



6. Defendants admit the allegations of paragraphs 7 and 8 of the complaint.

7. The allegations in paragraphs 9 through 17 of the complaint quote statutory language and state legal conclusions that do not require a response.

8. Defendants admit the allegations in paragraph 18 of the complaint that Defendants contend that based upon N.C. Gen. Stat. § 120C-600(c), certain documents are shielded from public disclosure, relying, *inter alia*, on the following:

Complaints and violations of Articles 2, 4 and 8 of this Chapter, **all** other records accumulated in conjunction with the investigation of these complaints, and **any** records accumulated in the performance of a systematic review **shall** be considered confidential records and may be released only by order of a court of competent jurisdiction.  
(Emphasis added)

N.C. Gen. Stat. § 120C-600(c).

At all times pertinent to the allegations contained in the complaint, defendants have complied with N.C. Gen. Stat. § 120C-600(c). N.C. Gen. Stat. § 120C-600(c) does not limit the scope of confidential records to those arising solely from a criminal investigation. The remaining allegations in paragraph 18 of the complaint state a legal conclusion that does not require a response.

9. The allegations in paragraph 19 of the complaint quote statutory language that does not require a response.

10. Defendants allege that due to requirements mandated by N.C. Gen. Stat. § 120C-600(c), they are not authorized at this time to respond to paragraphs 20 through 29 of the complaint. Responding to the allegations contained in these paragraphs in the absence of an order of a court of competent jurisdiction directing the release of such records would require Defendants to disclose information from records that are confidential under N.C. Gen. Stat. § 120C-600(c) and would be in violation of this statute. Should the court order that the said records and information be disclosed by Defendants, Defendants reserve the right to seek the court's permission to amend this answer to respond fully to the allegations of paragraphs 20 through 29 of the complaint.

11. Defendants admit the allegations of paragraph 30 of the complaint that during a period of months, Plaintiff received no communication from Defendants regarding Plaintiff's complaint dated 16 July 2009. Defendants are without sufficient knowledge and information to admit or deny the remainder of the allegations in paragraph 30 of the complaint.

12. Defendants admit the allegations of paragraph 31 of the complaint.

13. Defendants allege that due to requirements mandated by N.C. Gen. Stat. § 120C-600(c), they are not authorized at this time to respond to paragraph 32 of the complaint. Responding to the allegations contained in this paragraph in the absence of an order of a court of

competent jurisdiction directing the release of such records would require Defendants to disclose information from records that are confidential under N.C. Gen. Stat. § 120C-600(c) and would be in violation of this statute. Should the court order that the said records and information be disclosed by Defendants, Defendants reserve the right to seek the court's permission to amend this answer to respond fully to the allegations of paragraph 32 of the complaint.

14. Defendants admit the allegations of paragraph 33 of the complaint.

15. Defendants admit the allegations in paragraph 34 of the complaint that Defendants relied in part on an advisory letter dated 16 June 2009 from the Department of Justice regarding the confidentiality requirements under N.C. Gen. Stat. § 120C-600(c) that prohibited Defendants from fulfilling Plaintiff's public records request. Moreover, Defendants' inability to fulfill Plaintiff's public records request is based upon compliance with the plain statutory language of N.C. Gen. Stat. § 120C-600(c). Except as specifically admitted and alleged herein, the allegations of paragraph 34 of the complaint are denied.

16. Defendants admit the allegations of paragraphs 35 and 36 of the complaint.

17. Defendants admit the allegations in paragraph 37 of the complaint that Defendants have not provided records to Plaintiff in response to Plaintiff's public records requests. Except as expressly admitted, Defendants are without sufficient knowledge and information to admit or deny the allegations in paragraph 37 of the complaint.

18. Paragraph 38 of the complaint incorporates paragraphs 1 through 37 of the complaint. Defendants correspondingly incorporate the foregoing responses to paragraphs 1 through 37 as if set forth in full.

19. Defendants admit the allegations in paragraph 39 of the complaint that they have not provided Plaintiff with the records that Plaintiff requested in his 10 March 2010 letter. Except as expressly admitted, the allegations in paragraph 39 of the complaint are denied.

20. Defendants deny the allegations of paragraphs 40 through 44 of the complaint.

21. Paragraph 45 of the complaint incorporates paragraphs 1 through 44 of the complaint. Defendants correspondingly incorporate the foregoing responses to paragraphs 1 through 44 as if set forth in full.

22. Defendants deny the allegations in paragraph 46 of the complaint.

23. Defendants deny the allegations in paragraph 47 of the complaint that Defendants misinterpreted and misapplied N.C. Gen. Stat. § 120C-601(c), which is a statute that governs the North Carolina Ethics Commission, not the North Carolina Secretary of State. To the extent that Plaintiff may have intended to allege that Defendants have misinterpreted and misapplied N.C. Gen. Stat. § 120C-600(c), those allegations in paragraph 47 are denied. Defendants are without sufficient knowledge and information to admit or deny the remainder of the allegations in paragraph 47 of the complaint.

24. Defendants are without sufficient knowledge and information to admit or deny the allegations in paragraph 48 of the complaint.

25. Paragraph 49 of the complaint incorporates paragraphs 1 through 48 of the complaint. Defendants correspondingly incorporate the foregoing responses to paragraphs 1 through 48 as if set forth in full.

26. Defendants deny the allegations in paragraph 50 of the complaint.

27. Defendants deny the allegations in paragraph 51 of the complaint that Defendants misinterpreted and misapplied N.C. Gen. Stat. § 120C-601(c), which is a statute that governs the North Carolina Ethics Commission, not the North Carolina Secretary of State. To the extent that Plaintiff may have intended to allege that Defendants have misinterpreted and misapplied N.C. Gen. Stat. § 120C-600(c), those allegations in paragraph 51 are denied. Defendants are without sufficient knowledge and information to admit or deny the remainder of the allegations in paragraph 51 of the complaint.

WHEREFORE, the Defendants pray that the court:

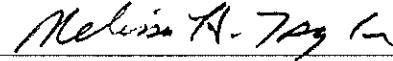
1. Deny all relief sought by Plaintiff's complaint and petition for declaratory judgment.
2. Deny Plaintiff's prayer for an Order that declares that the advisory letter dated 16 June 2009 by the North Carolina Department of Justice does not prohibit Defendants from fulfilling Plaintiff's public records requests.
3. Deny Plaintiff's prayer for attorneys' fees and reimbursement costs.
4. Deny Plaintiff's prayer for the costs of this action to be taxed against Defendants.
5. Provide for such further relief as to the court may seem just and proper.

This the 23<sup>rd</sup> day of August 2010.

ROY COOPER  
Attorney General



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing ANSWER AND RESPONSE TO COMPLAINT AND PETITION FOR DECLARATORY JUDGMENT has been served on the Plaintiff by depositing it in the United States mail, postage prepaid, addressed as follows:

Robert F. Orr  
Jeanette Doran  
North Carolina Institute for Constitutional Law  
333 E. Six Forks Road, Suite 180  
Raleigh, NC 27609

This the 23<sup>rd</sup> day of August 2010.

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