

IN THE SUPREME COURT OF OHIO

The Ohio Manufacturers' Association, et al., :
:
: *Relators,* : Case No. 2016-0313
:
: **v.** : **Original Action under Article II,**
: **Section 1g of the Ohio Constitution**
Ohioans for Drug Price Relief Act, et al., :
:
: *Respondents.* :

ANSWER OF RESPONDENT OHIO SECRETARY OF STATE JON HUSTED

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By and through counsel, Respondent Ohio Secretary of State Jon Husted responds and answers Relators' Challenge to Initiative Petition as follows:

1. Paragraph 1 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

2. Paragraph 2 states legal conclusions to which a response is not required. The Secretary admits that the initiative petition was filed with his office on December 22, 2015. To the extent Paragraph 2 includes further allegations of fact, the Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations of those facts and therefore, the allegations are denied.

3. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 and therefore the allegations in Paragraph 3 are denied.

4. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 and therefore the allegations in Paragraph 4 are

denied. To the extent Paragraph 4 contains conclusions of law, no response is necessary. To the extent further response is necessary, Denied.

5. Paragraph 5 states legal conclusions to which a response is not required. Paragraph 5 also includes allegations of fact and the Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations of those facts and therefore, the allegations are denied.

6. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 and therefore the allegations in Paragraph 6 are denied.

7. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7 and therefore the allegations in Paragraph 7 are denied.

8. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 and therefore the allegations in Paragraph 8 are denied.

9. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 and therefore the allegations in Paragraph 9 are denied.

10. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 and therefore the allegations in Paragraph 10 are denied.

11. Admitted that the Secretary is the Chief Elections Official of Ohio. The duties and responsibilities of the Secretary are set forth in numerous statutory provisions. Paragraph 11

includes conclusion of law to which a response is not needed. To the extent a response is required, Denied.

12. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 and therefore the allegations in Paragraph 12 are denied.

13. Paragraph 13 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

14. Paragraph 14 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

15. Admitted only that Appendix 1 Exhibit A is a true and correct copy of an Affidavit of Matthew Walsh. The contents of the Affidavit speak for themselves. The cases referenced speak for themselves. Regarding the remaining allegations in Paragraph 15, the Secretary is without knowledge or information sufficient to form a belief as to the truth of those allegations and therefore the allegations are denied.

16. Directive 2015-40 speaks for itself and no response to allegations regarding its content is required. Admitted that the timing of the Committee's petition submission caused the boards of elections to have four business days to complete the review and return part-petitions, and admitted that the boards, in some cases, were operating on reduced holiday schedules and with limited staff during this time. To the extent further response is required, Denied.

17. Admitted that numerous of the part-petitions related to the Proposed Initiative appeared to contain irregularities, including irregularities with respect to crossed-out signatures and irregularities in the attestations of circulators. To the extent there are other allegations in this

Paragraph, the Secretary is without knowledge or information sufficient to form a belief as to the truth of those allegations and therefore the allegations are denied.

18. Directive 2016-01 speaks for itself and no response to allegations regarding its content is required. To the extent further response is required, Denied.

19. The Secretary's February 4, 2016 letter speaks for itself and no response to allegations regarding its content is required. To the extent further response is required, Denied.

20. The Secretary's February 4, 2016 certification speaks for itself and no response to allegations regarding its content is required. To the extent further response is required, Denied.

21. The Secretary's February 4, 2016 letter to the General Assembly speaks for itself and no response to allegations regarding its content is required.

22. The Secretary's February 4, 2016 letter to the General Assembly speaks for itself and no response to allegations regarding its content is required. To the extent further response is required, Denied.

23. Paragraph 23 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

24. Paragraph 24 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

25. Paragraph 25 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

26. Paragraph 26 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

27. Paragraph 27 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

28. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 28 and therefore the allegations in Paragraph 28 are denied.

29. Admitted that Fifi Harper was a circulator who submitted part-petitions and that Ms. Harper listed 4022 E. Greenway Rd. #11312, Phoenix, Arizona 85032 as her permanent residential address. To the extent there are other allegations in this paragraph, the Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29 and therefore the allegations in Paragraph 29 are denied.

30. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30 and therefore the allegations in Paragraph 30 are denied.

31. Paragraph 31 states legal conclusions to which a response is not required.

32. Paragraph 32 states legal conclusions to which a response is not required.

33. Admitted that Roy Jackson was a circulator who submitted part-petitions and that Mr. Jackson listed 2100 Brice Road, Reynoldsburg, Ohio 43068 as his permanent residential address. To the extent there are other allegations in this paragraph, the Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 33 and therefore the allegations in Paragraph 33 are denied.

34. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 34 and therefore the allegations in Paragraph 34 are denied.

35. Admitted that Kelvin Moore was a circulator who submitted part-petitions and that Mr. Moore listed 3143 West 33rd Street, Cleveland, Ohio 44109 as his permanent residential

address. To the extent there are other allegations in this paragraph, the Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35 and therefore the allegations in Paragraph 35 are denied.

36. The Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36 and therefore the allegations in Paragraph 36 are denied.

37. Paragraph 37 states legal conclusions to which a response is not required.

38. Paragraph 38 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

39. Paragraph 39 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

40. Admitted that in numerous part-petitions, signatures were stricken apparently using a thick black marker. The Secretary is without knowledge or information sufficient to form a belief as to the truth of other allegations in Paragraph 40 and therefore those allegations are denied.

41. Paragraph 41 states legal conclusions to which a response is not required.

42. Any transcript of testimony speaks for itself and therefore no response is required.

43. Any transcript of testimony speaks for itself and therefore no response is required.

44. Any transcript of testimony speaks for itself and therefore no response is required.

45. Any transcript of testimony speaks for itself and therefore no response is required.

46. Any transcript of testimony speaks for itself and therefore no response is required.

47. Any transcript of testimony speaks for itself and therefore no response is required.

48. The Secretary's February 4, 2016 letter to the General Assembly speaks for itself and no response to allegations regarding its content is required.

49. The Secretary's February 4, 2016 letter to the General Assembly speaks for itself and no response to allegations regarding its content is required.

50. The Secretary's February 4, 2016 letter to the General Assembly speaks for itself and no response to allegations regarding its content is required.

51. PCI's web page speaks for itself and no response to allegations regarding its content is required.

52. The Secretary's February 4, 2016 letter to the General Assembly speaks for itself and no response to allegations regarding its content is required.

53. The part-petitions and any transcript of testimony speak for themselves and therefore no response is required.

54. Any transcript of testimony speaks for itself and therefore no response is required.

55. The part-petitions speak for themselves and therefore no response is required.

56. The part-petitions speak for themselves and therefore no response is required.

57. The January 28, 2016 letter speaks for itself and no response to allegations regarding its content is required. Likewise, any transcript of testimony speaks for itself and therefore no response is required.

58. Paragraph 58 states legal conclusions to which a response is not required.

59. Paragraph 59 states legal conclusions to which a response is not required.

60. Paragraph 60 states legal conclusions to which a response is not required. To the extent a response is required, Denied.

61. Paragraph 61 states legal conclusions to which a response is not required.

62. Numerous part-petitions contained circulator attestations stating that the petition contained more signatures than actually on the part-petition. To the extent further response is required, the Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore the allegations are denied.

63. The part-petition form speaks for itself.

64. Paragraph 64 states legal conclusions to which a response is not required.

65. Paragraph 65 states legal conclusions to which a response is not required.

66. Paragraph 66 states legal conclusions to which a response is not required.

67. Any transcript speaks for itself and therefore no response is required. Paragraph 67 includes legal conclusions to which a response is not required.

68. Any transcript of testimony speaks for itself and therefore no response is required.

69. Any transcript of testimony speaks for itself and therefore no response is required.

70. Any transcript of testimony speaks for itself and therefore no response is required.

71. The Elections Manual speaks for itself and therefore no response to allegations about its content is required. The legal allegations in this Paragraph are conclusions of law to which a response is not required.

72. Paragraph 72 states legal conclusions to which a response is not required.

73. Paragraph 73 states legal conclusions to which a response is not required.

74. Paragraph 74 states legal conclusions to which a response is not required.

75. Paragraph 75 states legal conclusions to which a response is not required.

76. Paragraph 76 states legal conclusions to which a response is not required.

77. Paragraph 77 states legal conclusions to which a response is not required.

78. Paragraph 78 states legal conclusions to which a response is not required. To the extent this Paragraph includes allegations of fact, the Secretary is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore the allegations are denied.

79. In response to the Prayer for Relief, including all sub-parts, the Secretary asks for judgment in his favor.

80. All footnotes and section headers are denied.

81. To the extent any allegation remains that has not been expressly admitted or denied, such allegation is denied.

AFFIRMATIVE DEFENSES

1. Relators have not stated a claim upon which relief can be granted.
2. The Secretary acted pursuant to the Ohio Constitution, Ohio statutes, and Ohio law at all times.
3. Relators are not legally entitled to attorneys' fees, costs, and expenses.
4. The Secretary acted in good faith at all times, based on the best information available to him.
5. The Secretary was named only as a technicality or a formality and not based on any purported wrongdoing by the Secretary.
6. The Relators do not specify a claim against the Secretary or allege any wrongdoing by the Secretary.
7. At all times, the Secretary acted properly and with legal and factual justification.

WHEREFORE, the Ohio Secretary of State requests judgment in the Secretary's favor. To the extent relief is granted to Relators, the Ohio Secretary of State requests that the Court's decision separates the Secretary from the purported wrongdoing of the other Respondents.

Respectfully submitted,

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Ohio Secretary of State Jon Husted

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served by first class mail via the U.S. Postal Service on March 25, 2016, upon the following:

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