

CASE NO. 2019-CP-22-00978

First Citizens Bank & Trust Company)	STATE OF SOUTH CAROLINA
Alleged Plaintiff,)	COUNTY OF GEORGETOWN
VS.)	IN THE COURT OF COMMON PLEAS
Cynthia Ann Moore, Executrix)	
Alleged Defendant In Error)	

MOTION TO STRIKE/DISMISS

Now Comes Cynthia Ann Moore, Executrix alleged defendant in error, by special appearance, not submitting to the Court's jurisdiction, who hereby moves this Court to strike/dismiss the complaint filed by First Citizens Bank & Trust Company for lack of ratification of commencement, no corpus delecti, no plaintiff and lack of personam jurisdiction. Grounds are set forth below.

1. Objection for Lack of Ratification of Commencement. There is no claim.

FEDERAL AND STATE RULES OF CIVIL PROCEDURE RULE 17(a) Real Parties in Interest:

"Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in that person's own name without joining the party for whose benefit the action is brought; and when a statute of the United States so provides, an action for the use or benefit of another shall be brought in the name of the United States. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest."

FEDERAL RULES OF CIVIL PROCEDURE (F.R.C.P.), RULE 1:

"There is *one form* of action – the civil action."

There is neither an injured party nor trespass. As all crimes are commercial, as indicated at 27 CFR 72.11, and every alleged crime has to have "nature and cause", and be prosecuted in the name of the people of the state.

2. There is no corpus delecti. Crime is a breach of laws or governing authority. While this alleged "offence" or "infraction" was a violation of the "law" it was not a crime. As my limited understanding permits, these matters are criminal. Notwithstanding, proof of the corpus delecti is required in all criminal matters:

"Proof of the *corpus delecti* is required in **all cases**...There are three basic elements in the proof of a crime: (1) the occurrence of loss or injury, (2) criminal causation of that loss or injury and (3) the identity of the defendant as the perpetrator of the crime. However, it is firmly established in this State that the term *corpus delecti* embraces only the first two of these elements-loss or injury and criminal causation." State v. Hill, 221 A.2d 725, 728. (emphasis added)

"It is true that the above are all cases of felonious homicide, but the doctrine [of corpus delecti] is in nowise peculiar to such cases; **it is equally applicable to all cases.**" State v. Gelzeiler, 128 A. 240 (emphasis added)

In this case First Citizens Bank & Trust Company is a dead thing and therefore can not have and injury or be harmed.

3. There is no plaintiff. This is an adversarial proceeding, and as it is to the alleged defendant's limited understanding, adversarial proceedings require *real* adversaries:

"Properly understood the general principle is sound, for courts only adjudicate justiciable controversies... **courts must look behind names that symbolize the parties** to determine whether a justiciable case or controversy is presented." United States v. Interstate Commerce Commission, 337 U.S. 426 (1949)]. (emphasis added)

4. Lack of evidence that First Citizens Bank & Trust Company has the right to foreclose on the property in question. First Citizens Bank & Trust Company is dead. It is a legal fiction. It can not make a claim that it has been injured or that it had a contract because dead things can't sign contracts they have no hands with which to sign them. Therefore it is only logical that they can't have standing to do a foreclosure.

Conclusion

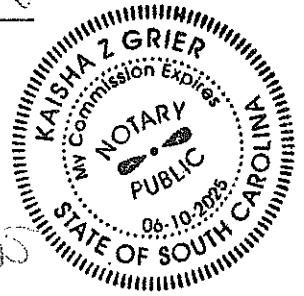
It is reasonable to assume that these judicial decisions are straight and to the point, that there is no lawful method for government to put restrictions or limitations on rights belonging to the people. There is no question that a citation/ticket issued by a police officer, for no driver's license, current vehicle registration, or mandatory insurance, etc., which carries a fine or jail time, is a penalty — and is, indeed, "converting a right into a crime."

A corporate entity, whether it be a city, state, or U.S. Government, cannot testify as an injured party, thus cannot be cross-examined. As an individual one can speak for a corporation, but cannot be an injured party.

If alleged Defendant is to be subject to the alleged "acts" it is concluded that no act was in fact broken.

Because there is no ratification of commencement, no plaintiff, the courts lack of personam jurisdiction and no corpus delicti thus no justiciable controversy or cause of action before the Court, the Court should strike or dismiss the complaints filed against me.

NOTARY SEAL *Kaisha Z Grier*
STATE OF SC
COUNTY OF Horry
EXPIRATION DATE 06.10.2025



PROOF OF SERVICE

NOW, COMES, Cynthia Moore, Petitioner with this ELEVENTH AMENDMENT NOTICE, ELEVENTH AMENDMENT VIOLATION, And DEMAND FOR ADMINISTRATIVE HEARING AGAINST PLAINTIFF before the Clerk of Court of IN THE COURT OF COMMON PLEAS on this 11th day and month of Sept in the Year of My Divine Creator, 2020, AD. All copies delivered directly or by U.S. Postal Service.

NOTICE OF CORPORATE DENIAL AND NON-CORPORATE STATUS

EXHIBIT 004 - NOTICE OF CORPORATE DENIAL AND NON-CORPORATE STATUS

With the knowledge of the fact that "Assumption" and "Presumption" may prevail unless rebutted, or explicitly denied, this Affiant plainly states that Affiant is in no way to be considered, termed as, or thought as, a person, legal entity, legal fiction, fictional character, or corporation of any form; with the knowledge that all such entities are not living, breathing, sentient men. Therefore, Affiant hereby makes express and explicit claim and affirmation to the living, whose Creator is Affiant's Heavenly Father; and, express and explicit claim that Affiant is not a "person" or any other form of corporation.

The word "person" is according to several references and 22 USC Sec. 1621: Definitions - STATUTE- For the purposes of this subchapter - (a) The term 'person' shall include an individual, partnership, corporation, or the Government of the United States.

Point 004A. The Federal Rules of Civil Procedure, Rule 52, applies in Civil and Criminal actions with equal force and effect because criminal is always civil in nature. No civil or criminal cause of action can arise lest there be a contract. See Eads v. Marks, 249 P. 2d 257, 260. There is always a presumption that a contract exists and that the responding party is a Corporation. Under Rule 52, which is the same in all states as in the Federal Rules, the Texas Court of appeals (5th Cir) has ruled of the finding of fact, by the Court, that "the failure of an adverse party to deny under oath the allegation that he is incorporated dispenses with the necessity of proof of the fact". Thus, a presumption becomes a finding of fact by the court unless rebutted before trial.

Point 004B. Dr. Pepper Co. v. Crow, 621 S. W.2d 464, 465 (Tex App.-Waco 1981, no Writ) "Plaintiff plead defendant was a corporation. Defendant did not deny by verified pleading pursuant to [TRCP] 52 and 83 ... that it was not a corporation; thus, such fact was established.

Point 004C. Louisiana Revised Statutes Art. 429 - Corporation existence is presumed unless affidavit of denial is filed before trial.

Point 004D. A presumption is a rule of Law, Statutory or judicial, by which the finding of a basic fact gives rise to the existence of presumed fact until presumption is rebutted. See Van Wart v. Cook, 557 P. 2d 1161. In the Commercial Law of all States, a presumption means that the trier (the Judge) of fact, must find the existence of the fact presumed per FRCP 52, unless and until the evidence is introduced which would support a finding of its non-existence. Arizona Revised Statutes: Title 47 Section 1201 (31) Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence. Thus, the Affidavit of Non Corporate Status is for the purpose of rebutting any presumption that the Affiant is the Corporation named in the alleged complaint.

Point 004E. Federal Rules Evidence, R.301 Agreement by Acquiescence

Rule 301 of the Federal Rules of Evidence states; "...a presumption imposes on the party against whom it is directed the burden of proof [see 556(d)] of going forward with evidence to rebut or meet the presumption."

Point 004F. When the complaint is lodged by the Government for a fine, fee or a tax, all of which are revenue, they are imposed only on Corporations. See *Colonial Pipe Line Co. v. Triangle*, 421 US 100 (1975). Thus, this instant complaint, for the collection of some form of tax, must have been lodged against a Corporation whose name is similar to my name. This Affiant rebuts the presumption that this Affiant is the Corporation named in the alleged complaint.

Point 004G. If Affiant is not a Corporation he cannot appear and plead. See *West Union Tel. Co. v Eyser*, 2 Colo. 141; *Greenwood v. Railroad Co.*, 123 Mass. 32; *Foster v. white Cloud*, 32 Mo. 505; *Hobich v. Folger*, 20 Wall. 1; *Boyce v. M.E. Church*, 43 Md. 359; *Folsom v. Star Union Etc. Fright Line*, 54 Iowa 490.

Point 004H. When brought into Court by its Corporate name, its existence as a Corporation is admitted. See *Mud Creek Drain Co. v State*, 43 Ind. 157; *Johnson v. Gibson*, 73 Ind. 282; *Ewing v. Robeson*, 15 Ind. 26; *Callender v. Railroad Co*, 11 Ohio St. 516; *Com. Ins. Etc. Co. v Taylor*, 8 S.C. 107. Compare *Ware v. St. Louis Bagging and Rope Co.*, 47 Ala. 667.

Point 004I. Stating not facts, but a conclusion only, is insufficient. It has been held that where the representative of a railroad corporation is served with process, he may plead in abatement in his own name that the Corporation is extinct. See *Kelly v. Railroad Co.*, 2 Flip C.C. 581; *Callender v. Plainsville Co.*, 11 Ohio St. 516; *Quarrier v. Peabody Co.*, 10 W. Va. 507; *Evarts v. Killingworth Co.*, 20 Conn. 447; *Stewart v. Dunn*, 12 Mees. & W. 655; *Stevenson v. Thorn*, 13 Mees & W. 149. Where the person is so served with that he may, by plea, deny that he/she sustains any such relation to the Corporation that authorizes the service of process on him/her. See *Kelly v. Railroad Co.*, 2 Flip C.C. 581. In 1886 the Supreme Court did not grant corporate-personhood to any State of the Union or Federal Government and that this doctrine derives from a mistaken interpretation of a Supreme Court reporter's notes. See *Santa Clara County v Southern Pacific Railroad Company* [118 U.S. 394 (1886)].

Point 004J. No laws have been passed by Congress granting that corporations should be treated the same under the constitution as living, breathing human beings. No court decisions, state or federal, held that corporations were "persons" instead of "artificial persons." The Supreme Court did not rule in *Santa Clara County v Southern Pacific Railroad Company* [118 U.S. 394] (1886) on the issue of corporate personhood. As railroad attorney Sanderson and his two colleagues watched, Chief Justice Morrison Remick Waite told Delmas and his two colleagues the attorneys for the opposing party that: "The court does not wish to hear argument on the question whether the provision in the Fourteenth Amendment to the Constitution, which forbids a state to deny to any person within its jurisdiction the equal protection of the laws, applies to these corporations. We are of the opinion that it does. This written statement, that corporations were "persons" rather than "artificial persons", with an equal footing under the Bill of Rights as humans, was not a formal ruling of the court, but was reportedly a simple statement by its Chief Justice, recorded by the court recorder". See Vermont Supreme Court building. Volume 118 of United States Reports: Cases adjudged in the Supreme Court at October Term 1885 and October Terms 1886 published in New York in 1886 by Banks & Brothers Publishers, and written by J.C. Bancroft Davis, Supreme Court's Reporter. Point 004K. Here is the often expressed understanding from the United States Supreme Court that "in common usage, statutes employing the terms person and corporation are ordinarily construed to exclude the Sovereign man or woman." *Wilson v.*

Omaha Tribe, 442 U.S. 653, 667 (1979) (quoting *United States v. Cooper Corp.*, 312 U.S. 600, 604 (1941)). See also *United States v. Mine Workers*, 330 U.S. 258, 275 (1947).

Point 004L. US Supreme Court in *Luther v Borden*, 48 US1, 12 Led 581: "...The government are but trustees acting under derived authority and have no power to delegate what is not delegated to them. But the people, as the original fountain, might take away what they have delegated and in trust to whom they please. ... The sovereignty in every state resides in the people of the state and they may alter and change their form of government at their own pleasure." US Supreme Court in *Wilson v Omaha India Tribe* 442 US 653, 667 (1979): "In common usage, the term 'person' does not include the sovereign, and statutes employing the word are ordinarily construed to exclude it."

Point 004M. Affiant is NOT a "United States Person", "United States Resident", "U.S. Citizen", "U.S. Individual", "U.S. Corporation" or "citizen subjected to its jurisdiction"; as such are "words of art"; or corporation created under the laws of the United States or any state of the Union States, the District of Columbia, or any territory, commonwealth or possession of the United States or a foreign state or country, public or private.

Point 004N. Affiant is NOT a "resident of", "inhabitant of", a "franchisee of", "subject of", "ward of", "property of", "chattel of", or "subject to the jurisdiction of" the State of the Forum of any United States, corporate State, corporate County, or corporate City, or Municipal body politic created under the primary authority of Art. I, Sec. 8, CI.17 and Art. IV, Sec. 3 CI. 2 of the Constitution for the united States of America and not subjected to any legislation created by or under the jurisdiction of any employees, officers, or agents deriving their authority thereof.

Further, Affiant is NOT a subject of the Administrative and Legislative Article I Courts or bound by precedents of such courts created by the "United States", as "Legislation enacted by Congress applicable to the inferior courts in the exercise of the power under Article III of the Constitution cannot be affected by legislation enacted by Congress under Art. I, Sec. 8, CI.17, of the Constitution", "D.C. Code, Title 11 at p. 13 "an officer, agent, shareholder, franchise or fiduciary agent, surety, resident inhabitant or domiciled in any corporation."

Point 004O. Affiant declares, revokes and cancels all of Affiant's signatures on any and all forms which may be construed to give the Federal Government or any other agency or department of the United States Government, created under the authority of Article I, Sec. 8, CI. 17 and Article IV, Sec. 3, CI.2 of the Constitution for the United States, authority or jurisdiction over Affiant. Affiant also, revokes, rescinds and make void ab initio, all powers of attorney, in fact, in presumption, or otherwise, signed either by Affiant or anyone else, with or without Affiant's consent, as such power of attorney pertains to Affiant, by, but not limited to, any and all government/quasi/colorable, public, Government entities or corporations, on the grounds of constructive fraud, and non-disclosure of pertinent facts.

Point 004P. Affiant is NOT a vessel documented under Chapter 121 of Title 46, United States Code or a vessel numbered as provided in Chapter 123 of said Title.

Point 004Q. Affiant hereby, cancels any presumed election made by the United States Government or any agency or department, thereof, that Affiant is, or ever has been, a citizen, alien citizen or resident of any territory, possession, instrumentality or enclave, under the sovereignty or exclusive jurisdiction of the United States, as defined in the Constitution for the united States of America in Art. I, Sec. 8 CI. 17 and Art. IV, Sec. 3, CI. 2. Affiant has no record or evidence that Affiant does not cancel any presumption that Affiant ever voluntarily elected to be treated as such a citizen or resident.

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laws of the United States or any state of the Union States, the District of Columbia, or any territory, commonwealth or possession of the United States or a foreign state or country, public or private.

Point 004S. Affiant's name is a Possession of Affiant and is not given to any other, however, the Christian Appellation that Affiant answers to is; Joseph-Cold: of the Sixpack Family, with location of domicile where the Living Man stands, who may be NOTICED at OU812 Yellow Brick Road, Somewhere, Kansas [zip], and is particularly unique to this Affiant, although not affiliated with the "Corporate Body Politic" near the same location and is determined as complete, necessary and sufficient identification evidencing Affiant's neutral standing (15 USC 1681(h)).

Point 004T. This Affidavit was NOT written for the purpose of debating the constitutionality or legality of the Communications Act of 1934, but rather to establish facts exposing the United States Government's lack of jurisdiction in this matter. Affiant is NOT a pirate, affiliated with or an enemy of any public or private corporation, domestic or foreign, but is a neutral body. Any past or future reference to Affiant as such by any agency and its officer(s) will be considered "defamation of character" and will be litigated as such in the foreign jurisdiction where offenders, oppressors, and all Libellees will have no immunity, "Within the Admiralty". 28 USC 1333 or 1337, Bills of Lading Act, The Public Vessel Act, Foreign Sovereign Immunity Act, False Claims Act; see 31 U.S.C. §3729(a)(7) and Federal Tort Claims Act. Any of the facts or Laws presented herein are NOT contrary to the Communications Act of 1934, or Court decisions applicable to Affiant. All facts contained herein are based upon ruling case law and un-overruled decisions of the Supreme Court of the United States. None of these facts have been found to be "frivolous" by any court, when argued in their exact and proper context. These are technical facts that, under Commercial Law must be rebutted with "case law" or acquiesced to.

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Point 004V. For reasons explicitly defined within this Point, Affiant denies having, or ever having had, a "birthday"; but rather, Affiant DID have a "Nativity" upon the Soil and celebrates his day of Nativity as such.

Point 004W. Affiant makes it perfectly clear that Affiant is an Adverse Party denying under oath the allegation that Affiant is incorporated; as per: "*The failure of an adverse party to deny under oath the allegation that he is incorporated with the necessity of proof of the fact [it becomes part of the official record].*" *Galleria Bank v. Southwest Properties*, 498 Southwest 2nd USE, MISUSE, AND ABUSE OF WORDS TO CHANGE THE MEANING.

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"Birth", "berth" and "born" all come from the same root of "to bear". When you look up "berth" you find out that every definition has to do with ships. So our "berth-day" is the day we were given a place within the maritime/admiralty jurisdiction of the State.

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We perceive that this "berth" is the "office of person" aboard the SHIP OF STATE

A Living Soul has a date of Nativity; a Corporation Sole has a date of Birth/Berth.

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Therefore, I inform the nice policeman, the bureaucrat, the "de facto" court system, and all other parties that may inquire, "I have no birthday," even backing that with, "No man can be compelled to incriminate himself."

ADDITIONAL INFORMATION TO CLARIFY MEANING OF "U.S. CITIZEN"

The term "Citizen of the United States", as found in the Qualifications Clauses, is properly constructed to mean a Citizen of ONE OF the States which are united by and under the U.S. Constitution. This construction -- ONE OF -- is reiterated in the following passage from Words and Phrases, to wit:

"Citizens of a state, within the removal act [18 Stat. 473, March 3, 1875] means citizens of one of the United States, and the suits contemplated are suits between citizens of one of the states of the Union on one side, and foreign states, or citizens or subjects on the other." citing Roberts v. Pacific & A. Ry. & Navigation Co., 121 F. 785, 789, 58 C.C.A. 61. (9th Cir. 1903)"

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MEMORANDUM OF LAW AND POINTS OF AUTHORITY IN SUPPORT OF AFFIDAVIT OF NON CORPORATE STATUS

1. The Federal Rules of Civil Procedure, Rule 52, applies in Civil and Criminal actions with equal force and effect because criminal is always civil in nature. No civil or criminal cause of action can arise lest there be a contract. See Eads v. Marks, 249 P. 2d 257, 260. There is always a presumption that a contract exists and that the responding party is a Corporation. Under Rule 52, which is the same in all states as in the Federal Rules, the Texas Court of appeals (5th Cir) has ruled on the finding of fact, by the Court, that "the failure of an adverse party to deny under oath the allegation that he is incorporated dispenses with the necessity of proof of the fact". Thus, a presumption becomes a finding of fact by the court unless rebutted before trial.
2. Dr. Pepper Co. v. Crow, 621 S. W.2d 464, 465 (Tex App.-Waco 1981, no Writ) "Plaintiff plead defendant was a corporation. Defendant did not deny by verified pleading pursuant to [TRCP] 52 and 83 ... that it was not a corporation; thus, such fact was established.
3. Louisiana Revised Statutes Art. 429
Corporation existence presumed unless affidavit of denial filed before trial.
4. A presumption is a rule of Law, Statutory or judicial, by which the finding of a basic fact gives rise to the existence of presumed fact until presumption is rebutted. See Van Wart v. Cook, 557 P. 2d 1161. In the Commercial Law of all States, a presumption means that the trier (the Judge) of fact, must find the existence of the fact presumed per FRCP 52, unless and until the evidence is introduced which would support a finding of its non-existence. Arizona Revised Statutes: Title 47 Section 1201 (31) Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence. Thus, the Affidavit of Non Corporate Status is for the purpose of rebutting any presumption that the Respondent is the Corporation named in the alleged complaint.
5. Federal Rules Evidence, R.301 Agreement by Acquiescence
." Rule 301 of the Federal Rules of Evidence states;"...a presumption imposes on the party against whom it is directed the burden of proof [see 556(d)] of going forward with evidence to rebut or meet the presumption
6. When the complaint is lodged by the Government for a fine, fee or a tax, all of which are revenue, they are imposed only on Corporations. See Colonial Pipe Line Co. v. Triagle, 421 US 100 (1975). Thus, this instant complaint, for the collection of some form of tax, must have been lodged against a Corporation whose name is similar to my name. This Respondent must rebut the presumption that this Respondent is the Corporation named in the alleged complaint.
7. If Respondent is not a Corporation he cannot appear and plead. See West Union Tel. Co. v Eysler, 2 Colo. 141; Greenwood v. Railroad Co., 123 Mass. 32; Foster v. White Cloud, 32 Mo.

"In common usage, the term 'person' does not include the sovereign, and statutes employing the word are ordinary construed to exclude it."

13. Rebuttable presumptions are in effect inferences that, in the absence of any controverting evidence, the jury is required to make and, in civil cases, to accept as established facts. [89. People v Wong Sang Lung, 3 CA 221, 84 P 843.]

14. BLACK'S LAW DICTIONARY, 6th Ed. (1990), p. 1267.

Rebuttable presumption: In the law of evidence, a presumption which may be rebutted by evidence. Otherwise called a "disputable" presumption. A species of legal presumption which holds good until evidence contrary to it is introduced. Beck v. Kansas City Public Service Co., Mo. App., 48 S.W. 2d 213, 215. It shifts burden of proof. Heiner v. Donnan, 285 U.S. 312, 52 S. Ct. 358, 362, 76 L.Ed. 772. It gives particular effect to certain group of facts in absence of further evidence, and presumption provides a prima facie case which shifts to defendant the burden to go forward with evidence to contradict or rebut fact presumed. Gulle v. Boggs, Fla., 174 So.2d 26, 28.

15. BLACK'S LAW DICTIONARY, 6th Ed. (1990), p. 1185

Presumption: An inference in favor of a particular fact. A presumption is a rule of law, statutory or judicial, by which finding of a basic fact gives rise to existing of presumed fact, until presumption is rebutted. Van Wart v. Cook, Okl. App., 557 P2d 1161, 1163. A legal device which operates in the absence of other proof to require that certain inference be drawn from the available evidence. Port Terminal & Warehousing Co. v. John S. James Co., D. C. GA., 92 F.R. D. 100, 106.

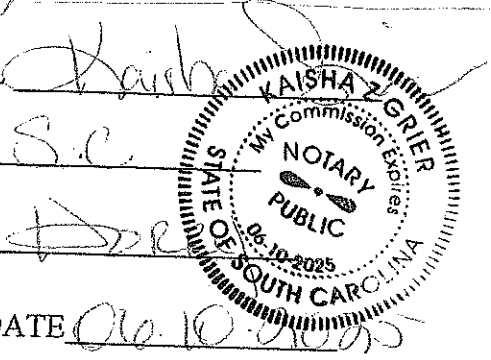
A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found or otherwise established in the action. A presumption is not evidence. A presumption is either conclusive or rebuttable.

I, Drew DiNatale, Declare and Affirm that I am not nor have I ever been a Corporation, Fiction of Law, Fictitious Entity, Corporate Persona, Non-Entity, Legal Entity or a Surety for any of the previously mentioned and that I further Declare and Affirm that I am a live man, American Sovereign as stated in the original Constitution for the united States of America, of which all public servants/public officials are sworn by their Oaths of Office to protect and defend, both State and National, in which is also enumerated the type and size of bonds required by both elected and appointed positions, in order to assure the Sovereign public that their trust and faith in those public servants/public officials are well founded and that their duties will be discharged in the most Honorable means until completion of their term of office.

Signature

[Handwritten Signature]

NOTARY SEAL



STATE OF

S.C.

COUNTY OF

Durham

EXPIRATION DATE

06-10-2025