

<p>CITY AND COUNTY OF DENVER DISTRICT COURT 1437 Bannock Street Denver, Colorado 80202</p> <hr/> <p>Plaintiff: STATE OF COLORADO, <i>ex rel.</i> PHILIP J. WEISER, Attorney General,</p> <p>v.</p> <p>Defendants: MARCIO GARCIA ANDRADE; RICK STEENBOCK; and JUMPSTART INCORPORATIONS, INC.</p>	<p>DATE FILED April 10, 2024 5:48 PM FILING ID: EDF8DD85EEE1F CASE NUMBER: 2023CV32624</p>
<p><i>Attorneys for Defendants Andrade, Steenbock, & Jumpstart:</i> David C. Japha, #14434 Evan J. House, #48607 LEVIN JACOBSON JAPHA, P.C. 6000 East Evans Avenue Building 1, Suite 210 Denver, CO 80222 Phone Number: (303) 504-4242 Fax Number: (303) 691-9719 davidjapha@japhalaw.com ehouse@ljjlaw.com</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case Number: 2023CV32624</p> <p>Division: 275</p>
<p style="text-align: center;">ANSWER AND AFFIRMATIVE DEFENSES TO FIRST AMENDED COMPLAINT</p>	

Defendants Marcio Garcia Andrade, Rick Steenbock, and Jumpstart Incorporations, Inc. (“Defendants”), through counsel, hereby Answer the First Amended Complaint (“Complaint”) as follows:

INTRODUCTION

1. Defendants are without knowledge of the allegations set forth in Paragraph 1 of the Complaint; however, based on a good-faith belief, Defendants do not dispute the veracity of the factual allegations in Paragraph 1 of the Complaint.

2. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2 of the Complaint and therefore deny the same.

3. Defendants admit that the Colorado General Assembly passed SB 22-034, the text of which statute speaks for itself, although Defendants cannot opine on any legal conclusions to be drawn therefrom. Defendants are without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 3 of the Complaint and therefore deny the same.

4. Defendants deny the allegation in Paragraph 4 of the Complaint. To the extent a response is required to Footnote 1, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Footnote 1 of the Complaint and therefore deny the same.

5. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 5 of the Complaint and therefore deny the same.

6. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6 of the Complaint and therefore deny the same.

7. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 7 of the Complaint and therefore deny the same.

8. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8 of the Complaint and therefore deny the same.

PARTIES

9. Defendants admit the allegations in Paragraph 9 of the Complaint.

10. Defendants deny the allegations in Paragraph 10 of the Complaint.

11. Defendants deny the allegations in Paragraph 11 of the Complaint.

12. Defendants admit that Steenbock registered Jumpstart. Defendants are without knowledge sufficient to form a belief as to the truth of the allegation that Steenbock was named on payment methods used to cause the delivery filings and therefore deny the same. Defendants deny that they made any fraudulent filings.

JURISDICTION AND VENUE

13. The allegations in Paragraph 13 call for legal conclusions to which no response is required. To the extent a response is required, § 6-1-103, C.R.S., does not appear to be germane to the subject matter jurisdiction of this Court and Defendants are without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 13 of the Complaint and therefore deny the same.

14. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 14 of the Complaint and therefore deny the same.

RELEVANT TIMES

15. Defendants deny that they made any fraudulent filings. Defendants are without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 15 of the Complaint and therefore deny the same.

16. Defendants deny the allegation that they engaged in false, misleading, or deceptive acts or practices. Defendants are without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 16 of the Complaint and therefore deny the same.

ACTS OF AGENTS

17. Paragraph 17 of the Complaint does not contain factual allegations. To the extent any response is required, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 17 of the Complaint and therefore deny the same.

GENERAL ALLEGATIONS

A. The Secretary's Corporate Registry

18. Defendants admit that the Secretary of State of Colorado maintains an online business filing system allowing for the formation of corporate entities in Colorado. Defendants are without knowledge sufficient to form a belief as to the truth of the allegation the Secretary of State's online filing system allows for the management of corporate entities. Defendants admit that the system allows members of the public to search for businesses but are without knowledge sufficient to form a belief as to the truth of the allegation the public can "verify" business' "credibility" online. Defendants are unaware of the Secretary's statutory duties vis-à-vis the online system but the applicable statutes speak for themselves.

19. Defendants admit the allegations in Paragraph 19 of the Complaint.

20. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 20 of the Complaint and therefore deny the same.

21. Defendants believe that the allegations in Paragraph 21 of the Complaint are correct, although they are without the express knowledge thereof.

22. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 22 of the Complaint and therefore deny the same.

23. Defendants deny the allegations in Paragraph 23 of the Complaint.

24. Defendants admit that the State is seeking the Court's intervention but deny the remaining allegations in Paragraph 24 of the Complaint, including any allegations of fraud.

B. The Pattern of Fraudulent Filings at the Northglenn Address.

25. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 25 of the Complaint, as well as Footnote 3, and therefore deny the same.

26. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 26 of the Complaint and therefore deny the same.

27. Defendants deny the allegation that they engaged in fraudulent filing. Defendants are without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 27 of the Complaint and therefore deny the same.

28. Defendants deny the allegation that they engaged in fraudulent filing. Defendants are without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 28 of the Complaint and therefore deny the same.

29. Defendants deny the allegation that they engaged in fraudulent filing. Defendants are without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 29 of the Complaint, as well as Footnote 3, and therefore deny the same.

30. Defendants deny the allegation that they engaged in fraudulent filing. Defendants are without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 30 of the Complaint and therefore deny the same.

31. Defendants admit there was an agreement with the FTC, the terms of which speak for themselves. Defendants are without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 31 of the Complaint and therefore deny the same.

32. Defendants admit that Steenbock signed the *Grand Teton* settlement in his capacity as President of Atomium Corps Inc.

33. Defendants deny the allegation that they engaged in fraudulent filing. Defendants are without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 33 of the Complaint and therefore deny the same.

34. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 34 of the Complaint and therefore deny the same.

35. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 35 of the Complaint and therefore deny the same.

36. Defendants deny the allegations in Paragraph 36 of the Complaint.

37. Defendants deny the allegations in Paragraph 37 of the Complaint.

38. Defendants admit the allegations in Paragraph 38 of the Complaint.

39. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 39 of the Complaint and therefore deny the same.

C. Unlawful Designation of Registered Agent

40. Paragraph 40 of the Complaint is a statement of law to which no response is required. To the extent a response is required, the statute speaks for itself.

41. Paragraph 41 of the Complaint is a statement of law to which no response is required. To the extent a response is required, the statute speaks for itself.

42. Defendant Andrade admits the allegation in Paragraph 42 of the Complaint that he did not have his primary residence in Colorado, but he denies the characterization of the businesses as fraudulent. Defendants Steenbock and Jumpstart are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 42 of the Complaint and therefore deny the same.

43. Because Defendant Andrade did operate and continues to operate a business in Colorado he is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 43 of the Complaint and therefore denies the same. Defendants Steenbock and Jumpstart are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 43 of the Complaint and therefore deny the same.

44. Paragraph 44 of the Complaint is a legal conclusion to which no response is required. To the extent a response may be required, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 44 of the Complaint and therefore deny the same.

D. No Consent for Use of the Northglenn Address

45. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 45 of the Complaint and therefore deny the same.

46. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 46 of the Complaint and therefore deny the same.

47. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 47 of the Complaint and therefore deny the same.

E. Defendants have sold, and are continuing to sell, the Fraudulent Businesses.

48. Defendants deny that any of the businesses are fraudulent and deny the implication that the sale of any businesses was improper. Defendants do admit that since the filing of the first Complaint that Defendant Andrade has transferred ownership of several of the businesses he lawfully owns.

49. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 49 of the Complaint and therefore deny the same.

FIRST CLAIM FOR RELIEF

50. Defendants incorporate by reference all prior and subsequent responses in this paragraph as if set forth fully herein.

51. Defendants deny the allegations in Paragraph 51 of the Complaint.

52. Defendants deny the allegations in Paragraph 52 of the Complaint.

SECOND CLAIM FOR RELIEF

53. Defendants incorporate by reference all prior and subsequent responses in this paragraph as if set forth fully herein.

54. Defendants deny the allegations in Paragraph 54 of the Complaint.

55. Defendants deny the allegations in Paragraph 55 of the Complaint.

56. Defendants deny the allegations in Paragraph 56 of the Complaint.

THIRD CLAIM FOR RELIEF
(Unjust Enrichment)

57. Defendants incorporate by reference all prior and subsequent responses in this paragraph as if set forth fully herein.

58. Defendants deny the allegations in Paragraph 58 of the Complaint.

59. Defendants admit that Defendant Andrade took ownership of approximately 15,821 business entities in the State of Colorado and admits that they have transferred ownership

of such entities to third parties but deny the remaining allegations in Paragraph 59 of the Complaint.

60. Defendants deny the allegations in Paragraph 60 of the Complaint.

61. Defendants are without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 61 of the Complaint and therefore deny the same.

62. Defendants deny the allegations in Paragraph 62 of the Complaint.

* * *

63. Defendants deny each and every allegation in the Complaint not specifically admitted herein.

64. Defendants deny that Plaintiff is entitled to judgment in its favor and deny that Plaintiff is entitled to the relief requested in its prayer for relief.

AFFIRMATIVE DEFENSES

1. Section 6-1-105, C.R.S., is unconstitutionally vague and/or overbroad.

2. The Northglenn Address had been the filing address for Andrade's Colorado Agent, Edward Hidalgo, since November 7, 2016.

3. Defendants were not made aware of the registered agent's change of address and had a good faith belief that they had the consent of the owner or occupant of 2236 East 109th Drive to use that address in documents filed with the Colorado Secretary of State.

4. Plaintiff has failed to join a necessary party in Edward Hidalgo.

5. Plaintiff is estopped from pursuing its claims against Defendants because Defendants simply availed themselves of a procedure initiated by the Colorado Secretary of State without limit.

6. Allegations of prior conduct to which no admission of liability was made by either Defendant Andrade or Steenbock as set forth in Complaint paragraphs 31, 32, and 35 are irrelevant.

7. The civil penalties available to the State are limited by statute.

8. The State accepted the full payment for the ownership of the business entities, which represented lawful transactions per an express contract.


9. Any benefit to Defendants was conferred on them by the General Assembly and the office of the Secretary of State.

10. The circumstances in which the business entities were purchased were not unjust.
11. The availability of adequate legal remedies precludes a claim for unjust enrichment.
12. Defendants did not receive an unjust benefit at the State's expense.
13. The transfer of the business entities is legal.
14. The lawful transfer of business entities provides funds to the State of Colorado.
15. The State has not allowed Defendants to correct the agents associated with the business entities.
16. The individuals directed to file the paperwork to incorporate the businesses mistakenly listed Marcio Andrade as the registered agent for service of process, unbeknownst to Defendant Andrade at the time of filing.
17. Defendant Steenbock did not cause any of the allegedly fraudulent filings to be submitted to the State of Colorado.
18. Defendant Jumpstart Incorporations, Inc., did not cause any of the allegedly fraudulent filings to be submitted to the State of Colorado.
19. The business filings at issue were not fraudulent.

WHEREFORE, Defendants respectfully request that this Court enter an order of judgment in their favor and against Plaintiff, and for such other relief as the Court deems just and proper.

Respectfully submitted on April 10, 2024.

LEVIN JACOBSON JAPHA, P.C.



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Attorneys for Defendants Andrade,

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CERTIFICATE OF SERVICE

I certify that on April 10, 2024, the foregoing was filed with the Court via the Colorado Courts E-Filing system (CCE), which will send notice to all registered participants, including the following:

STATE OF COLORADO

Lauren M. Dickey, #45773

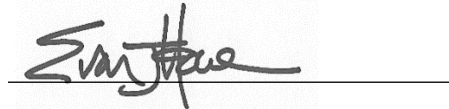
First Assistant Attorney General

Elizabeth Louise Atkinson, #42811

Conor Andrew Kruger, #54111

Assistant Attorneys General

LEVIN JACOBSON JAPHA, P.C.

A handwritten signature in black ink, appearing to read "Evan J. House", is written over a horizontal line. The signature is stylized with a large "E" and a prominent "H".

Evan J. House, #48607