CAUSE NO. \_\_\_\_\_

STATE OF INDIANA *ex rel.*  
GREGORY F. ZOELLER,  
ATTORNEY GENERAL OF INDIANA,

Plaintiff,

v.

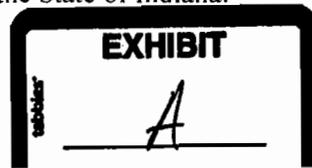
JO ELLEN COPE and INDIANA INSURANCE  
COMPANY

Defendants.

### AFFIDAVIT OF TODD CALDWELL

I, Todd E. Caldwell, affirm and state as follows:

1. I am a competent adult and have personal knowledge of the facts set forth herein.
2. I am employed as a Field Examiner by the State Board of Accounts ("SBOA").
3. As a field examiner with the SBOA, I am assigned to the district covering Marion, Hancock, Hendricks, and Madison Counties.
4. I performed an examination of the Special Education Department of the Anderson Community School Corporation, covering the period of January 1, 2006 to August 10, 2010.
5. Jo Ellen Cope was the Special Education Secretary for the Anderson Community School Corporation (the "Corporation") for the duration of the audit period.
6. The results of my audit of the Special Education Department of the Anderson Community School Corporation's official records revealed a loss to the Corporation of, or in excess of, \$11,376.03, in which the funds of the Corporation were being misappropriated, diverted or unaccounted for by Jo Ellen Cope.
7. During the examination of the records of the Special Education Department, I discovered that the Special Education Secretary purchased personal items, such as tequila, beer, vodka, magazines, and other items using the Corporation's charge card. These purchases totaled \$11,376.03.
8. The State Board of Accounts prepared audit report B38598 based upon the results of the examination of the Special Education Department of the Anderson Community School Corporation.
9. The Plaintiff in this action is the State of Indiana.



10. The civil proceedings instituted by the Attorney General, such as injunctive relief or prejudgment attachment, are based upon allegations that Jo Ellen Cope committed misfeasance, malfeasance, or nonfeasance under Ind. Code § 5-11-5-1(d).

Further Affiant sayeth naught.

I affirm, under the penalties for perjury, that the foregoing representations are true.

Todd Caldwell

Todd Caldwell  
Field Examiner  
State Board of Accounts

State of Indiana

SS:

County of

Subscribed and sworn before me, the undersigned, a Notary Public in and for said county and state, this

11 day of April, 2011.



Comm # 605624

Notary Public

My commission expires:

5/28/2017

Karen S. Jones  
Notary Public

My County of Residence

MORGAN

Karen S. Jones  
Printed Name

STATE OF INDIANA  
COUNTY OF MADISON

SS:

IN THE MADISON \_\_\_\_\_ COURT  
CAUSE NO. **48C01-1104 00532**

STATE OF INDIANA *ex rel.*  
GREGORY F. ZOELLER,  
ATTORNEY GENERAL OF INDIANA,

Plaintiff,

v.

JO ELLEN COPE and INDIANA  
INSURANCE COMPANY,

Defendants.

**FILED**  
IN MADISON COUNTY CIRCUIT COURT

**APR 27 2011**

**RUDOLPH R. PYLE III**

### TEMPORARY RESTRAINING ORDER

This cause comes before the Court on the State of Indiana's Verified Motion for Temporary Restraining Order, and the Court, having considered the State's Motion and the allegations contained in the State's Complaint, now finds as follows:

1. On April 20, 2011, the State filed a Verified Motion for Temporary Restraining Order and Verified Motion for Preliminary Injunction requesting that the Court enter an order to restrain the Defendant, Jo Ellen Cope, and her agents, representatives, successors, and assigns from dissipating, distributing, transferring, encumbering, assigning, paying over, or otherwise disposing in any manner or by any means property in the Defendant's possession or control.

2. Unless restrained, the Defendant may dispose of property held in her name, in her possession, or in her control prior to the hearing on the State's motion for injunctive relief.

3. Unless the Defendant is restrained from dissipating, distributing, transferring, encumbering, assigning, paying over, or otherwise disposing in any manner or by any means property in the Defendant's possession or control, the State will be irreparably harmed due to the likelihood that public funds will be disposed or dissipated.

4. A temporary restraining order is necessary to preserve the status quo until the issues raised by the State's Verified Motion for Preliminary Injunction can be heard and considered by this Court.

5. The Defendant was orally notified of the State's intention to file the Verified Motion for Temporary Restraining Order in the morning of April 20, 2011, and will be personally served in the afternoon of April 20, 2011.

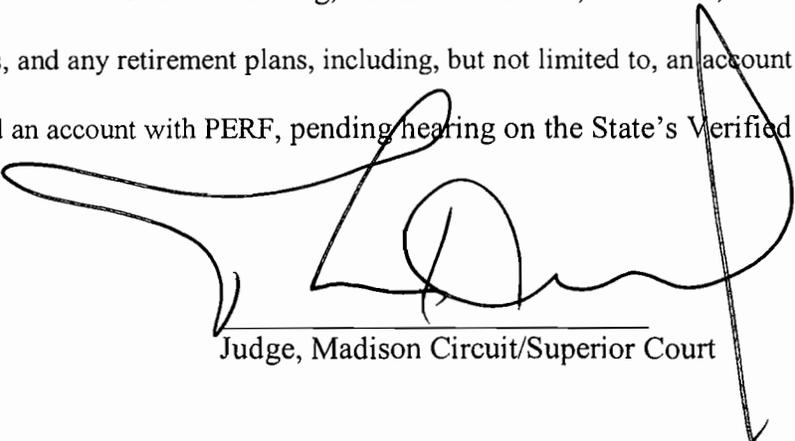
6. The State is a governmental organization and is not required to offer security pursuant to Rule 65(C) of the Indiana Rules of Procedure.

7. The State's Motion for Temporary Restraining Order should be granted.

IT IS THEREFORE ORDERED by the Court that the Defendant, Jo Ellen Cope, and her agents, representatives, successors, and assigns from dissipating, distributing, transferring, encumbering, assigning, paying over, or otherwise disposing in any manner or by any means property in the Defendant's possession or control including, but not limited to, real estate; 2000 Pontiac Grand Prix SE, bank accounts, and any retirement plans, including, but not limited to, an account with Valic, an account with Veba, and an account with PERF, pending hearing on the State's Verified Motion for Preliminary Injunction.

Dated:

April 27, 2011

  
\_\_\_\_\_  
Judge, Madison Circuit/Superior Court

Distribution:

Jo Ellen Cope  
P.O. Box 2238  
Anderson, IN 46018

Luke P. Hodgin  
Office of the Attorney General  
Indiana Government Center South 5<sup>th</sup> Floor  
Indianapolis, IN 46204

Indiana Insurance Company  
350 E. 96th Street  
Indianapolis, IN 46240

STATE OF INDIANA  
COUNTY OF MADISON

SS:

STATE OF INDIANA *ex rel.*  
GREGORY F. ZOELLER,  
ATTORNEY GENERAL OF INDIANA,

Plaintiff,

v.

JO ELLEN COPE and INDIANA  
INSURANCE COMPANY,

Defendants.

IN THE MADISON COUNTY COURT

CAUSE NO. **48C01-1104000532**

MADISON COUNTY COURT  
MADISON, INDIANA

**STATE OF INDIANA'S VERIFIED MOTION  
FOR PRELIMINARY INJUNCTION**

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana (the "State"), by Luke P. Hodgin, Deputy Attorney General, respectfully moves this Court pursuant to Rule 65 of the Indiana Rules of Trial Procedure and Ind. Code § 34-26-1-6 to issue a Preliminary Injunction against the Defendant, Jo Ellen Cope, and her agents, representatives, successors, and assigns to enjoin them from dissipating, distributing, transferring, encumbering, assigning, paying over, or otherwise disposing in any manner or by any means property in the Defendant's possession or control pending disposition of the State's Complaint. In support of this Motion, the State shows the following:

1. On April 20, 2011, the State filed its Complaint in this action alleging that the Defendant, Jo Ellen Cope, wrongfully or negligently failed to properly account for public funds of the Anderson School Corporation (the "Corporation"), or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds totaling \$11,376.03. The allegations of the Plaintiff's

Complaint are incorporated herein and made a part of this Motion by reference. *See also* Affidavit of Todd Caldwell, which is attached to the State's Verified Motion for Temporary Restraining Order as Exhibit A.

2. The Defendant, Jo Ellen Cope, as the Special Education Secretary for the Anderson School Corporation, used the Corporation's charge card for personal use.

3. The Defendant, Jo Ellen Cope, as the Special Education Secretary for the Anderson School Corporation, ordered ten (10) additional charge cards without approval of the School Board.

4. If the Defendant is not enjoined from dissipating, distributing, transferring, encumbering, assigning, paying over, or otherwise disposing in any manner or by any means property in the Defendant's possession or control including, but not limited to, real estate; 2000 Pontiac Grand Prix SE, bank accounts, and any retirement plans, including, but not limited to, an account with Valic, an account with Veba, and an account with PERF, the State will be irreparably harmed by not being able to collect on the misappropriated, diverted, or misapplied public funds.

5. There is the likelihood that such property has been or may be sold, conveyed, or otherwise disposed of with the intent to cheat, hinder, or delay the State of Indiana or the Anderson School Corporation.

6. A preliminary injunction is necessary to preserve the status quo until the issues raised by the State's Complaint can be heard and considered at hearing.

7. There is substantial likelihood that the State will prevail on its Complaint in this action, and the State does not have an adequate remedy at law to protect the interests of the State of Indiana or the Anderson School Corporation.

8. The State of Indiana is a governmental organization and is not required to offer security pursuant to Rule 65(C) of the Indiana Rules of Trial Procedure.

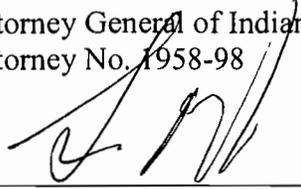
9. The Court has set this matter for a hearing on the 5<sup>th</sup> day of April, 2011, at 4:30 a.m. / p.m.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests that the Court: (1) issue an order enjoining the Defendant, Jo Ellen Cope, and her agents, representatives, successors, and assigns from dissipating, distributing, transferring, encumbering, assigning, paying over, or otherwise disposing in any manner or by any means property in the Defendant's possession or control pending disposition of the State's Complaint, and (2) grant the State all other just and proper relief.

I affirm under the penalties of perjury that the foregoing representations are true and correct to the best of my knowledge.

Respectfully submitted,

GREGORY F. ZOELLER  
Attorney General of Indiana  
Attorney No. 1958-98

By:   
\_\_\_\_\_  
Luke P. Hodgkin  
Deputy Attorney General  
Attorney No. 27162-49

## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was duly served upon the parties listed below by personal service (Cope), and U.S. Mail, Certified (Indiana), on this 20<sup>th</sup> day of April, 2011:

Jo Ellen Cope  
P.O. Box 2238  
Anderson, IN 46018

Indiana Insurance Company  
350 E. 96th Street  
Indianapolis, IN 46240

A handwritten signature in black ink, appearing to read 'L P H', written over a horizontal line.

Luke P. Hodgin  
Deputy Attorney General

Office of the Attorney General  
Indiana Government Center South, Fifth Floor  
302 West Washington Street  
Indianapolis, IN 46204-2770  
Telephone: (317) 232-6356  
Facsimile: (317) 232-7979