

LAW OFFICES  
WEBSTER, CHAMBERLAIN & BEAN, LLP  
1747 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, DC 20006  
(202) 785-9500  
FAX: (202) 835-0243

ARTHUR L. HEROLD  
ALAN P. DYE  
FRANK M. NORTHAM  
JOHN W. HAZARD, JR.  
HUGH K. WEBSTER  
DAVID P. GOCH  
JAMES S. WILSON, JR.  
CHARLES M. WATKINS  
HEIDI K. ABEGG  
DAVID M. ABRAHAMS  
JOHN R. STROUT  
SARAH E. MOONEY  
ANDREW C. DYE

GEORGE D. WEBSTER (1921-1996)  
CHARLES E. CHAMBERLAIN (1917-2002)  
OF COUNSEL  
J. COLEMAN BEAN  
KENT MASTERSON BROWN\*  
EDWARD D. COLEMAN\*  
DAVID M. MASON  
\* NOT ADMITTED TO D.C. BAR

May 19, 2014

Ms. Kimberly Green  
Executive Director  
NASDCTEc/NCTEF  
8484 Georgia Avenue, Suite 320  
Silver Spring, Maryland 20910

Dear Kim:

You have requested an opinion on the proper disposition of certain funds received by the National Career and Technical Education Foundation from the Microsoft Corporation in 2010.

According to a June 4, 2010 letter agreement prepared by Microsoft and agreed to by NCTEF, Microsoft proposed to make a donation to NCTEF "to be used in support of building on the development of the Information Technology Redesigning the High School Experience career cluster guide by increasing the number of high schools implementing the career cluster model, particularly in preparing student for careers in Information Technology fields and designing the scale model that can be used with other high schools nationally." The donation was to consist of money as well as in-kind contributions such as "Microsoft providing meeting facilities and limited meals ... use of intellectual property belonging to Microsoft ... and the use by the Foundation of selected Microsoft or Microsoft Partner personnel." Further details were to be "set forth in a separate agreement."

A donation in the amount \$110,000 was made by Microsoft to NCTEF, but no in-kind resources were provided, and no separate agreement was ever entered into. In addition, soon after the June 4 letter was countersigned by NCTEF, Microsoft notified NCTEF that it no longer wanted the donation to be used for the purpose stated therein, and NCTEF honored that request. Over the next 3 years there were sporadic discussions with Microsoft but never any agreement on the disposition of the donation, and often communications from NCTEF would not elicit any response at all from Microsoft. Then in April 2013 during the NASDCTEc/NCTEF Spring Meeting, you raised the matter with several Microsoft representatives in attendance. They stated that they had no previous knowledge of the arrangement. There were several follow up conversations with Microsoft personnel, but no expressions of any intentions from Microsoft.

In my opinion, basic contract law principles dictate that NCTEF is free to administer the Microsoft contribution in any manner that NCTEF wishes consistent with its tax-exempt status

Ms. Kimberly Green

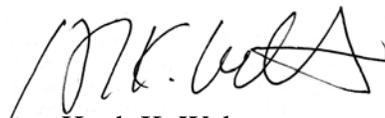
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and charitable purposes. Even if the June 4 letter were viewed as having initially imposed enforceable restrictions on the cash donation, those limitations were quickly withdrawn by Microsoft, and the withdrawal was acquiesced to by NCTEF. This modified the June 4 letter by making the donation unrestricted. While we may not have documentary evidence of this change, certainly the conduct of the parties is consistent with elimination of the direction as to how the donation must be used. Regardless, Microsoft did not fulfill its obligations under the June 4 letter, as the promised in-kind contributions were never provided, thereby releasing NCTEF from any of its obligations. Finally, procedurally the June 4 letter may be unenforceable in any event. As the June 4 letter became effective upon being signed by NCTEF in Maryland, and was to be performed largely in Maryland, Maryland law controls, and the Maryland statute of limitations on contract actions is 3 years, which likely expired in 2013.

Please let me know if you have any questions or need anything further.

Sincerely,



Hugh K. Webster