

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

FREE MARKET ENVIRONMENTAL LAW
CLINIC, PLLC,

And

CL-2018-1541

CL-2018-2663

MATTHEW HARDIN,

Plaintiff,

v.

DAVID SCHNARE, et al.,

Defendants.

FINAL ORDER

THIS MATTER comes before the Court upon the agreement of the Parties as evidenced by the signatures of counsel and pro se parties below; and

IT APPEARING to the Court that the Parties have entered into a Settlement Agreement with an Effective Date of July 28, 2018 ("Settlement Agreement") which resolves the above captioned cases; wherefore it is

ORDERED that the Complaint and Counter-Claims filed in case numbers CL-2018-1541 and CL-2018-2663 are **dismissed with prejudice**.

THIS MATTER IS FINAL.

ENTERED this 27 day of August, 2018.


JUDGE

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

FREE MARKET ENVIRONMENTAL LAW
CLINIC, PLLC,

And

CL-2018-1541

CL-2018-2663

MATTHEW HARDIN,

Plaintiff,

v.

DAVID SCHNARE, et al.,

Defendants.

CONSENT ORDER

THIS MATTER comes before the Court upon the agreement of the Parties as evidenced by the signatures of counsel and pro se parties below; wherefore it is

ORDERED that the pretrial levy entered in Case No. CL-2018-1541 over the funds held at Wells Fargo Bank, NA, belonging to Free Market Environmental Law Clinic, PLLC ("FME") is hereby lifted and extinguished; and

FURTHER ORDERED that, as agreed in a Settlement Agreement entered into between the Parties with an Effective Date of July 28, 2018 ("Settlement Agreement"), Defendants David Schnare and Chaim Mandelbaum shall pay from FME's funds held at Wells Fargo Bank, NA referenced above, and/or from such other FME accounts referenced in the Settlement Agreement, by certified check to the law firm of Dycio & Biggs, PLC the amount of \$630,000 within seven [7] calendar days from date of entry of this Order;

FURTHER ORDERED upon receipt of the funds referenced above, the Parties shall

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including as a purported Chairman of the Board. *See*, Exhibits 7, 8 & 9. Further, Mr. Garrison and Mr. Nakamoto were informed that they were disqualified from serving in any managerial or fiduciary role with the Law Clinic on January 27, 2018 and were severed from employment with the Law Clinic on that date (Exhibit 10), as further formalized on March 14, 2018 (Exhibit 11). As of January 27, 2018, and no later than March 14, 2018, the Law Clinic had no board of directors as all such directors had been severed from the Law Clinic, as required by law. In the absence of a board, no new board members could be appointed other than by the Defendant acting as the Manager-Member of the Law Clinic. He made no such appointments.

Plaintiff bases its authority to have managerial control over the Law Clinic in the form of a board-managed non-stock corporation on a theory of corporation by estoppel of a *de facto* corporation. Exhibit 18, ¶1 Answer; Plaintiffs' Opposition to Defendants' Pleas in Bar, p. 5. In order to rely on 'corporation by estoppel', Plaintiff must show that the corporation must have existed both in law and in fact and then, having ceased to exist in law, continued to operate as a board-managed non-stock corporation in fact. *First Cmty. Bank, N.A. v. Cmty. Youth Ctr.*, 81 Va. Cir. 416, 422 (2010). In the instant case, the Law Clinic was never incorporated. It never had a Board of Directors that was qualified to supervise or direct the Law Clinic. Regardless of the lack of qualification, the Board never took any action to direct or manage the Law Clinic for the first 6 years of the Law Clinic's existence. Indeed, from 2011 until late in 2017, the Board never even met. Finally, Dr. Schnare, who would have been the incorporator, abandoned the effort to incorporate the Law Clinic as a nonstock corporation and instead organized the Law Clinic as a Professional Limited Liability Company which was registered the SCC as such, an act of which the IRS was informed and formed the basis for granting the Law Clinic's nonprofit status. Exhibits 3 & 16. Finally, Dr. Schnare became the managing member during the

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VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

FREE MARKET ENVIRONMENTAL)
LAW CLINIC PLLC,)
)
Plaintiff,)
)
v.)
)
DAVID SCHNARE,)
)
Defendant.)

Civil Action No. CL 2018-5436

MEMORANDUM IN SUPPORT OF MOTION TO COMPEL

COMES NOW the plaintiff, Free Market Environmental Law Clinic PLLC ("FMELC"), by counsel, and for its memorandum in support of its motion to compel states as follows:

I. INTRODUCTION AND FACTS

On May 11, 2018, FMELC served the defendant, David Schnare ("Mr. Schnare"), with a First Set of Interrogatories to Defendant. On May 12, 2018, FMELC served Mr. Schnare, with a First Request for Production of Documents. Mr. Schnare responded to these discovery requests on May 30 and June 1, 2018, respectively. Copies of Mr. Schnare's answers to interrogatories is attached hereto as *Exhibit A*, and responses to the request for production is attached hereto as *Exhibit B*. **These discovery responses were almost entirely evasive and non-responsive.** Through the meet-and-confer process, the issues have been narrowed. The following sets forth some of the matters which could not be resolved.

II. ARGUMENT

A. Interrogatory.

There is a single interrogatory in issue:

EXHIBIT B

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

**FREE MARKET ENVIRONMENTAL
LAW CLINIC, PLLC**
Plaintiff,

Civil Action No. 2018-05436

v.

DAVID SCHNARE,
Defendant

**DEFENDANT Dr. SCHNARE'S RESPONSES TO PLAINTIFF'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS**

COMES NOW, DAVID W. SCHNARE, pursuant to Rule 4:9 of the Rules of the Supreme Court of Virginia, and responds to the following Requests for Production of Documents in writing w

REQUEST NO. 1:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any organizational documents that YOU filed, sent or otherwise submitted to the Virginia State Corporation Commission on behalf of FMELC during the month of July, 2011, regardless of whether such DOCUMENTS resulted in a successful formation or registration.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; Plaintiffs have all such documents and included them in its complaint as Exhibit 32; and, Plaintiffs have had ample opportunity to obtain the information sought, if it had engaged in the necessary and appropriate due diligence associated with filing their complaint.

REQUEST NO. 2:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and any other PERSON related to YOUR attempt to register or form FMELC as a non-stock corporation in 2011.

RESPONSE:

Defendant objects to this Request as it is overly broad and unduly burdensome and outside the scope of discovery insofar as it seeks documents in draft form, unsigned, and not filed with any

regulatory agency. This Request may also reach documents protected by the attorney-client privilege and work-product doctrine as such documents "pertain" to the organization and creation of the Law Clinic. Such protected documents are outside of the scope of discovery. This request is also unreasonably cumulative and duplicative and the documents are already in the possession of, or expected to soon be in, the possession of the Plaintiff.

REQUEST NO. 3:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and the SCC, from July 1, 2011 to December 31, 2011, inclusive.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; Plaintiffs have all such documents and included them in its complaint as Exhibits; and, Plaintiffs have had ample opportunity to obtain the information sought, if it had engaged in the necessary and appropriate due diligence associated with filing their complaint.

REQUEST NO. 4:

Any and all DOCUMENTS that REFER or RELATE to YOUR contention that the SCC informed YOU that a non-stock corporation could not be engaged in the practice of law from July 1, 2011 to December 31, 2011, inclusive.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; Plaintiffs have all such documents and included them in its complaint as Exhibits; and, Plaintiffs have had ample opportunity to obtain the information sought, if it had engaged in the necessary and appropriate due diligence associated with filing their complaint.

REQUEST NO. 5:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and the VSB from July 1, 2011 to December 31, 2011, inclusive.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; Plaintiffs have all such documents and included them in its complaint as Exhibits; and, Plaintiffs have had ample opportunity to obtain the information sought, if it had engaged in the necessary and appropriate due diligence associated with filing their complaint.

REQUEST NO. 6:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or

oral communications between YOU and the VSB which reflect a non-stock corporation could or could not be engaged in the practice of law from July 1, 2011 to August 31, 2011, inclusive.

RESPONSE:

Plaintiff has none.

REQUEST NO. 7:

All DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications, including attachments, sent to YOU by Charles Dean, and/or any person employed or affiliated with Gross & Romanick, including but not limited to all communications you received from email accounts using @gross .com related from December 1, 2017 to present, and/or any such communication in any other format (e.g., letter, memorandum).

RESPONSE:

This request is unreasonably cumulative and duplicative and the documents not subject to objection are already in the possession of, or expected to soon be in, the possession of the Plaintiff. This Request also seeks documents protected by the attorney-client privilege. Gross & Romanick was hired by intervening defendant FME Law for the purpose of obtaining legal advice. A Motion to Quash the subpoena to Gross & Romanick and A. Charles Dean has been filed. Please see that Motion for further detail on the basis of this objection. Approximately 84 non-privileged pages have been produced to Plaintiff by Gross & Romanick in response to a subpoena which mirrors this Request. Those documents are incorporated herein by reference.

REQUEST NO. 8:

All DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications, including attachments, sent by YOU to Charles Dean, and/or any person employed or affiliated with Gross & Romanick, including but not limited to all communications you received from email accounts endingin@gross.com dated from December 1, 2017 to present, and/or any such communication in any other format (e.g., letter, memorandum).

RESPONSE:

This request is unreasonably cumulative and duplicative and the documents not subject to objection are already in the possession of, or expected to soon be in, the possession of the Plaintiff. This Request also seeks documents protected by the attorney-client privilege. Gross & Romanick was hired by intervening defendant FME Law for the purpose of obtaining legal advice. A Motion to Quash the subpoena to Gross & Romanick and A. Charles Dean has been filed. Please see that Motion for further detail on the basis of this objection. Approximately 84 non-privileged pages have been produced to Plaintiff by Gross & Romanick in response to a subpoena which mirrors this Request. Those documents are incorporated herein by reference.

REQUEST NO. 9:

All DOCUMENTS that identify, constitute, REFER or RELATE to any contracts with Gross & Romanick signed on YOUR behalf or on behalf of FMELC, from December 1, 2017 to present.

RESPONSE:

This request is unreasonably cumulative and duplicative and the documents not subject to objection are already in the possession of, or expected to soon be in, the possession of the Plaintiff. This Request also seeks documents protected by the attorney-client privilege. Gross & Romanick was hired by intervening defendant FME Law for the purpose of obtaining legal advice. A Motion to Quash the subpoena to Gross & Romanick and A. Charles Dean has been filed. Please see that Motion for further detail on the basis of this objection. Approximately 84 non-privileged pages have been produced to Plaintiff by Gross & Romanick in response to a subpoena which mirrors this Request. Those documents are incorporated herein by reference.

REQUEST NO. 10:

All DOCUMENTS that identify, constitute, REFER or RELATE to any contracts between YOU and Hale Ball Carlson Baumgartner Murphy, PLC, signed on YOUR behalf or on behalf of FMELC.

RESPONSE:

Defendant objects to this Request for Production to the extent it calls for a legal opinion, legal impressions of counsel, information protected by attorney-client privilege, work product doctrine, or mental impressions of counsel. Defendant further objects to this Request for Production on the grounds that it is overly broad and unduly burdensome, taking into account the needs of the case. Defendant further objects on the grounds of relevance and that the Request for Production is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects on the grounds that the Request for Production is vague, ambiguous or unclear.

REQUEST NO. 11:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and MANDELBAUM referring or relating to FMELC's legal structure, from January 1, 2011 to present.

RESPONSE:

This Request is overly broad and unduly burdensome and outside the scope of discovery insofar as it seeks documents in draft form, unsigned, and not filed with any regulatory agency. This Request may also reach documents protected by the attorney-client privilege and work-product doctrine as such documents refer or relate to the organization and creation of the Law Clinic. Such protected documents are outside of the scope of discovery. This request is also unreasonably cumulative and duplicative and the documents are already in the possession of, or expected to soon be in, the possession of the Plaintiff.

REQUEST NO. 12:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and THOMPSON referring or relating to FMELC's legal structure, from January 1, 2011 to present.

RESPONSE:

This request is unreasonably cumulative and duplicative and the documents are already in the

possession of, or expected to soon be in, the possession of the Plaintiff as a result of its Subpoena duces tecum to Mr. Thompson.

REQUEST NO. 13:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and GOLD referring or relating to FMELC's legal structure, from January 1, 2011 to present.

RESPONSE:

Defendant has none.

REQUEST NO. 14:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and any PERSON referring or relating to YOUR recognition, learning or awareness of potential legal issues with FMELC's legal structure, from January 1, 2011 to present.

RESPONSE:

Defendant objects as the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; and, some such documents may be protected by the attorney-client privilege and work-product doctrine.

REQUEST NO. 15:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and any PERSON referring or relating to YOUR contention that you are a member and/or the sole member of FMELC, from January 1, 2016 to present.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; Plaintiffs have all such documents and included them in its complaint as Exhibits; and, Plaintiffs have had ample opportunity to obtain the information sought, if it had engaged in the necessary and appropriate due diligence associated with filing their complaint.

REQUEST NO. 16:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any meeting agenda for FMELC's Board of Directors that were sent to or from YOU, MANDELBAUM, THOMPSON, and/or GOLD, from January 1, 2011 to present.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; Plaintiffs have all such documents and included them in its complaint as Exhibits; and, Plaintiffs have had ample opportunity to obtain the information sought, if it had engaged in the necessary and appropriate

due diligence associated with filing their complaint.

REQUEST NO. 17:

Any and all DOCUMENTS referred to on FMELC's IRS Form 990, page 17, that YOU filed for the years 2012-2016, inclusive.

RESPONSE:

Defendant objects on the basis that the request is vague and ambiguous. The IRS Form 990s have only 12 pages.

REQUEST NO. 18:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and any PERSON referring or relating to a possible grant to FMELC from the American Tradition Institute, from January 1, 2011 to present.

RESPONSE:

Defendant objects on the basis that this request is not relevant to any claim made in the complaint, and the age of any such document indicates it would only be available in an archived form and discovery of electronically stored information is not reasonably accessible because of undue burden or cost.

REQUEST NO. 19:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and the IRS referring or relating to FMELC's IRS Form 1023, from January 1, 2011 to present.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; Plaintiffs have all such documents and included them in its complaint as Exhibits; and, Plaintiffs have had ample opportunity to obtain the information sought, if it had engaged in the necessary and appropriate due diligence associated with filing their complaint.

REQUEST NO. 20:

All of YOUR federal and state income tax returns for tax years 2011 through 2017.

RESPONSE:

Defendant objects that his personal income tax returns are protected by a qualified privilege on the basis that this request is not relevant to any claim made in the complaint, and the information sought from the returns is readily obtainable from other sources.

REQUEST NO. 21:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any all organization or other documents referenced, relied upon or otherwise referred to in the IRS Form 1023 signed by you on or about August 1, 2011.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; Plaintiffs have all such documents and included them in its complaint as Exhibits; and, Plaintiffs have had ample opportunity to obtain the information sought, if it had engaged in the necessary and appropriate due diligence associated with filing their complaint.

REQUEST NO. 22:

FMELC's bylaws, articles of incorporation, and any and all organizational documents ever proposed and/or adopted, and any proposed or enacted amendments thereto, including but not limited to those provided to the IRS, SCC, VSB, counsel, or others.

RESPONSE:

This Request is overly broad and unduly burdensome and outside the scope of discovery insofar as it seeks documents in draft form, unsigned, and not filed with any regulatory agency. This Request also reaches documents that may be protected by the attorney-client privilege and work-product doctrine. Such protected documents are outside of the scope of discovery. This request is also unreasonably cumulative and duplicative and the documents are already in the possession of, or expected to soon be in, the possession of the Plaintiff.

REQUEST NO. 23:

Any and all DOCUMENTS that support your contention that the IRS was notified of the issues raised by the SCC and that the entity being formed [FMELC] was to be Professional Limited Liability Company, from August 1, 2011 to present.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; Plaintiffs have all such documents as provided previously in other litigation; and, Plaintiffs have had ample opportunity to obtain the information sought, if it had engaged in the necessary and appropriate due diligence associated with filing their complaint.

REQUEST NO. 24:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any bank statements and/or financial statements, whether in its own name(s) or in YOUR name "dba" FMELC, relating to the accounts and instruments cited the document YOU presented to HARDIN at a meeting on January 27, 2018, in Greene County, Virginia.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another

source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort.

REQUEST NO. 25:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to all account applications or other banking records for FMELC, whether in its own name(s) or in YOUR name "dba" FMELC, with any bank or other financial institution, from January 1, 2011 to present.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort.

REQUEST NO. 26:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and MANDELBAUM that contains any of the following terms: "FME", "FMELC", "bank", "Wells Fargo", or "Board" (not cap-sensitive, and including freestanding and any derivation, e.g., "board-governed"), from January 1, 2017 to present.

RESPONSE:

Defendant objects as the discovery sought is overly broad and unduly burdensome, unreasonably cumulative or duplicative; and, some such documents may be protected by the attorney-client privilege and work-product doctrine.

REQUEST NO. 27:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and THOMPSON related to FMELC's bank account(s) that contains any of the following terms: "FME", "FMELC", "bank", "Wells Fargo", or "Board" (not cap-sensitive, and including freestanding and any derivation, e.g., board-governed"), from January 1, 2017 to present.

RESPONSE:

This request is unreasonably cumulative and duplicative and the documents are already in the possession of, or expected to soon be in, the possession of the Plaintiff as a result of its Subpoena duces tecum to Mr. Thompson.

REQUEST NO. 28:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and GOLD related to FMELC's bank account(s) that contains any of the following terms: "FME", "FMELC", "bank", "Wells Fargo", or "Board" (not cap-sensitive, and including freestanding and any derivation, e.g., "board-governed"), from January 1, 2017 to present.

RESPONSE:

Defendant has none.

REQUEST NO. 29:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and THOMPSON, which include the word "resign", in any form (e.g., resign, resignation, resigned, resigning) from January 1, 2017 to present.

RESPONSE:

This request is unreasonably cumulative and duplicative and the documents are already in the possession of, or expected to soon be in, the possession of the Plaintiff as a result of its Subpoena duces tecum to Mr. Thompson.

REQUEST NO. 30:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and MANDELBAUM, which include the word "resign", in any form (e.g., resign, resignation, resigned, resigning) from January 1, 2017 to present.

RESPONSE:

Defendant has none.

REQUEST NO. 31:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and RICHARDSON, which include the word "resign", in any form (e.g., resign, resignation, resigned, resigning) from January 1, 2017 to present.

RESPONSE:

Defendant has none.

REQUEST NO. 32:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and GOLD, which include the word "resign", in any form (e.g., resign, resignation, resigned, resigning) from January 1, 2017 to present.

RESPONSE:

Defendant has none.

REQUEST NO. 33:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to the results and/or reports of all financial and/or accounting audits or reviews performed for FMELC, from January 1, 2011 to present.

RESPONSE:

Defendant objects on the basis that this request is not relevant to any claim made in the complaint, and the age of any such document indicates it would only be available in an archived form and discovery of electronically stored information is not reasonably accessible because of undue burden or cost.

REQUEST NO. 34:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and MANDELBAUM using the term "credit card" or otherwise discussing a credit card for FMELC and/or HARDIN, from January 1, 2016 to present.

RESPONSE:

The discovery sought is either obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; or is privileged attorney-product.

REQUEST NO. 35:

Any and all DOCUMENTS purporting to be applications for director liability insurance policies for FMELC, from January 1, 2011 to present.

RESPONSE:

Defendant has none.

REQUEST NO. 36:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to YOUR personal or professional liability insurance policies, including any umbrella liability coverage, in effect at any time from January 1, 2011 to present.

RESPONSE:

Defendant has none.

REQUEST NO. 37:

Any and all DOCUMENTS purporting to be declaration pages of any director or other liability insurance policy purchased and/or in effect, at any time, for FMELC and/or its directors, from January 1, 2011 to present.

RESPONSE:

Defendant has none.

REQUEST NO. 38:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and any PERSON referring or relating to director liability insurance, from January 1, 2011 to present.

RESPONSE:

Defendant has none.

REQUEST NO. 39:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and any insurance brokers and/or insurance agents with

respect to FMELC, from January 1, 2011 to present.

RESPONSE:

Defendant has none.

REQUEST NO. 40:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and MANDELBAUM in any capacity (e.g., to, from, cc: or bcc:), relating to any contract YOU and MANDELBAUM purported to sign on or about January 22, 2017.

RESPONSE:

The discovery sought is either obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; or is privileged attorney work-product.

REQUEST NO. 41:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and RICHARDSON, which include the word "FME", "FMELC" or "Board" (not cap-sensitive, and including freestanding and any derivation, e.g., "board-governed"), from January 1, 2017 to present.

RESPONSE:

This request is unreasonably cumulative and duplicative and the documents are already in the possession of, or expected to soon be in, the possession of the Plaintiff as a result of its Subpoena duces tecum to Mr. Richardson.

REQUEST NO. 42:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and THOMPSON, which include the word "FME", "FMELC" or "Board" (not cap-sensitive, and including freestanding and any derivation, e.g., "board-governed") from January 1, 2017 to present.

RESPONSE:

This request is unreasonably cumulative and duplicative and the documents are already in the possession of, or expected to soon be in, the possession of the Plaintiff as a result of its Subpoena duces tecum to Mr. Thompson.

REQUEST NO. 43:

Any and all DOCUMENTS that identify, constitute, REFER or RELATE to any written or oral communications between YOU and MANDELBAUM, relating to a meeting with HARDIN in Greene County in January 2018, from December 1, 2017 to present.

RESPONSE:

The discovery sought is either obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort; or is privileged attorney work-product.

REQUEST NO. 44:

From January 1, 2018 to present, all documents which reflect communication between you and THOMPSON", and/or RICHARDSON that refer or relate to litigation in which the EELI is or was a party, including but not limited to the following, and whether or not the case number is cited:

- A. *EELegal et al. v Attorney General of Vermont* (Case No. 349-6-16)
- B. *EELegal et al. v Attorney General of Vermont* (Case No. 558-9-16)
- C. *EELegal et al. v Attorney General of California*
- D. *EELegal et al. v Attorney General of New York* (Case No. 101678/16)
- E. *EELegal et al. v U.S. Environmental Protection Agency*
- F. *EELegal et al. v U.S. Dep't of Health & Human Servs.*

Q.
R.

RESPONSE:

Defendant has none.

REQUEST NO. 45:

Any and all DOCUMENTS you submitted to or for the United States Environmental Protection Agency, in connection with your employment or potential employment, that REFER or RELATE to FMELC, from November 15, 2016 to present.

RESPONSE:

Document attached hereto.

REQUEST NO. 46:

Any and all IRS Forms 990 for FMELC, from 2011 to present.

RESPONSE:

Defendant objects to this Request as discovery sought is obtainable from another source, specifically the Plaintiff, a more convenient, less burdensome, and less expensive effort.

Respectfully submitted,



David W. Schnare, Esq. Ph.D. *pro se*

