

CAUSE NO. D-1-GN-21-003502

PROTEK CAPITAL, INC. & EDWARD VAKSER, Individually, <i>Plaintiffs</i>	§ § § § § § § § § §	IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS 419 th JUDICIAL DISTRICT COURT
v.		
BARRY MEZEY, MEZEY HOLDINGS, DBA, SUPERSTAR MANAGEMENT GROUP, INC., & TEXAS SECRETARY OF STATE, <i>Defendants.</i>		

DEFENDANT THE TEXAS SECRETARY OF STATE'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE:

COMES NOW, the Texas Secretary of State ("SOS"), a governmental agency of the State of Texas and Defendant in the above styled and numbered cause, represented by and through Ken Paxton, Attorney General of Texas, and files this Original Answer. In support thereof, Defendant would respectfully show the Court as follows:

I. ORIGINAL ANSWER

A. General Denial

Defendant asserts a general denial as authorized by the Texas Rules of Civil Procedure to the allegations of material fact contained in Plaintiffs' Petition and requests that Plaintiffs be required to prove such allegations by a preponderance of the credible evidence, as required by law. Defendant also denies each and every allegation contained in Plaintiffs' Petition and demands strict proof thereof.

B. Sovereign Immunity

Sovereign immunity bars Uniform Declaratory Judgment Act (Tex. Civ. Prac. & Rem. Code § 37.001 et seq.) actions against the state and its political subdivision absent a legislative

waiver. *Tex. Dep't of Transp. v. Sefzik*, 355 S.W.3d 618, 621–22 & n.3 (Tex. 2011); *see also, e.g., Texas Logos, L.P. v. Texas Dep't of Transp.*, 241 S.W.3d 105, 114 (Tex. App.—Austin 2007, no pet.). Plaintiff's Petition fails to allege adequate grounds to establish a waiver of such sovereign immunity.

II. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant prays that upon final hearing hereof that the Court enter judgment, that Plaintiffs take nothing by reason of such suit, and that all costs of court be taxed and adjudged against Plaintiffs. Defendant further prays for such other and further relief, both general and special, at law and in equity, to which it may be justly entitled.

Respectfully submitted,

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COUNSEL FOR DEFENDANT SOS

CERTIFICATE OF SERVICE

I do hereby certify compliance with Tex. R. Civ. P. 21 and 21a. A true and correct copy of the foregoing instrument has been served on all counsel, by electronic transmission to the electronic mail address on file with the electronic filing manager. *See* Tex. R. Civ. P. 21a(a)(1). If a party has not designated an electronic mail address with the electronic filing manager, the party was served a true and correct copy of the foregoing instrument in person, by certified/regular mail, by commercial delivery service by fax or by email, or by such other manner as the Court in its discretion may direct. *See* Tex. R. Civ. P. 21a(a)(2).

On **October 22, 2021**, service was made on the attorney of record listed below:

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Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Kaylyn Fox on behalf of Emily Cottingham
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Status as of 10/26/2021 5:49 PM CST

Associated Case Party: PROTEK CAPITAL INC

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Associated Case Party: EDWARD VAKSER

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Associated Case Party: TEXAS SECRETARY OF STATE

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