

STATE OF VERMONT

SUPERIOR COURT
CHITTENDEN UNIT

CIVIL DIVISION
Docket No. 356-5-20 Cncv

American Morgan Horse Association, Inc., :
Mari Sanderson, Clarence A. “Tony” Lee, III, :
Carol Fletcher, Terri Sturm, Steven Handy, :
Kate Kirsch, Harlan Grunden, Kris Breyer, :
William “Mike” Goebig, Cindy Mugnier, :
Sharon “Sherry” Cole, Georgie Green, :
Jeffrey Gove, and Carrie Mortensen, :

Plaintiffs, :

-vs.- :

Philadelphia Indemnity Insurance Company, :

Defendant. :

**DEFENDANT’S ANSWER TO
AMENDED DECLARATORY JUDGMENT COMPLAINT**

The defendant in this action, Philadelphia Indemnity Insurance Company (“PIIC”), by and through its undersigned counsel, answers the plaintiffs’ *Amended Declaratory Judgment Complaint* and states as follows:

INTRODUCTION

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1.

2. Admits only that The American Morgan Horse Educational Charitable Trust (“AMHECT” or the “Trust”) is separate from the American Morgan Horse Association, Inc. (“AMHA” or the “Association”), and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 2.

3. Admitted.
4. Admitted, except that PIIC denies knowledge or information sufficient to form a belief as to whether Mr. Lee is AMHA's president.
5. Admitted, except that, upon information and belief, Ms. Fletcher is a current AMHA director.
6. Admitted.
7. Admitted.
8. Admitted, except that PIIC denies knowledge or information sufficient to form a belief as to whether Mr. Goebig is AMHECT's president.
9. Admits that Ms. Mugnier is a former AMHA director and a resident of Belchertown, Massachusetts, but denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 9.
10. Admits that Ms. Cole is a former AMHA director; upon information and belief, admits that she is a resident of Sheridan, Indiana, and denies any allegation to the contrary; and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 10.
11. Admitted, except that PIIC denies knowledge or information sufficient to form a belief as to the truth of the allegation that Ms. Green is a former AMHECT trustee.
12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12.
13. Admitted, except that PIIC denies knowledge or information sufficient to form a belief as to the truth of the allegation that she is a former AMHECT trustee.
14. Admitted.

15. Admitted.

16. Admitted, except that PIIC denies knowledge or information sufficient to form a belief as to the allegation about where Ms. Mortensen has residency.

17. Admitted, except that the insurance policies afford only such coverage as appears in all of their terms, conditions, endorsements, and limits. The insurance policies are in writing and speak for themselves. The policies are a part of the pleadings in this action for all purposes. *See* V.R.C.P. 10(c).

UNDERLYING FACTS

18. Admits that the pleadings in the Underlying Suit purport to seek relief under Section 702(b) of the New York Not-For-Profit Corporation Law, but denies that the claims are as limited as the plaintiffs allege in the *Amended Declaratory Judgment Complaint*; denies that any response to the characterization of the allegations in Ms. Bennett's complaint is required, because the complaint has been superseded, has not been adjudicated, is in writing, and speaks for itself – but, if a response is required, denies them and leaves the plaintiffs to their proofs; and, as to all other matters, admitted. Ms. Bennett's original complaint is a part of the pleadings in this action for all purposes. *See* V.R.C.P. 10(c).

19. Admits that the *Amended Complaint* in the Underlying Suit purports to seek relief under Section 702(b) of the New York Not-For-Profit Corporation Law, but denies that the claims are as limited as the plaintiffs allege in the *Amended Declaratory Judgment Complaint*; denies that any response to the characterization of the allegations in Ms. Bennett's *Amended Complaint* is required, because the complaint has not been adjudicated, is in writing and speaks for itself – but, if a response is required, denies them and leaves the plaintiffs to their proofs; and, as to all other matters, admitted. Ms. Bennett's *Amended Complaint* is a part of the pleadings in this action for

all purposes. *See* V.R.C.P. 10(c).

20. The allegations in Paragraph 20 state legal conclusions, which are reserved to the Court alone. To the extent that a response is required to the plaintiffs' paraphrasing of the pleadings in the Underlying Suit, PIIC avers that the pleadings are in writing and speak for themselves. Accordingly, and only to the extent that a response is required, PIIC denies the allegations in Paragraph 20 and leaves the plaintiffs to their proofs.

21. Denied. The pleadings in the Underlying Suit are in writing and speak for themselves.

22. Denied. The pleadings in the Underlying Suit are in writing and speak for themselves, and are not as limited as the plaintiffs' selective citations and paraphrasing of them would suggest.

23. Denied.

24. Denied.

25. Upon information and belief, admitted.

26. Admits that, on September 9, 2019, PIIC received a "notice of incident" from Titus Insurance Agency that forwarded certain e-mail correspondence from Ms. Mortensen and what purported to be a courtesy copy of the original complaint in the Underlying Suit; admits that Ms. Mortensen asked the insurance broker to notify "the proper insurance carriers (AMHA/AMHECT) in regards to requesting they provide a defense"; and otherwise denies knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 26. The communication referenced in Paragraph 26 is in writing and speaks for itself.

27. Denied, except that PIIC admits that it did issue a letter to the Association dated September 13, 2019, which is in writing and speaks for itself.

28. Denied, except that PIIC admits that Ms. Mortensen did send it an e-mail dated October 4, 2019, that purported to send the amended complaint in the Underlying Suit to PIIC, which is in writing and speaks for itself.

29. Denied, except that PIIC admits that it sent Ms. Mortensen multiple e-mails on October 8, 2019, that reaffirmed and incorporated by reference its coverage position as stated in its letter dated September 13, 2019, all of which are in writing and speak for themselves.

30. Denied.

31. Admitted, except to the extent that Paragraph 31 alleges that it “once again” tendered the defense of the Underlying Suit to PIIC under the Trust Policy, which is denied: the letter was the first request that PIIC consider the Underlying Suit for coverage under the Trust Policy. Counsel’s letter dated December 12, 2019, is in writing and speaks for itself.

32. Admitted. The letter dated January 30, 2020, sets forth PIIC’s coverage position, is in writing, and speaks for itself. Certain portions of that letter constitute settlement communications, which are inadmissible. *See* V.R.E. 408.

33. Admitted. The notice is in writing and speaks for itself, and it is a part of the pleadings in this action for all purposes. *See* V.R.C.P. 10(c).

34. Admits only that PIIC has disclaimed coverage for the Underlying Suit and accordingly has made no payments of “Loss” in connection therewith, and denies the remaining allegations in Paragraph 34.

35. Upon information and belief, admits that the Underlying Suit is the only matter that the Association has ever tendered to PIIC; but denies the remaining allegations in Paragraph 35.

36. Admitted, because PIIC has no such obligation.

THE INSURANCE COVERAGE

37. Admitted, subject to all of the terms, conditions, exclusions, endorsements, and limits of Policy No. PHSD1464164 (the “Association Policy”). The Association Policy is in writing and speaks for itself.

38. Admitted, subject to all of the terms, conditions, exclusions, endorsements, and limits of the Association Policy. The Association Policy is in writing and speaks for itself.

39. Admitted, to the extent that the allegations in Paragraph 39 refer only to the Association Policy; otherwise, denied. The Association Policy is in writing and speaks for itself.

40. Denies that AMHA is an “individual insured” as that term is defined in the Association Policy; denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 40 vis-à-vis Mr. Gove; and, upon information and belief, as to the remaining plaintiffs, admitted. The Association Policy is in writing and speaks for itself.

41. Admits that the Underlying Suit is a “claim” as that term is defined in Part 6.B (as amended by endorsement) of the Association Policy, to the extent that the plaintiffs herein are properly “insureds” under that policy and to the extent that the Underlying Suit seeks recovery for a “D&O Wrongful Act” as defined in Part I, Section II.A, of the Association Policy; otherwise, denied. The Association Policy is in writing and speaks for itself.

42. Admitted. The lawsuit and the Association Policy are in writing and speak for themselves.

43. Denied. The Association Policy does grant the Insured the right to tender the defense of a claim to PIIC; but Part 8, Section III, expressly states that the Insured and not PIIC “shall have the responsibility to defend against **Claim**.” Any obligation of PIIC is subject to all of the provisions of Part 8, Section III, and to the controlling law.

44. Denied. The Association Policy is in writing and speaks for itself.

45. Denied, because the Association Policy employs specific terms that are defined in the policy itself to delineate what “Loss” is, and what it is not. The Association Policy is in writing and speaks for itself.

46. Admitted, subject to all of the terms, conditions, exclusions, endorsements, and limits of Policy No. PHSD1464150 (the “Trust Policy”). The Trust Policy is in writing and speaks for itself.

47. Denied. The Trust Policy’s coverage is defined exclusively by the terms, conditions, endorsements, and limits contained therein; the Trust Policy is in writing and speaks for itself.

48. Denied, inasmuch as (i) none of AMHA, Mr. Grunden, or Ms. Kirsch qualify as an “individual insured” as that term is defined in the Trust Policy; and (ii) PIIC lacks knowledge or information sufficient to form a belief as to whether each of plaintiffs Breyer, Cole, Gove, Green, or Mungier qualify as an “individual insured” as that term is defined in the Trust Policy. Otherwise, as to the remaining plaintiffs, upon information and belief, admitted. The Trust Policy is in writing and speaks for itself.

49. Admits that the Underlying Suit is a “claim” as that term is defined in Part 6.B (as amended by endorsement) of the Trust Policy, to the extent that the plaintiffs herein are properly “insureds” under that policy and to the extent that the Underlying Suit seeks recovery for a “D&O Wrongful Act” as defined in Part I, Section II.A, of the Trust Policy; otherwise, denied. The Trust Policy is in writing and speaks for itself.

50. Denied. The Trust Policy is in writing and speaks for itself.

51. Denied. The Trust Policy is in writing and speaks for itself.

52. Denied. The insurance policies are in writing and speak for themselves.

53. Denies that PIIC's disclaimer of any coverage obligations under the insurance policies was improper in any way, and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 53.

COUNT I
(Duty to Defend – AMHA Policy)

54. Admitted, except inasmuch as (i) AMHA is not an "individual insured" under the Association Policy, and (ii) PIIC lacks knowledge or information sufficient to form a belief as to the truth of the allegation that Mr. Gove is an "individual insured" under the Association Policy. The Association Policy and the pleadings in the Underlying Suit are in writing and speak for themselves.

55. Denied. The pleadings in the Underlying Suit are in writing and speak for themselves.

56. Denied, to the extent that the Association has not tendered the Underlying Suit to PIIC; but, as to the real persons who are named as plaintiffs in this action, admitted.

57. Denied. The Association Policy is in writing and speaks for itself.

58. Denied.

COUNT II
(Duty to Defend – AMHECT Policy)

59. Denied. The Trust Policy and the pleadings in the Underlying Suit are in writing and speak for themselves.

60. Denied. The allegations in Paragraph 60 are academic because the Underlying Suit does not state any claims against any of the plaintiffs in their capacities as trustees of the Trust. The Trust Policy and the pleadings in the Underlying Suit are in writing and speak for themselves.

61. Denied, to the extent that the Association has not tendered the Underlying Suit to PIIC; but, as to the real persons who are named as plaintiffs in this action, admitted.

62. Denied. The Trust Policy is in writing and speaks for itself.

63. Denied.

COUNT III
(Bad Faith Claims Handling)

64. Admits that both the Association Policy and the Trust Policy contain an endorsement called the *Pro-Pak Elite Enhancement*, which modifies the allocation clause at Part 8, Section XIX, of the policies; but otherwise denies the remaining allegations, including plaintiffs' proposed construction of the clauses. The insurance policies are in writing and speak for themselves.

65. Denied. The insurance policies are in writing and speak for themselves.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

70. Admits only that PIIC has declined to accept the defense of the Underlying Suit, because the relevant policy places the responsibility to defend on the Insured and not PIIC, and because the relevant policy does not provide any coverage for the Underlying Suit; and denies remaining allegations in Paragraph 70, including that the Association has tendered the defense of the Underlying Suit to PIIC.

71. Admits that PIIC has declined to renew coverage for the Association, and has sent the Association an appropriate and legally sufficient notice of the same, which is in writing and speaks for itself; admits that PIIC has disclaimed coverage for the Underlying Suit and accordingly

has made no payments of “Loss” in connection therewith; admits that, upon information and belief, the Association has submitted no other claim to PIIC; and denies the remaining allegations in Paragraph 71.

72. Denied.

73. Denied.

PRAYER FOR RELIEF

74. Paragraph 74 is a prayer for relief and states no allegations against PIIC, with the result that no response is necessary. To the extent that a response is required, PIIC admits that this action has been brought pursuant to Vermont’s declaratory judgment statute and that the plaintiffs seek a declaration; but PIIC denies that the plaintiffs are entitled either to the declaration that they seek or to any other relief that they request.

DEFENSES

Discovery in this matter is ongoing. Accordingly, PIIC reserves its right to amend this *Answer* to assert any defenses that may be available to it or that become apparent in the course of discovery, in addition to these:

1. The plaintiffs have failed to state any claim against PIIC upon which relief may be granted.
2. PIIC has fully honored all of its obligations under both the Association Policy and the Trust Policy.
3. Coverage under each of the Association Policy and the Trust Policy is exclusively defined by and limited to their respective terms, conditions, endorsements, exclusions, and limits.
4. Neither the Association Policy nor the Trust Policy can provide coverage to anyone who does not qualify as an “insured.”

5. The Association is not an insured under the Trust Policy.
6. Neither Ms. Kirsch nor Mr. Grunden qualify as an “individual insured” under the Trust Policy.
7. Ms. Mugnier, Ms. Cole, Ms. Green, Ms. Breyer, and Mr. Gove have the burden of proving that they qualify as “individual insureds” under the Trust Policy.
8. The Association is required to exhaust its retention under the Association Policy as a condition precedent to coverage under the insuring agreement at Part 1, Section I.B.
9. Neither the Association Policy nor the Trust Policy place any responsibility to defend upon PIIC. Rather, the responsibility to defend rests entirely and exclusively with the insured.
10. PIIC cannot provide coverage against the Underlying Suit under the Trust Policy for each of the following separate and independently sufficient reasons:
 - a. The Underlying Suit states no claims against the Trust or against individuals in their capacities as directors, officers, or employees of the Trust, with the result that the Underlying Suit does not satisfy the insuring agreements at Part 1, Section I, of the Trust Policy.
 - b. The Underlying Suit is a derivative action brought on behalf of the Association against its officers, directors, or employees, and it arises out of or in connection with the Association’s activities and operations. As a result, it falls entirely within the Trust Policy’s *Related Party Exclusion*, which states:

With respect to coverage under Part(s) 1, 2, the **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** brought by or against, arising out of, directly or indirectly resulting from or in consequence of, the activities or operation of the following related party: American Morgan Horse Association, Inc.
 - c. The Underlying Suit seeks recovery on account of the breach of a consent

decree that resolved a prior lawsuit, so coverage is excluded by Part 1, Section III.C (as amended by endorsement) of the Trust Policy, which states:

The **Underwriter** shall not be liable under this Part 1 to make any payment for **Loss** in connection with any **Claim** made against an **Insured**:

C. arising out of, based upon or attributable to any actual or alleged liability under any written or oral agreement; however this exclusion does not apply to liability which would have attached even in the absence of such contract or agreement.

d. The Underlying Suit arises out of the plaintiffs' alleged self-dealing, with the result that coverage is excluded by Part 7.A of the Trust Policy, which states:

The **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Insured**:

A. Arising out of, based upon or attributable to such **Insured** gaining any profit, remuneration or advantage to which they were not legally entitled; however, this exclusion shall only apply if a final and non-appealable judgment or adjudication establishes the **Insured** committed such act or omission;

e. The Underlying Suit arises out of the plaintiffs' dishonest acts or omissions, for which coverage is excluded by Part 7.B of the Trust Policy, which states:

The **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Insured**:

B. Arising out of, based upon or attributable to any dishonest or fraudulent act or omission or any criminal act or omission by such **Insured**; however, this exclusion shall only apply if a final and non-appealable judgment or adjudication establishes the **Insured** committed such act or omission.

f. The Underlying Suit is based upon the breach of a 2010 consent decree that settled a 2008 lawsuit against several of the plaintiffs in this action, with the result that coverage is excluded by Part 7.F.1 of the Trust Policy, which references the Trust Policy's Prior and Pending date of August 27, 2015:

The **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Insured**:

F. Arising out of, based upon or attributable to:

1. Any litigation or demand against an **Insured** pending on or before the Prior and Pending Date set forth in Item 5. of the Declarations, or the

same or essentially the same facts as alleged in such prior litigation;

- g. The Underlying Suit seeks recovery on account of the real-person plaintiffs' roles as officers, directors, or employees of the Association, with the result that coverage is excluded by Part 7.M of the Trust Policy, which provides:

The **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Insured**:

- M. For service by the **Individual Insured** in any position or capacity in any entity other than the **[Trust]**, a **Benefit Plan** or an **Outside Entity**, even if the **[Trust]** directed or requested the **Individual Insured** to serve in such other position or capacity.

11. PIIC cannot provide coverage against the Underlying Suit under the Association Policy for each of the following separate and independently sufficient reasons:

- a. The Underlying Suit makes no claims against the Association, with the result that it does not satisfy the insuring agreement at Part 1, Section I.C, of the Association Policy.
- b. The Underlying Suit is a derivative action brought against the Association's officers, directors, and employees, and it arises out of or in connection with the Trust's activities and operations. As a result, it falls entirely within the Association Policy's *Related Party Exclusion*, which states:

With respect to coverage under Part(s) 1, 2, the **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** brought by or against, arising out of, directly or indirectly resulting from or in consequence of, the activities or operation of the following related party: American Morgan Horse Association Educational Charitable Trust.

- c. The Underlying Suit seeks recovery on account of the breach of a consent decree that resolved a prior lawsuit, so coverage is excluded by Part 1, Section III.C (as amended by endorsement) of the Association Policy, which states:

The **Underwriter** shall not be liable under this Part 1 to make any payment for **Loss** in connection with any **Claim** made against an **Insured**:

- C. arising out of, based upon or attributable to any actual or alleged liability under any

written or oral agreement; however this exclusion does not apply to liability which would have attached even in the absence of such contract or agreement.

- d. The Underlying Suit arises out of the plaintiffs' alleged self-dealing, with the result that coverage is excluded by Part 7.A of the Association Policy, which states:

The **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Insured**:

- A. Arising out of, based upon or attributable to such **Insured** gaining any profit, remuneration or advantage to which they were not legally entitled; however, this exclusion shall only apply if a final and non-appealable judgment or adjudication establishes the **Insured** committed such act or omission;

- e. The Underlying Suit arises out of the plaintiffs' dishonest acts or omissions, for which coverage is excluded by Part 7.B of the Association Policy, which states:

The **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Insured**:

- B. Arising out of, based upon or attributable to any dishonest or fraudulent act or omission or any criminal act or omission by such **Insured**; however, this exclusion shall only apply if a final and non-appealable judgment or adjudication establishes the **Insured** committed such act or omission.

- f. The Underlying Suit is based upon the breach of a 2010 consent decree that settled a 2008 lawsuit against several of the plaintiffs in this action, with the result that coverage is excluded by Part 7.F.1 of the Association Policy, which references the Association Policy's Prior and Pending date of August 27, 2015:

The **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Insured**:

- F. Arising out of, based upon or attributable to:
1. Any litigation or demand against an **Insured** pending on or before the Prior and Pending Date set forth in Item 5. of the Declarations, or the same or essentially the same facts as alleged in such prior litigation;

- g. The Underlying Suit has been brought on behalf of the Association against its officers, directors, and employees by another sitting director, with the

result that coverage is excluded by Part 7.J of the Trust Policy (as amended by endorsement), which states:

The **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Insured**:

J. Brought or maintained by, at the behest, or on behalf of the **Organization**;

Item J. will not apply to any **Claim** brought as a derivative action, or similar action, on behalf of the **Organization**, provided the **Claim** is brought without the assistance of any current or former director, officer, governor, trustee or equivalent executive of the **Organization** who has not served in such capacity within four (4) years immediately preceding the date the **Claim** is first made.

h. The Underlying Suit seeks recovery on account of the real-person plaintiffs' roles as officers, directors, or employees of the Trust, with the result that coverage is excluded by Part 7.M of the Association Policy, which provides:

The **Underwriter** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Insured**:

M. For service by the **Individual Insured** in any position or capacity in any entity other than the **[Association]**, a **Benefit Plan** or an **Outside Entity**, even if the **[Association]** directed or requested the **Individual Insured** to serve in such other position or capacity.

12. PIIC correctly determined that neither the Association Policy nor the Trust Policy afford coverage for the Underlying Suit.

13. PIIC's grounds for disclaiming coverage under both the Association Policy and the Trust Policy, or either of them, are reasonable.

14. PIIC's disclaimer of coverage under both the Association Policy and the Trust Policy, or either of them, was made in good faith.

15. PIIC is not required to renew the Association Policy.

16. PIIC decided not to renew the Association Policy no later than April 21, 2020.

17. PIIC is not required to state any reason for its decision not to renew the Association Policy.

18. PIIC's notice of non-renewal of the Association Policy fully conforms with the

Association Policy's terms at Part 8, Section V, as amended by the *Vermont Amendatory Endorsement*, which state:

- C. The **Underwriter** shall not be required to renew this Policy; however, written notice of the **Underwriter's** intent to non-renew this Policy shall be sent to the **Parent Organization** at least 45 days prior to expiration of the **Policy Period**. Such notice will be sent by mailing, by certified mail, or delivering written notice of non-renewal to the **Parent Organization's** last mailing address known to us.

19. PIIC's notice of non-renewal of the Association Policy fully conforms to controlling law, including but not limited to 8 V.S.A. §§ 4713-4714.

20. PIIC has, at all times, fully complied with all of its obligations under the Association Policy.

21. PIIC has, at all times, fully complied with all of its obligations under the Trust Policy.

22. PIIC has, at all times, fully complied with all of its obligations under controlling law.

23. PIIC did not act with malice, with the result that punitive damages are unavailable, as a matter of law.

24. The plaintiffs have failed to mitigate their damages.

25. PIIC reserves the right to assert any other term, condition, exclusion, endorsement, or provision of the Policy to support its coverage position, which is or may become applicable based upon information developed in the course of discovery.

* * *

WHEREFORE, PIIC requests that the Court:

- a. Enter judgment in its favor on all counts;
- b. Dismiss the plaintiffs' *Amended Declaratory Judgment Complaint*, with prejudice and without leave to amend;

- c. Award the defendant its attorneys' fees and costs; and
- d. Grant the defendant such additional relief as the Court deems just and appropriate.

DATED at Concord, New Hampshire, this 8th day of June 2020.

Respectfully submitted,

**PHILADELPHIA INDEMNITY
INSURANCE COMPANY**

By its attorneys,

SULLOWAY & HOLLIS, P.L.L.C.

By:

Sarah S. Murdough, Esq. (# 3024; ERN 3188)
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Certificate of Service

I, Sarah S. Murdough, Esq., counsel for the defendant, do hereby certify that, on this 8th day of June 2020, I caused a true and correct copy of the foregoing *Defendant's Answer to Amended Declaratory Judgment Complaint* to be served on counsel for all of the other parties to this action by electronic mail and also by depositing a copy of the same into the United States mail, first-class postage prepaid, addressed as follows:

Shapleigh Smith, Jr., Esq.
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¹ An assented-to motion to admit Attorney Henlin *pro hac vice* has been filed contemporaneously with this *Answer*.