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ANSWER OF RESPONDENT KIMBERLY A. ZURZ
DIRECTOR, OHIO DEPARTMENT OF COMMERCE

Respondent Kimberly A. Zurz, Director, Ohio Department of Commerce, by and through counsel, submits the following Answer and affirmative defenses to Relators' Petition Seeking Writs of Prohibition; Alternative Writs of Mandamus; and Alternative "Other Writs".

FIRST DEFENSE

1. Paragraph one (1) makes no factual allegations to admit or deny.
2. Respondent admits the averments in Paragraph two (2).
3. Respondent admits the averments in Paragraph three (3).
4. Respondent admits the averments in Paragraph four (4).
5. Respondent denies for lack of knowledge whether Relator, Associated Builders and Contractors of Central Ohio ("ABC"), is a non-profit trade association. Respondent admits the remaining averments contained in Paragraph five (5).
6. Respondent admits the averments contained in Paragraph six (6).
7. Respondent admits the averments contained in Paragraph seven (7).
8. Respondent admits the averments contained in Paragraph eight (8).
9. Respondent admits or denies the averments previously made herein.
10. Respondent denies for lack of knowledge the averments contained in Paragraph ten (10).
11. Respondent denies for lack of knowledge the averments contained in Paragraph eleven (11).
12. Respondent admits the averments contained in Paragraph twelve (12).
13. Respondent admits the averments contained in Paragraph thirteen (13).
14. Respondent admits the averments contained in the first two sentences of Paragraph fourteen (14). Respondent cannot admit or deny the final sentence as the term "no force

in law” is a legal conclusion and not an averment of fact.

15. Respondent admits Relators have accurately quoted a statutory provision in Paragraph fifteen (15).
16. Respondent admits Relators have accurately quoted a statutory provision in Paragraph sixteen (16).
17. Respondent denies that Relators have accurately set forth R.C. 4115.13 as referenced in Paragraph seventeen (17).
18. Respondent admits the averments contained in Paragraph eighteen (18), except that R.C. 4115.10 provides authority to litigate, rather than R.C. 4115.13.
19. Respondent denies the averments contained in Paragraph nineteen (19).
20. Respondent states that Chapter 4115 speaks for itself, and that the statement in Paragraph twenty (20) is a legal conclusion and not an averment of fact.
21. Respondent admits it responded to a lawful public records request submitted by Franklin County. Respondent denies the other averments contained in Paragraph twenty-one (21).
22. Respondent admits the averments in Paragraph twenty-two (22).
23. As to the allegations in paragraph twenty-three (23), Respondent admits that three files indicate “zero” determinations because the files were closed at the request of the charging parties. Respondent denies for lack of knowledge whether the other determinations were based upon “clerical errors or misinformation about the law.”
24. Respondent admits the averments in Paragraph 24, except to the extent The Painting Company agreed to pay Respondent the sum of forty-five thousand dollars (\$45,000.00) plus a thirty-seven percent (37%) statutory penalty on eight separate projects.
25. Respondent admits the averments contained in Paragraph twenty-five (25), but asserts

there were additional issues in the lawsuit between Respondent and The Painting Company.

26. Respondent admits the averments contained in Paragraph twenty-six (26).
27. Respondent denies the Attorney General was a party to the Settlement Agreement, but otherwise admits the averments contained in Paragraph twenty-seven (27).
28. Respondent admits the Franklin County Common Pleas Court decision was accurately cited in Paragraph twenty-eight (28), but denies the Attorney General was a party to the Settlement Agreement.
29. Respondent denies the averments set forth in Paragraph twenty-nine (29).
30. Respondent denies the averments contained in Paragraph thirty (30).
31. Respondent denies the settlement agreements were reached with the Attorney General, but admits the remaining averments in Paragraph thirty-one (31).
32. Respondent admits the averments contained in Paragraph thirty-two (32).
33. Respondent admits the averment contained in Paragraph thirty-three (33) stating the prevailing wage determinations against The Painting Company were settled without a hearing or a trial on the merits.
34. Respondent admits the averments set forth in Paragraph thirty-four (34).
35. Respondent denies for lack of knowledge the averments contained in Paragraph thirty-five (35).
36. Respondent denies for lack of knowledge the averments contained in Paragraph thirty-six (36).
37. Respondent denies for lack of knowledge the averments contained in Paragraph thirty-seven (37).

38. Respondent denies for lack of knowledge the averments contained in Paragraph thirty-eight (38).
39. Respondent denies for lack of knowledge the averments contained in Paragraph thirty-nine (39).
40. Respondent denies for lack of knowledge the averments contained in Paragraph forty (40).
41. Respondent denies for lack of knowledge the averments contained in Paragraph forty-one (41).
42. Respondent denies for lack of knowledge the averments contained in Paragraph forty-two (42).
43. Respondent denies for lack of knowledge the averments contained in Paragraph forty-three (43).
44. Respondent denies for lack of knowledge the averments contained in Paragraph forty-four (44).
45. Respondent denies for lack of knowledge the averments contained in Paragraph forty-five (45).
46. Respondent denies for lack of knowledge the averments contained in Paragraph forty-six (46).
47. Respondent denies for lack of knowledge the averments contained in Paragraph forty-seven (47).
48. Respondent admits the averments contained in Paragraph forty-eight (48).
49. Respondent denies that the Department of Commerce provided a “list of unadjudicated determinations”. Instead, the Department provided the prevailing wage complaint forms

related to complaints filed against The Painting Company.

50. Respondent denies for lack of knowledge the averments contained in Paragraph fifty (50).
51. Respondent denies for lack of knowledge the averments contained in Paragraph fifty-one (51).
52. Respondent denies for lack of knowledge the averments contained in Paragraph fifty-two (52).
53. Respondent denies for lack of knowledge the averments contained in Paragraph fifty-three (53).
54. Respondent denies for lack of knowledge the averments contained in Paragraph fifty-four (54).
55. Respondent denies for lack of knowledge the averments contained in Paragraph fifty-five (55).
56. Respondent denies for lack of knowledge the averments contained in Paragraph fifty-six (56).
57. Respondent denies for lack of knowledge the averments contained in Paragraph fifty-seven (57).
58. Respondent admits the averments contained in Paragraph fifty-eight (58).
59. Respondent admits the averments contained in Paragraph fifty-nine (59).
60. Respondent admits the averments contained in Paragraph sixty (60).
61. Respondent admits the averments contained in Paragraph sixty-one (61).
62. Respondent denies the accuracy of the dates for the Notice of Appeal and Memorandum in Support of Jurisdiction. Respondent admits the remaining averments in Paragraph

- sixty-two (62).
63. Respondent denies for lack of knowledge the averments contained in Paragraph sixty-three (63).
 64. Respondent reincorporates each answer and denial as previously set forth earlier herein.
 65. Respondent asserts the settlement agreement speaks for itself. Respondent denies the remaining allegations in Paragraph sixty-five (65).
 66. Respondent denies the assertions contained in Paragraph sixty-six (66).
 67. Respondent denies the assertions contained in Paragraph sixty-seven (67). Respondent expressly denies reporting agency determinations as “adjudicated findings”.
 68. Respondent denies the assertions contained in Paragraph sixty-eight (68). Respondent expressly denies reporting agency determinations as “adjudicated findings”.
 69. Respondent denies the averments contained in Paragraph sixty-nine (69).
 70. Respondent denies the averments contained in Paragraph seventy (70).
 71. Respondent denies the averments contained in Paragraph seventy-one (71).
 72. Respondent denies the averments contained in Paragraph seventy-two (72).
 73. Respondent denies the averments contained in Paragraph seventy-three (73).
 74. Respondent denies the averments contained in Paragraph seventy-four (74).
 75. Respondent reincorporates each answer and denial as previously set forth earlier herein.
 76. Respondent Zurz denies the averments contained in Paragraph seventy-six (76), though there are no specific averments against Respondent Zurz in that Paragraph.
 77. Respondent Zurz denies the averments contained in Paragraph seventy-seven (77), though there are no specific averments against Respondent Zurz in that Paragraph.
 78. Respondent Zurz denies the averments contained in Paragraph seventy-eight (78), though

- there are no specific averments against Director Zurz in that Paragraph.
79. Respondent Zurz denies the averments contained in Paragraph seventy-nine (79), though there are no specific averments against Respondent Zurz in that Paragraph.
 80. Respondent Zurz denies the averments contained in Paragraph eighty (80), though there are no specific averments against Respondent Zurz in that Paragraph.
 81. Respondent Zurz denies the averments contained in Paragraph eighty-one (81), though there are no specific averments against Respondent Zurz in that Paragraph.
 82. Respondent Zurz denies the averments contained in Paragraph eighty-two (82), though there are no specific averments against Respondent Zurz in that Paragraph.
 83. Respondent Zurz denies the averments contained in Paragraph eighty-three (83), though there are no specific averments against Respondent Zurz in that Paragraph.
 84. Respondent Zurz denies the averments contained in Paragraph eighty-four (84), though there are no specific averments against Respondent Zurz in that Paragraph.
 85. Respondent Zurz denies the averments contained in Paragraph eighty-five (85), though there are no specific averments against Respondent Zurz in that Paragraph.
 86. Respondent Zurz denies the averments contained in Paragraph eighty-six (86), though there are no specific averments against Respondent Zurz in that Paragraph.
 87. Respondent reincorporates each answer and denial as previously set forth earlier herein.
 88. Respondent denies the averments contained in Paragraph eighty-eight (88).
 89. Respondent admits it must abide by its agreements, but denies it failed to abide by the agreement referred to here. Respondent denies the remaining averments contained in Paragraph eighty-nine (89).
 90. Respondent denies the averments contained in Paragraph ninety (90).

91. Respondent denies the averments contained in Paragraph ninety-one (91).
92. Respondent denies the averments contained in Paragraph ninety-two (92).
93. Respondent has a clear legal duty to comply with state and federal law, but denies it failed to do so and denies the remaining averments in Paragraph ninety-three (93).
94. Respondent denies the averments contained in Paragraph ninety-four (94).
95. Respondent denies the averments contained in Paragraph ninety-five (95).
96. Respondent denies the averments contained in Paragraph ninety-six (96).
97. Respondent denies the averments contained in Paragraph ninety-seven (97).
98. Respondent denies the averments contained in Paragraph ninety-eight (98).
99. Respondent denies the averments contained in Paragraph ninety-nine (99).
100. Respondent denies the averments contained in Paragraph one hundred (100).
101. Respondent reincorporates each answer and denial as previously set forth earlier herein.
102. R.C. 2503.40 speaks for itself and does not require Respondent to admit or deny the averments contained in Paragraph one hundred two (102).
103. Respondent denies the averments contained in Paragraph one hundred three (103).
104. Respondent denies the averments contained in Paragraph one hundred four (104).
105. Respondent denies the averments contained in Paragraph one hundred five (105).
106. Respondent denies the averments contained in Paragraph one hundred six (106).

SECOND DEFENSE

107. Relators fail to state a claim upon which relief can be granted.

THIRD DEFENSE

108. Relators have failed to join indispensable parties to this action.

FOURTH DEFENSE

109. Relators have an adequate remedy at law if successful in the related case before the Court (Case No. 08-1478).

FIFTH DEFENSE

110. The case is moot.

SIXTH DEFENSE

111. The Court lacks jurisdiction over the case.

SEVENTH DEFENSE

112. This action is barred by the doctrine of issue preclusion.

EIGHTH DEFENSE

113. This action is barred by the doctrine of laches.

Therefore, under Rule 10, Section 5 of the Supreme Court Rules of Practice, Respondent Kimberly Zurz, Director of the Ohio Department of Commerce, requests the Court dismiss this action and assess costs to Relators.

Respectfully submitted,

NANCY H. ROGERS
Attorney General of Ohio

Handwritten signature of Dan E. Belville in black ink, consisting of the letters 'D', 'E', and 'B' with a stylized flourish.

DAN E. BELVILLE (0040250)

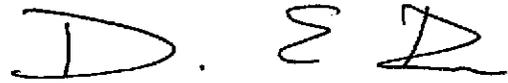
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Counsel for Respondent
Kimberly Zurz, Director
Ohio Department of Commerce

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the Answer of Respondent Kimberly A. Zurz, Director of the Ohio Department of Commerce was served this 22nd day of October 2008 by regular U.S. Mail to: Michael F. Copley, Douglas M. Beard and Kenley S. Maddux, Esqs., The Copley Law Firm, LLC, 1015 Cole Road, Galloway, Ohio 43119, counsel for Relators Associated Builders & Contractors of Central Ohio and The Painting Company and served via hand delivery this 22nd day of October 2008 to: Michael J. Schuler, Assistant Attorney General, Constitutional Offices, 30 East Broad Street, 16th Floor, Columbus, Ohio 43215, counsel for Respondent, Ohio Attorney General Nancy H. Rogers.

A handwritten signature in black ink, appearing to read "D. E. B.", written over a horizontal line.

DAN E. BELVILLE
Assistant Attorney General