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December 27, 2017

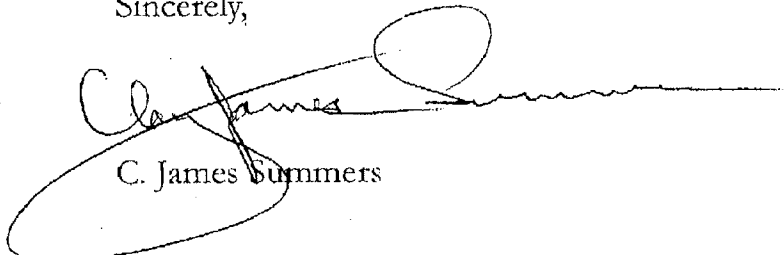
Jon R. Zug
Clerk, Albemarle County Circuit Court
501 East Jefferson Street, Room 225
Charlottesville, Virginia 22902

RE: John H. Birdsall et al. v. Foxfield Racing Association, Inc. CL17-01

Dear Jon:

Please accept for filing the Defendants' Answers, Grounds Of Defense And Affirmative Defenses To Plaintiffs' Amended Complaint. I am by a copy of this letter mailing copies to counsel of record today.

Sincerely,


C. James Summers

cc: William H. Hurd, Ashley L. Taylor, Stephen C. Piepgrass

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

JOHN H. BIRDSALL et al.,

Plaintiffs,

v.

Case No. CL17000001-00

FOXFIELD RACING ASSOCIATION, INC. et al.,

Defendants.

**DEFENDANTS' ANSWER, GROUNDS OF DEFENSE AND AFFIRMATIVE
DEFENSES TO PLAINTIFFS' AMENDED COMPLAINT**

ANSWER

Defendants Foxfield Racing Association a Virginia Nonstock Corporation and Thomas J. Dick as the sole officer and director of Foxfield Racing Association and in his own right, by counsel, and for their Answer to the Amended Complaint filed against them herein state as follows:

1. Defendants deny the allegations in paragraph 1 of the amended complaint, but admit that the property description contained therein is accurate.
2. These allegations are denied.
3. These allegations are denied.

4. Plaintiffs' request for relief as stated in paragraph 4 of the amended complaint does not call for an answer, but Defendants deny that Plaintiffs are entitled to the relief sought.

5. Defendants are without knowledge or information as to the allegations in the first sentence of this paragraph. Defendants deny the allegations in the second sentence of this paragraph, but Defendants admit that the Foxfield Property was conveyed to Foxfield Racing Association by General Warranty deed without any restrictions upon the alienation of said property.

6. Defendants deny that John Birdsall is a beneficiary of a trust created by the Will of Mariann S. De Tejada or by operation of law as alleged in paragraph 6 of the amended complaint but admit that Birdsall has run in the Foxfield Races and volunteered his services at the races. Defendants are without knowledge as to the balance of the allegations in paragraph 6 of the amended complaint.

7. Defendants deny that Harry Burns is a beneficiary of a trust as alleged and aver that they have no knowledge of the other allegations contained in paragraph 7 of the amended complaint and therefore deny those allegations.

8. Defendants deny that Richard Cowles is a beneficiary of a trust as alleged and aver that they have no knowledge of the other allegations contained in paragraph 8 of the amended complaint and therefore deny those allegations.

9. Defendants deny that the Plaintiffs Landon Hilliard and Kiwi Hilliard are beneficiaries of a trust as alleged and aver that they have no knowledge of the other

allegations contained in paragraph 9 of the amended complaint and therefore deny those allegations.

10. Defendants deny that John G. Macfarlane, III and Dudley Macfarlane are beneficiaries of a trust as alleged and aver that they have no knowledge of the other allegations contained in paragraph 10 of the amended complaint and therefore deny those allegations.

11. Defendants deny that Jack Sanford, Jr. is a beneficiary of a trust as alleged and demand strict proof of the other allegations contained in paragraph 11 of the amended complaint.

12. These allegations are denied, except Defendants admit that Foxfield Racing Association is a nonstock corporation chartered by the Commonwealth of Virginia and that Foxfield Racing Association holds title to the "Foxfield Property" pursuant to the Will of Tejada and pursuant to a General Warranty Deed with no restrictions.

13. Defendants admit that Thomas J. Dick has been acting President of Foxfield Racing Association and that he is the sole officer and director of Foxfield Racing Association, but deny that Thomas J. Dick or Foxfield Racing Association have any duties as trustees of any alleged trust as alleged in paragraph 13 of the amended complaint.

Jurisdiction and Venue

14. No response to this paragraph is required because it purports to set forth legal conclusions. By way of further answer, Defendants state that Plaintiffs are not entitled to an injunction, and there is no trust.

15. Defendants admit that this court is the proper venue for actions involving property located in Albemarle County but assert as a defense to this action that the Plaintiffs lack standing to pursue any of the relief requested in the amended complaint.

Factual Background

16. Defendants admit the allegations in paragraph 16 of the amended complaint.

17. Defendants admit the allegations in paragraph 17 of the amended complaint.

18. Defendants admit the allegations in paragraph 18 of the amended complaint.

19. Defendants deny that Tejada purchase the Foxfield property in memory of Mr. Vandevender, as alleged in paragraph 19 of the amended complaint, but admit the balance of the statements contained in paragraph 19, except that the referenced exhibits speak for themselves and Defendants deny any allegations inconsistent with their terms.

20. Defendants admit the allegations in paragraph 20 of the amended complaint.

21. Defendants deny the allegations in paragraph 21 of the amended complaint.

22. Defendants admit the allegations in paragraph 22 of the amended complaint, except that the referenced exhibits speak for themselves and Defendants deny any allegations inconsistent with their terms.

23. The referenced exhibits will speak for themselves and Defendants deny any allegations inconsistent with their terms.

24. These allegations are denied, except the exhibits speak for themselves and Defendants deny any allegations inconsistent with their terms.

25. Defendants admit the allegations in paragraph 25 of the amended complaint.

26. Defendants admit the allegations in paragraph 26 of the amended complaint.

27. Defendants admit the allegations in paragraph 27 of the amended complaint.

28. Defendants admit the allegations in paragraph 28 of the amended complaint.

29. Defendants admit the allegations in paragraph 29 of the amended complaint.

30. Defendants admit the allegations in paragraph 30 of the amended complaint.

31. Defendants admit the allegations in paragraph 31 of the amended complaint.

32. These allegations are denied.

33. Defendants deny the allegations in paragraph 33 of the amended complaint and further deny that any trust involving the Foxfield Property or any other properties owned by Foxfield Racing association exists to which the people of Albemarle County or any other persons are beneficiaries.

34. Defendants deny the allegations in paragraph 34 of the amended complaint.

35. Defendants deny the allegations in paragraph 35 of the amended complaint.

36. These allegations are denied, except the referenced exhibits speak for themselves and Defendants deny any allegations inconsistent with their terms.

37. Defendants admit the allegations in paragraph 37 of the amended complaint.

38. Defendants admit the allegations in paragraph 38 of the amended complaint.

39. These allegations are denied as stated, but Defendants admit that Foxfield Racing Association has explored the possibility of selling the Foxfield property and admit that they have not denied that they have explored the possibility of selling the Foxfield Property.

40. Defendants deny that there is a trust as alleged in paragraph 40 of the amended complaint and therefore deny the entirety of paragraph 40.

41. Defendants deny that there is a trust and therefore deny the entirety of paragraph 41 of the amended complaint. Defendants further deny any inference of non-prudent management of Foxfield Racing Association.

42. Defendants deny that they have made a decision to sell the Foxfield Property or any portion thereof as alleged in paragraph 42 of the amended complaint and deny that there is a trust and therefore deny the entirety of paragraph 42.

43. Defendants deny the allegations in paragraph 43 of the amended complaint.

44. These allegations are denied, except Defendants admit that they have not obtained the approval of any court to sell the Foxfield Property or to discontinue the Foxfield races.

45. Defendants deny the allegations in paragraph 45 of the amended complaint.

COUNT I

DECLARATORY JUDGMENT

46. Defendants restate their answers to the allegations in the foregoing paragraphs as if set forth fully herein.

47. Defendants admit that Foxfield Racing Association denies that Foxfield Racing Association is a trustee and further admits that Foxfield Racing Association denies that Foxfield Racing Association holds the Foxfield Property or any proceeds therefrom in trust as alleged in paragraph 47 of the amended complaint.

48. These allegations are denied, except Defendants deny the allegations in paragraph 48 of the amended complaint and answer that Foxfield Racing Association is a nonstock corporation which must comply with provisions of law applicable to nonstock corporations and defendants further answer that no restrictions arose under the Tejada Will which would interfere with the disposal of the Foxfield Property.

49. No response to this paragraph is required because it purports to state a legal conclusion, but Defendants deny that Plaintiffs are entitled to the declaratory judgment sought.

50. No response to this paragraph is required because it purports to state a legal conclusion, but Defendants deny that Plaintiffs are entitled to the declaratory judgment sought.

COUNT II

VIOLATION OF THE UNIFORM TRUST CODE

51. Defendants restate their answers to the allegations in the foregoing paragraphs as if set forth fully herein.

52. Plaintiffs' paragraph 52 is a statement of law which requires no answer.

53. Plaintiffs' paragraph 53 is a statement of law which requires no answer.

54. Defendants deny the allegations in paragraph 54 of the amended complaint.

55. These allegations are denied.

56. These allegations are denied.

57. Defendants deny all of the allegations in paragraph 57 of the amended complaint.

58. Defendants deny all of the allegations in paragraph 58 of the amended complaint.

59. These allegations are denied.

Grounds for Temporary Injunction

60. Defendants deny the allegation in paragraph 61 of the amended complaint.

61. Defendants deny the allegations in paragraph 62 of the amended complaint.

62. Defendants deny the allegations in paragraph 63 of the amended complaint and answer that Plaintiffs have no standing to press their claim for a temporary injunction.

63. Defendants deny the allegations in paragraph 64 of the amended complaint.

64. Defendants deny the allegations of fact or conclusions contained in the amended complaint at paragraph 65.

65. Defendants deny the allegations of fact or conclusions contained in the amended complaint at paragraph 66.

66. Defendants deny the allegations of fact or conclusions contained in the amended complaint at paragraph 67.

PRAYER FOR RELIEF

67. Defendants deny that the Plaintiffs are entitled to the declaratory judgment relief prayed for in paragraph 68 of the amended complaint.

68. Defendants deny that Plaintiffs are entitled to a temporary injunction prayed for in paragraph 69 of the amended complaint.

69. Defendants deny that Plaintiffs are entitled to have relief in the form of the permanent injunction prayed for in paragraph 70 of the amended complaint.

GROUND OF DEFENSE AND/OR AFFIRMATIVE DEFENSES

1. Defendants aver that Plaintiffs do not have standing to assert any of the causes of action or requests for relief set forth in the Amended Complaint.

2. Defendants aver that Plaintiffs are unlikely to prevail on the merits.

3. Defendants aver that Plaintiffs will suffer no irreparable harm as a result of any actions anticipated or actualized by the Defendants.

4. Defendants aver that the balance of equities does not favor the relief sought by the Plaintiffs.

5. Plaintiffs' claims are barred by laches.

6. Defendants will rely upon such additional and/or affirmative defenses as any become known through discovery.

WHEREFORE, Defendants having fully answered the Amended Complaint and they pray that the Plaintiffs' Amended Complaint be dismissed with prejudice and that judgment be entered on their behalf and for their costs expended and such other relief as this Court deems appropriate.

Foxfield Racing Association Inc.
Thomas J. Dick
By Counsel

F. Douglas Ross

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Counsel for Defendant Thomas J. Dick

CERTIFICATE OF SERVICE

I hereby certify that I sent by email and first class mail postage prepaid a true copy of the foregoing Defendants' Answer, Grounds Of Defense And Affirmative Defenses To Plaintiffs' Amended Complaint this 27th day of December 2017 to:

William H. Hurd (VSB#16967)
Ashley L. Taylor (VSB#36521)
Stephen C. Pieprass (VSB#71361)
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Richmond, Virginia 23218-1122

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