

BEFORE THE HARPERS FERRY TOWN COUNCIL

IN RE: THE MATTER OF CONTESTED TOWN COUNCIL ELECTION

**NANCY SINGLETON CASE, and
DEBORAH A. MCGEE,**

Individual Contesters,

**HARDWICK SMITH JOHNSON,
CHARLOTTE WARD THOMPSON,
CHRISTIAN PECHUEKONIS,
MARJORIE FLINN YOST,
BARBARA HUMES, and
JAY PREMACK,**

Individual Contestees.

CONTESTEES' NOTICE PURSUANT TO WEST VIRGINIA CODE § 3-7-6

Hardwick Smith Johnson, Charlotte Ward Thompson, Marjorie Flinn Yost, and Barbara Humes (the "Contestees"), by counsel, hereby respond to the Contestants' *Notice of Intent to Contest Harpers Ferry Town Council Election* ("Notice"), as follows:

1. The Contestees admit the allegations contained in paragraph 1 of the *Notice*.
2. The Contestees admit the allegations contained in paragraph 2 of the *Notice*.
3. The Contestees admit the allegations contained in paragraph 3 of the *Notice*.
4. The Contestees admit the allegations contained in paragraph 4 of the *Notice*.
5. The Contestees admit the allegations contained in paragraph 5 of the *Notice*.
6. The Contestees admit the allegations contained in paragraph 6 of the *Notice*.
7. The Contestees admit the allegations contained in paragraph 7 of the *Notice*.
8. The Contestees admit the allegations contained in paragraph 8 of the *Notice*.
9. The Contestees admit the allegations contained in paragraph 9 of the *Notice*.

10. The Contestees admit the allegations contained in paragraph 10 of the *Notice*.
11. Paragraph 11 of the *Notice* consists of a legal conclusion to which no response is required. To the extent a response is necessary, the Contestees deny any allegation or implication of wrongdoing.
12. The Contestees deny the allegations contained in paragraph 12 of the *Notice*.
13. The Contestees deny the allegations contained in paragraph 13 of the *Notice*.
14. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 14 of the *Notice*.
15. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 15 of the *Notice*.
16. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 16 of the *Notice*.
17. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 17 of the *Notice*.
18. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 18 of the *Notice*.
19. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 19 of the *Notice*.
20. The Contestees deny the allegations contained in paragraph 20 of the *Notice*.
21. The Contestees deny the allegations contained in paragraph 21 of the *Notice*.
22. The Contestees deny the allegations contained in paragraph 22 of the *Notice*.

23. Paragraph 23 of the *Notice* consists of a legal conclusion to which no response is required. To the extent a response is necessary, the Contestees deny any allegation or implication of wrongdoing.

24. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 24 of the *Notice*.

25. Paragraph 25 of the *Notice* consists of a legal conclusion to which no response is required. To the extent a response is necessary, the Contestees deny any allegation or implication of wrongdoing.

26. Paragraph 26 of the *Notice* consists of a legal conclusion to which no response is required. To the extent a response is necessary, the Contestees deny any allegation or implication of wrongdoing.

27. Paragraph 27 of the *Notice* consists of a legal conclusion to which no response is required. To the extent a response is necessary, the Contestees deny any allegation or implication of wrongdoing.

28. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 28 of the *Notice*.

29. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 29 of the *Notice*.

30. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 30 of the *Notice*.

31. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 31 of the *Notice*.

32. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 32 of the *Notice*.

33. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 33 of the *Notice*.

34. The Contestees are without sufficient information to either admit or deny the allegations contained in paragraph 34 of the *Notice*.

35. The Contestees deny the allegations contained in paragraph 35 of the *Notice*.

NOTICE OF AFFIRMATIVE DEFENSES

1. The allegations in the *Notice*, even if true, fail to establish the Contestants' entitlement to the relief that they seek under West Virginia Code § 3-7-1, *et seq.*

2. The *Notice* is defective in that it fails to sufficiently allege "a list of the votes [the contestants] will dispute, with the objections to each, and of the votes rejected for which [the contestants] will contend," as required by West Virginia Code § 3-7-6.

3. The *Notice* is defective in that it fails to set forth sufficient facts or specifications upon which the Contestants' allegations and objections are grounded.

4. The *Notice* is defective in that it is not supported by an affidavit that meets the requirements of West Virginia Code § 3-7-6.

5. The Contestees reserve the right to raise or assert any additional defenses that may arise through further investigation, discovery, contest, appeal, or other litigation of this matter.

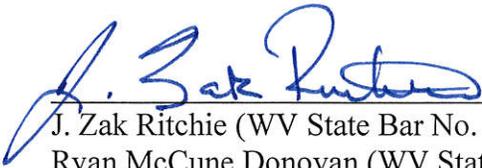
CONCLUSION

The Contestees reserve their right to amend this notice or give an additional notice as may be warranted under the circumstances, including with the specifications and affidavits prescribed under West Virginia Code § 3-7-6.

WHEREFORE, having responded to the Contestants' *Notice*, the Contestees ask the Harpers Ferry Town Council to declare and affirm the Board of Canvassers' certification as the true result of the election, that the Contestees be awarded their fees and costs incurred in defending against the same, and for any other relief deemed fair and just.

**HARDWICK SMITH JOHNSON,
CHARLOTTE WARD THOMPSON,
MARJORIE FLINN YOST, and
BARBARA HUMES**

BY COUNSEL,



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Dated: July 18, 2019

CERTIFICATE OF SERVICE

I, J. Zak Ritchie, hereby certify that on July 18, 2019, I transmitted the foregoing document to the parties to this proceeding as set forth below by fax, email, and/or U.S. Mail:

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J. Zak Ritchie (WVSB #11705)