

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

THE PUBLIC INTEREST LEGAL FOUNDATION,

Plaintiff,

v.

Case No. 3:16-CV-836

LARRY C. HAAKE, in his official capacity as General  
Registrar for Chesterfield County,

Defendant.

**ANSWER**

COMES NOW the defendant, Larry C. Haake, in his official capacity as General Registrar for Chesterfield County, by counsel, and as and for his Answer, states as follows:

1. Paragraph 1 of Complaint does not call for a factual response from the defendant.

To the extent a factual response is deemed required, the allegations are denied.

2. Paragraph 2 of Complaint states a legal conclusion to which no factual response is required.

3. Paragraph 3 of Complaint states a legal conclusion to which no factual response is required.

4. The defendant is without sufficient information to either admit or deny the allegations contained in paragraph 4 of the Complaint and, therefore, denies same.

5. The allegations contained in paragraph 5 of the Complaint are admitted.

6. Paragraph 6 of the Complaint states a legal conclusion to which no factual response is required.

7. Paragraph 7 of the Complaint states a legal conclusion to which no factual response is required.

8. Responding to paragraph 8 of the Complaint, it is admitted that the August 8, 2016 letter was received by the defendant. The letter speaks for itself. The remaining statements in paragraph 8 of the Complaint call for legal conclusions, to which no factual response is required.

9. The allegations contained in paragraph 9 of the Complaint are denied. Mr. Haake communicated the request to Mr. Edgardo Cortes, Commissioner of the Commonwealth of Virginia's Department of Elections for the appropriate response.

10. Responding to paragraph 10 of the Complaint, it is admitted that Mr. Haake spoke with Shawna Powell by telephone regarding the request to review the "noncitizen cancellation report."

11. Responding to paragraph 11 of the Complaint, it is admitted that Mr. Haake stated that he was advised by Mr. Edgardo Cortes that the Commonwealth of Virginia's Department of Elections would be responding to the plaintiff's request for records. The remaining allegations are denied.

12. The allegations contained in paragraph 12 of the Complaint are denied. The plaintiff was informed that Mr. Haake's office did not have what the plaintiff wanted.

13. The defendant is without sufficient information to either admit or deny the allegations contained in paragraph 13 of the Complaint.

14. The allegations contained in paragraph 14 of the Complaint are admitted.

15. Responding to paragraph 15 of the Complaint, it is admitted that Mr. Haake stated that Commissioner Cortes would be providing the plaintiff with the requested records, and that

over the years state election officials have instructed the General Registrar to comply with requests under the NVRA. The remaining allegations are denied.

16. The allegations contained in paragraph 16 of the Complaint are denied. Upon information and belief, the documents sought were made available by the Commonwealth of Virginia's Department of Elections.

17. Admitted.

18. Paragraph 18 of the Complaint states a legal conclusion to which no factual response is required.

19. Paragraph 19 of the Complaint states a legal conclusion to which no factual response is required.

20. Responding to paragraph 20 of the Complaint, it is admitted that the VERIS database can generate such a report. The defendant is without sufficient information to either admit or deny the remaining allegations contained in paragraph 20 of the Complaint.

21. The allegations contained in paragraph 20 of the Complaint are denied. The defendant is unable to generate an accurate report.

22. Paragraph 22 of the Complaint states a legal conclusion to which no factual response is required.

23. The allegations contained in paragraph 23 of the Complaint are denied.

24. The allegations contained in paragraph 24 of the Complaint are denied. The defendant was unable to provide an accurate list.

25. The allegations contained in paragraph 25 of the Complaint are denied.

26. The allegations contained in paragraph 26 of the Complaint are denied.

27. Paragraph 27 of the Complaint states a legal conclusion to which no factual response is required.

28. The letter speaks for itself.

29. The allegations contained in Paragraph 29 of the Complaint are denied.

30. The allegations contained in Paragraph 30 of the Complaint are denied.

31. The allegations contained in Paragraph 31 of the Complaint are denied.

32. The defendant incorporates his responses contained in paragraphs 1 through 31 of the Answer as if fully restated herein.

33. The allegations contained in Paragraph 33 of the Complaint are denied.

34. The allegations contained in Paragraph 34 are denied. The defendant is unable to provide accurate records to the plaintiff and, furthermore, upon information and belief, responsive documents were either provided or made available by the Commonwealth of Virginia's Department of Elections.

35. The allegations contained in Paragraph 35 of the Complaint are denied.

36. The allegations contained in Paragraph 36 of the Complaint are denied.

37. Paragraph 37 of the Complaint states a legal conclusion to which no factual response is required.

#### Affirmative Defenses

38. Plaintiff has failed to state a claim upon which relief can be granted for violation of the NVRA.

39. At all times relevant hereto, Mr. Haake acted under the advice and guidance of Mr. Edgardo Cortes, Commissioner of the Commonwealth of Virginia's Department of Elections.

40. Upon information and belief, the Commonwealth of Virginia's Department of Elections responded to the plaintiff's request of Mr. Haake, and of all other General Registrars in the Commonwealth of Virginia, by offering to provide or providing an accurate and comprehensive list of all voter cancellations, inclusive of those cancelled for non-citizenship. Hence, the plaintiff's Complaint is moot.

41. The non-citizen cancellation report sought by plaintiff is created by information from the Virginia Department of Motor Vehicles.

42. The release of personal information generated from state motor vehicle records is barred from disclosure pursuant to 18 U.S.C §2721.

43. Any communications from Mr. Haake to law enforcement are not list maintenance and not subject to disclosure under the NVRA.

44. The non-citizen cancellation report sought by plaintiff is not used in list maintenance by Mr. Haake and is not subject to disclosure under the NVRA.

45. The plaintiff is not entitled to an award of attorney's fees.

46. Mr. Haake reserves the right to add additional affirmative defenses as may come to light during the discovery process or trial.

WHEREFORE, defendant Larry C. Haake, in his official capacity as General Registrar for Chesterfield County, respectfully moves the Court for entry of an appropriate order dismissing the Complaint filed herein and awarding defendant his attorney's fees and costs on its behalf expended and for such other and further relief as the Court may deem appropriate.

LARRY C. HAAKE, in his official capacity as  
General Registrar for Chesterfield County

By: \_\_\_\_\_/s/\_\_\_\_\_

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*Counsel for Defendant, Larry C. Haake, in his official capacity as General  
Registrar for Chesterfield County*

**CERTIFICATE OF SERVICE**

I certify that on November 21, 2016, I electronically filed the foregoing Answer with the Clerk of Court using the CM/ECF system, which will serve a copy on all parties entitled thereto.

\_\_\_\_\_/s/\_\_\_\_\_  
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