

IN THE DISTRICT COURT OF APPEAL, FIRST DISTRICT  
STATE OF FLORIDA

ED CRAPO, as Alachua County  
Property Appraiser,

Appellant/Cross-Appellee,

v.

Case No.: 1D17-1895  
Lower Case No.: 2015-CA-001554

ACADEMY FOR FIVE ELEMENT  
ACUPUNCTURE, INC., a Florida  
Non-Profit Corporation,

Appellee/Cross-Appellant.

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APPELLEE'S NOTICE OF SUPPLEMENTAL AUTHORITY

Appellee, ACADEMY FOR FIVE ELEMENT ACUPUNCTURE, INC., pursuant to Fla. R. App. P. 9.225, submits as supplemental authority the decision of Simpson v. Jones Business College, 118 So.2d 779, 780 (Fla. 1960) (holding that a private, nonprofit corporation offering business and accounting courses accepted by the state Department of Education qualified for tax exemption as an education institution), a copy of which is attached to this notice. The supplemental authority is pertinent to the issue on appeal identified as legislative intent and discovered after Appellant's Response Brief to Amicus Curiae Brief of the Department of Education.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been served via e-mail on Counsel for Plaintiff/Cross-Appellee, John Dent, jdent@dentmcclain.com and Jennifer McClain jmclain@dentmcclain.com, this 12<sup>th</sup> day of February, 2018.

Respectfully submitted,

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118 So.2d 779  
Supreme Court of Florida.

Clyde H. SIMPSON, Tax Collector, Duval County,  
Florida, and Leon E. Forbes, Tax Assessor,  
Duval County, Florida, and Ray E. Green,  
Comptroller, State of Florida, Petitioners,

v.

JONES BUSINESS COLLEGE, a  
corporation not for profit, Respondent.

March 16, 1960.

### Synopsis

Action by a business college seeking a decree declaring that its real and personal property was exempt from ad valorem taxation, and enjoining county taxing officials from further assessing its property for taxation. The Circuit Court, Duval County, W. A. Stanly, J., entered judgment for college and defendants appealed. The District Court of Appeal, [113 So.2d 760](#), affirmed the decree and the defendants brought certiorari. The Supreme Court, Terrell, J., held that where the nonprofit corporation offered courses that substantially paralleled those offered in public educational institutions, some of which were accepted by the state Department of Education and was accredited by an accrediting agency recognized as such by the United States Commissioner of Education, the corporation qualified under the exemption from taxation as an educational institution.

Writ of certiorari discharged.

### Attorneys and Law Firms

\*779 Adams & Tjoflat, Jacksonville, for Clyde H. Simpson, Tax Collector.

Walter C. Shea, Jacksonville, for Leon E. Forbes, Tax Assessor.

J. Henry Blount, Jacksonville, for Ray E. Green, Comptroller.

William M. Madison, Jacksonville, for petitioners.

O. C. Beakes and J. Donald Bruce, Jacksonville, for respondent.

### Opinion

TERRELL, Justice.

On application for certiorari we granted the writ and set the cause for argument on the question of jurisdiction and the merits. Since hearing and considering the argument we are convinced that the writ should be discharged.

We fail to find merit in the contention of petitioners that this court is concerned here with a 'business college' and that it \*780 has never determined whether or not such a school is an educational institution as would entitle it to exemption from taxes under [Section 1, Article IX of the Constitution, F.S.A.](#)

The chancellor among other things found:

'\* \* \* that plaintiff is a non-profit corporation under the laws of this state having operated under its charter as an educational institution since 1948. Plaintiff's activities have been and are to maintain and operate an educational institution developing learning and skill in the field of business law and accounting, and in stenographic and secretarial capacities. The educational subjects taught by plaintiff substantially parallel like subjects taught in the public schools and higher educational institutions of Duval County and elsewhere in Florida. The curriculum covers training and instruction in mathematics, business law, business English, typewriting, shorthand, spelling, accounting, economics, public speaking and federal taxation, among others.'

The chancellor also found that respondent has distributed no dividends but that its assets have been used, after paying reasonable salaries and expenses, to improve the school plant and equipment; that respondent is accredited by the Accrediting Commission of Business Schools, an agency recognized as such by the Commissioner of Education, Department of Health, Education and Welfare, Washington, D. C. Completion of certain of respondent's courses of study is accepted by the Florida State Department of Education for teacher accreditation purposes. In our view these findings of the chancellor as approved by the District Court of Appeal would certainly bring respondent within the exemption provided in [Section 1, Article IX of the Constitution](#). The following cases support this view: [Strohmeier v. Rembrandt](#), 123 Fla. 833, 836, 168 So. 242; [Lummus v. Cushman](#),

Fla.1949, 41 So.2d 895; *Miami Battlecreek v. Lummus*, 140 Fla. 718, 192 So. 211; *Riverside Military Academy v. Watkins*, 155 Fla. 283, 19 So.2d 870. See also cases cited in opinion of District Court of Appeal, First District, by Wigginton, Acting Chief Judge.

In this holding we do not overlook *City of Detroit v. Detroit Commercial College*, 322 Mich. 142, 33 N.W.2d 737; *Parsons Business College v. City of Kalamazoo*, 166 Mich. 305, 131 N.W. 553, 33 L.R.A., N.S., 921; *Webb Academy v. City of Grand Rapids*, 209 Mich. 523, 177 N.W. 290; *Graphic Arts Educational Foundation, Inc. v. State*, 240 Minn. 143, 59 N.W.2d 841, relied on by petitioners to support their contention. In these cases Michigan and Minnesota applied the test that for an educational institution to enjoy exemption from taxation the course of study must fit into the general scheme of education provided by the state and supported by public taxation. The Michigan court accordingly held that Detroit Commercial College was a specialized school or college operated for the purpose of training students to

enter into specialized fields of employment and was not entitled to tax exemption. The Minnesota court approved.

In this state the constitutional provision authorizes the legislature to define the terms under which property may be exempt from taxation when used for municipal, educational, literary, scientific, religious or charitable purposes. The cases cited herein define the governing rule. It is necessarily different from the rule followed in the Michigan and Minnesota cases because the statutory and constitutional provisions there are different.

The writ of certiorari is accordingly discharged.

HOBSON, DREW, ROBERTS, THORNAL and O'CONNELL, JJ., concur.

THOMAS, C. J., agrees to conclusion.

**All Citations**

118 So.2d 779