

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MADELINE REED, ET AL.

Plaintiffs,

-v.-

QUEENS VILLAGE COMMITTEE FOR
MENTAL HEALTH FOR JAMAICA
COMMUNITY ADOLESCENT
PROGRAM, INC., PLAN
ADMINISTRATOR, ET AL.,

Defendants.

Civil Action No. 18-cv-3114

(Donnelly, J.)

(Orenstein, M.J.)

**QUEENS VILLAGE DEFENDANTS’
ANSWER TO PLAINTIFFS’ FIRST AMENDED CLASS ACTION COMPLAINT
AND CROSS CLAIMS**

Defendants Queens Village Committee for Mental Health for Jamaica Community Adolescent Program, Inc., and Diane Gonzalez (collectively, the “Defendants”)¹, respectfully submit this answer and affirmative defenses to Plaintiffs’ First Amended Class Action Complaint, Dkt. No. 21 (the “Amended Complaint”). Defendants deny each and every allegation contained in the Amended Complaint, except as specifically admitted herein, and any factual averment admitted herein is admitted only as to the specific facts and not as to any conclusions, arguments, or characterizations which are contained in any averment or in the Amended Complaint as a whole. To the extent the Amended Complaint contains headings or other material that is inappropriate under Rule 8 and Rule 12(f) of the Federal Rules of Civil

¹ By order of the Court (DKT 56), Defendants Nancy Brinn and Nilda Ruiz have been dismissed from this case.

Procedure, no response to such material is required. If, however, a response is required, Queens Village Defendants deny all headings in the Amended Complaint, unless specifically admitted herein.

PRELIMINARY STATEMENT

1. The allegations contained in the first sentence of Paragraph 1 state a legal conclusion to which no response is required. To the extent a response is required, Queens Village Defendants deny the allegations in the first sentence of Paragraph 1. Defendants admit that Queens Village sponsored a defined contribution pension plan. The remaining allegations contained in Paragraph 1 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the remaining allegations in Paragraph 1. To the extent a response is required, Defendants deny the remaining allegations in Paragraph 1.

2. Defendants admit that Queens Village is a 501(c)(3) non-profit corporation engaged in residential treatment programs to treat drug and alcohol abusers. The remaining allegations in Paragraph 2 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the remaining allegations in Paragraph 2. To the extent an answer is required, Defendants deny all remaining allegations in Paragraph 2.

3. Defendants admit that Queens Village receives funds from the New York State Office of Alcohol and Substance Abuse Services (OASAS) and that OASAS is its primary funding source. The remaining allegations contained in Paragraph 3 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the remaining allegations contained in Paragraph 3 of the Complaint. To the extent an answer is required, Defendants deny all remaining allegations in Paragraph 3 of the Complaint.

4. Defendants state that the allegations in Paragraph 4 represent legal conclusions as to which no response is required, and the documents speak for themselves. Moreover, the second sentence in Paragraph 4 is vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in the second sentence in Paragraph 4. To the extent an answer is required, Defendants deny the allegations contained in Paragraph 4.

5. Defendants state that the allegations in Paragraph 5 represent legal conclusions to which no response is required. Moreover, the allegations contained in Paragraph 5 of the Complaint are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 5. To the extent an answer is required, Defendants deny the allegations contained in Paragraph 5.

6. Defendants state that the allegations in Paragraph 6 represent legal conclusions to which no response is required. Moreover, the allegations in Paragraph 6 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 6. To the extent an answer is required, Defendants admit that the pension plan submitted Forms 5500 to the U.S. Department of Labor (which documents speak for themselves), but deny all remaining allegations contained in Paragraph 6.

7. Defendants state that the allegations contained in Paragraph 7 represent legal conclusions to which no response is required. Moreover, the allegations in Paragraph 7 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 7. To the extent an answer is required, Defendants admit that the pension plan submitted Forms 5500 to the U.S. Department of Labor, which documents speak for themselves, but deny all remaining allegations contained in Paragraph 7.

8. Defendants state that the allegations contained in Paragraph 8 represent legal conclusions to which no response is required. Defendants further state that the allegations contained in Paragraph 8 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 8. To the extent a response is required, Defendants deny the allegations in Paragraph 8.

9. Defendants state that the allegations in Paragraph 9 represent legal conclusions to which no response is required. To the extent that a response is required, Defendants admit that the Second Circuit issued a decision in *Rahm v. Halpin*, which speaks for itself, and Defendants deny all remaining allegations in Paragraph 9.

10. Defendants state that the allegations in Paragraph 10 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 10. To the extent a response is required, Defendants deny the allegations in Paragraph 10.

11. Defendants state that the allegations in Paragraph 11 represent legal conclusions to which no response is required. Defendants further state that the allegations in Paragraph 11 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 11. To the extent an answer is required, Defendants deny the allegations contained in Paragraph 11.

12. Defendants admit that Principal did not bring an action against Defendants. Defendants state that the remaining allegations contained in Paragraph 12 represent legal conclusions to which no response is required and, further, are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the remaining allegations contained in

Paragraph 12. To the extent an answer is required, Defendants deny the remaining allegations contained in Paragraph 12.

13. Defendants state that the allegations contained in Paragraph 13 is a summary of this lawsuit to which no response is required, and the First Amended Complaint speaks for itself. To the extent a response is required, Defendants admit that the named plaintiffs brought this lawsuit. Defendants deny the remaining allegations in Paragraph 13.

14. Defendants state that the allegations contained in Paragraph 14 represent legal conclusions to which no response is required. To the extent a response is required, Defendants admit that the Second Circuit issued the decisions cited in Paragraph 14, which decisions speak for themselves. Defendants deny all remaining allegations contained in Paragraph 14.

JURISDICTION AND VENUE

15. Defendants state that the allegations contained in Paragraph 15 are a summary of this lawsuit to which no response is required, and further, represent legal conclusions to which no response is required. To the extent a response is required, Defendants admit that ERISA provides for federal question jurisdiction. Defendants deny the remaining allegations contained in Paragraph 15.

16. Defendants admit that venue is proper in this district and that Queens Village operates an in-patient care facility at 116-30 Sutphin Blvd., Jamaica, New York 11434-1527. The remaining allegations in Paragraph 16 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the remaining allegations in Paragraph 16. To the extent a response is required, Defendants deny the remaining allegations in Paragraph 16.

17. Defendants admit that Plaintiff Madeline Reed was employed by Queens Village as an administrative assistant and a counselor. The remaining allegations contained in Paragraph

17 are vague and ambiguous and contain legal conclusions to which no response is required. To the extent an answer is required, Defendants deny all remaining allegations contained in Paragraph 17.

18. Defendants admit that Plaintiff Ronald Sumter was employed by Queens Village as a counselor. The remaining allegations in Paragraph 18 are vague and ambiguous and contain legal conclusions to which no response is required. To the extent a response is required, Defendants deny all remaining allegations contained in Paragraph 18.

19. Defendants admit that Plaintiff Stephanie Pemberton was employed by Queens Village. The remaining allegations contained in Paragraph 19 are vague and ambiguous and contain legal conclusions to which no response is required. To the extent an answer is required, Defendants deny all remaining allegations contained in Paragraph 19.

20. Defendants admit that Plaintiff Cynthia Spence was employed by Queens Village as a counselor. The remaining allegations in Paragraph 20 are vague and ambiguous and contain legal conclusions to which no response is required. To the extent an answer is required, Defendants deny all remaining allegations contained in Paragraph 20.

21. Defendants state that the allegations in Paragraph 21 represent legal conclusions to which no response is required. To the extent a response is required, Defendants admit that the J-CAP Pension Plan is an ERISA-governed plan and deny the remaining allegations in Paragraph 21.

22. Defendants state that the allegations contained in Paragraph 22 represent legal conclusions to which no response is required. To the extent a response is required, Defendants admit that Queens Village is a 501(c)(3) non-profit corporation engaged in residential treatment

programs using the therapeutic community model to treat drug and alcohol abuses in Queens County, New York; and deny the remaining allegations in Paragraph 22.

23. Defendants state that the allegations in Paragraph 23 represent legal conclusions to which no response is required. To the extent a response is required, Defendants admit that Queens Village sponsors an employee pension plan which is an ERISA-governed plan. The plan documents speak for themselves. To the extent an answer is required with respect to the remaining allegations in Paragraph 23, Defendants deny the remaining allegations in Paragraph 23.

24. Defendants admit the allegations in Paragraph 24 solely to the extent that until June 30, 2019, Defendant Diane Gonzalez was Chief Executive Officer of Queens Village. Defendants state that the remaining allegations in Paragraph 24 are vague and ambiguous and uncertain as to time. To the extent an answer is required, Defendants deny the remaining allegations in Paragraph 24.

25. The allegations in Paragraph 25 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 25. Moreover, the allegations contained in Paragraph 25 represent legal conclusions as to which no response is required. To the extent an answer is required, Defendants deny the allegations contained in Paragraph 25.

26. The allegations contained in Paragraph 26 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 26. Moreover, the allegations in Paragraph 26 represent legal conclusions as to which no response is required. To the extent an answer is required, Defendants deny the allegations in Paragraph 26.

27. The allegations contained in Paragraph 27 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 27. Moreover, the allegations in Paragraph 27 represent legal conclusions as to which no response is required. To the extent an answer is required, Defendants deny the allegations in Paragraph 27.

28. The allegations contained in Paragraph 28 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 28. Moreover, the allegations in Paragraph 28 represent legal conclusions as to which no response is required. To the extent an answer is required, Defendants deny the allegations in Paragraph 28.

29. The allegations contained in Paragraph 29 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 29. Moreover, the allegations contained in Paragraph 29 represent legal conclusions as to which no response is required. To the extent an answer is required, Defendants deny the allegations in Paragraph 29.

30. The allegations contained in Paragraph 30 represent a legal conclusion as to which no response is required. To the extent an answer is required, Defendants deny the allegations in Paragraph 30.

31. The allegations contained in Paragraph 31 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 31. Moreover, the referenced document speaks for itself. To the extent an answer is required, Defendants deny the allegations in Paragraph 31.

32. Defendants admit that the pension plan submitted Forms 5500 to the U.S. Department of labor, which documents speak for themselves. The remaining allegations are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the remaining allegations in Paragraph 32. To the extent a response is required, Defendants deny the remaining allegations in Paragraph 32.

33. The allegations contained in Paragraph 33 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 33. Moreover, the allegations contained in Paragraph 33 represent a legal conclusion as to which no response is required. To the extent a response is required, Defendants admit that the pension plan submitted Forms 5500 to the U.S. Department of Labor, which documents speak for themselves. Defendants deny the remaining allegations in Paragraph 33.

34. Defendants state that the allegations contained in Paragraph 34 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 34.

35. Defendants state that the allegations contained in Paragraph 35 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 35.

36. Defendants state that the allegations in Paragraph 36 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 36. Moreover, the allegations contained in Paragraph 36 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants admit that the pension plan submitted Forms 5500 to the U.S. Department of Labor, which

documents speak for themselves, and Defendants deny the remaining allegations in Paragraph 36.

37. Defendants state that the allegations contained in Paragraph 37 of the Complaint are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 37. To the extent a response is required, Defendants deny the allegations contained in Paragraph 37.

38. Defendants state that the allegations contained in Paragraph 38 represent legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 38.

39. Defendants state that the allegations contained in Paragraph 39 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 39.

40. Defendants state that the allegations in Paragraph 40 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 40. To the extent a response is required, Defendants deny the allegations contained in Paragraph 40.

41. Defendants state that the allegations in Paragraph 41 represent legal conclusions as to which no response is required. Defendants further state that the allegations in Paragraph 41 are uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 41. Defendants further state that the documents referenced in Paragraph 41 speak for themselves. To the extent an answer is required, Defendants deny the allegations in Paragraph 41.

42. Defendants admit that Queens Village established its defined contribution pension plan for its employees in 1980; however, this is based upon a writing that speaks for itself as to its contents which must be proven.

43. Defendants state that the allegations contained in Paragraph 43 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 43. Furthermore, the document referenced in Paragraph 43 speaks for itself. To the extent an answer is required, Defendants deny the allegations in Paragraph 43.

44. Defendants state that the allegations contained in Paragraph 44 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 44. Furthermore, the document referenced in Paragraph 44 speaks for itself. To the extent an answer is required, Defendants deny the allegations in Paragraph 44.

45. Defendants state that the allegations contained in Paragraph 45 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 45. To the extent an answer is required, Defendants deny the allegations contained in Paragraph 45.

46. Defendants state that the allegations contained in Paragraph 46 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 46. Moreover, the documents referenced in Paragraph 46 speak for themselves. To the extent an answer is required, Defendants deny the allegations in Paragraph 46.

47. Defendants state that the allegations contained in Paragraph 47 represent legal conclusions to which no response is required. To the extent a response is required, Defendants admit that the pension plan submitted Forms 5500 to the U.S. Department of Labor, which

documents speak for themselves. To the extent an answer is required, Defendants deny the allegations in Paragraph 47.

48. Defendants state that the allegations contained in Paragraph 48 represent legal conclusions to which no response is required. To the extent a response is required, Defendants admit that the pension plan submitted Forms 5500 to the U.S. Department of Labor, which documents speak for themselves. To the extent an answer is required, Defendants deny the allegations in Paragraph 48.

49. Defendants state that the allegations contained in Paragraph 49 represent legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 49.

50. Admitted.

51. Defendants state that the allegations contained in Paragraph 51 represent legal conclusions to which no response is required. Moreover, the allegations in Paragraph 51 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 51. To the extent a response is required, Defendants deny the allegations contained in Paragraph 51.

52. Defendants state that the allegations contained in Paragraph 52 represent legal conclusions as to which no response is required. Defendants further state that the allegations in Paragraph 52 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 52. To the extent a response is required, Defendants deny the allegations contained in Paragraph 52.

53. Defendants state that the allegations contained in Paragraph 53 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 53.

54. Defendants state that the allegations contained in Paragraph 54 contain legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 54.

55. Defendants state that the allegations contained in Paragraph 55 contain legal conclusions as to which no response is required. Moreover, the allegations contained in Paragraph 55 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 55. To the extent a response is required, Defendants deny the allegations in Paragraph 55.

56. Defendants state that the allegations contained in Paragraph 56 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 56. To the extent a response is required, Defendants deny the allegations contained in Paragraph 56.

57. Defendants state that the allegations contained in Paragraph 57 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 57. To the extent a response is required, Defendants deny the allegations contained in Paragraph 57.

58. Defendants state that the allegations contained in Paragraph 58 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 58. To the extent a response is required, Defendants deny the allegations contained in Paragraph 58.

59. Defendants state that the allegations in Paragraph 59 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 59. To the extent a response is required, Defendants deny the allegations in Paragraph 59.

60. Defendants state that the allegations in Paragraph 60 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 60. To the extent a response is required, Defendants deny the allegations in Paragraph 60.

61. Defendants state that the allegations in Paragraph 61 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 61. To the extent a response is required, Defendants deny the allegations in Paragraph 61.

62. Defendants state that the allegations in Paragraph 62 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 62. To the extent a response is required, Defendants deny the allegations in Paragraph 62.

63. Defendants state that the allegations in Paragraph 63 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 63. To the extent a response is required, Defendants deny the allegations in Paragraph 63.

64. Defendants state that the allegations in Paragraph 64 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 64. To the extent a response is required, Defendants deny the allegations in Paragraph 64.

65. Defendants state that the documents referenced in Paragraph 65 speak for themselves and, accordingly, no response is required. Defendants further state that the

allegations in the last sentence of Paragraph 65 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in the last sentence of Paragraph 65. To the extent a response is required, Defendants deny the allegations in Paragraph 65.

66. Defendants state that the allegations in Paragraph 66 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 66. To the extent a response is required, Defendants deny the allegations contained in Paragraph 66.

67. Defendants state that the allegations in Paragraph 67 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 67. To the extent a response is required, Defendants deny the allegations contained in Paragraph 67.

68. Defendants state that the documents referenced in Paragraph 68 speak for themselves and, accordingly, no response is required. Defendants further state that the allegations in the last sentence of Paragraph 68 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in the last sentence of Paragraph 68. To the extent a response is required, Defendants deny the allegations in Paragraph 68.

69. Defendants state that the allegations in Paragraph 69 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 69. To the extent a response is required, Defendants deny the allegations contained in Paragraph 69.

70. Defendants state that the allegations in Paragraph 70 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations

contained in Paragraph 70. To the extent a response is required, Defendants deny the allegations contained in Paragraph 70.

71. Defendants state that the allegations in Paragraph 71 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 71. Defendants further state that the allegations in Paragraph 71 contain legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 71.

72. Defendants state that the allegations in Paragraph 72 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 72. To the extent a response is required, Defendants deny the allegations in Paragraph 72.

73. Defendants state that the allegations in Paragraph 73 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 73. Defendants further state that the allegations in Paragraph 73 contain legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 73.

74. Defendants state that the documents referenced in Paragraph 74 speak for themselves and, accordingly, no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 74.

75. Denied.

76. Defendants state that the allegations in Paragraph 76 represent legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 76.

77. Defendants state that the allegations in Paragraph 77 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 77. To the extent a response is required, Defendants deny the allegations in Paragraph 77.

78. Defendants state that the allegations in Paragraph 78 represent legal conclusions as to which no response is required. Defendants further state that the allegations in Paragraph 78 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 78. To the extent a response is required, Defendants admit that the pension plan submitted Forms 5500 to the U.S. Department of Labor, which documents speak for themselves, and Defendants deny the remaining allegations in Paragraph 78.

79. Defendants state that the allegations in Paragraph 79 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 79. To the extent a response is required, Defendants deny the allegations in Paragraph 79.

80. Defendants state that the allegations in Paragraph 80 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 80. Moreover, the document reference in Paragraph 80 speaks for itself. To the extent a response is required, Defendants deny the allegations in Paragraph 80.

81. Defendants state that the allegations in Paragraph 81 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 81. To the extent a response is required, Defendants deny the allegations in Paragraph 81.

82. Defendants state that the allegations in Paragraph 82 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 82. To the extent a response is required, Defendants deny the allegations in Paragraph 82.

83. Defendants state that the allegations in Paragraph 83 represent legal conclusions as to which no response is required. Defendants further state that the document referenced in Paragraph 83 speaks for itself. Moreover, the allegations in Paragraph 83 are vague and ambiguous and uncertain as to time, and Defendants lack knowledge and information to admit or deny what Principal knew. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 83. To the extent a response is required, Defendants deny the allegations in Paragraph 83.

84. Defendants state that the allegations in Paragraph 84 represent legal conclusions as to which no response is required. Defendants further state that the allegations in Paragraph 84 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations contained in Paragraph 84. To the extent a response is required, Defendants deny the allegations in Paragraph 84.

85. Defendants state that the allegations in Paragraph 85 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 85. To the extent a response is required, Defendants deny the allegations in Paragraph 85.

86. Defendants state that the allegations in Paragraph 86 represent legal conclusions as to which no response is required. Defendants further state that the allegations in Paragraph 86 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in

Paragraph 86. To the extent a response is required, Defendants deny the allegations in Paragraph 86.

87. Defendants state that the allegations in Paragraph 87 represent legal conclusions as to which no response is required. Defendants further state that the allegations in Paragraph 87 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 87. To the extent a response is required, Defendants deny the allegations in Paragraph 87.

88. Defendants state that the allegations in Paragraph 88 represent legal conclusions as to which no response is required. Defendants further state that the allegations in Paragraph 88 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 88. To the extent a response is required, Defendants deny the allegations in Paragraph 88.

89. Defendants state that the allegations in Paragraph 89 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 89. To the extent a response is required, Defendants admit that Principal has not sent the Queens Village Board of Directors any writing information them of Queen's Village's failure to make required contributions, and Defendants deny the remaining allegations in Paragraph 89.

90. Defendants state that the allegations in Paragraph 90 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants admit that Principal did not bring a civil action against Queens Village, and Defendants deny the remaining allegations in Paragraph 90.

91. Defendants admit that Principal did not file a civil action against Queens Village. Defendants lack knowledge or information sufficient to admit the truth of the remaining

allegations set forth in Paragraph 91; accordingly, Defendants deny the remaining allegations contained in Paragraph 91.

92. Defendants admit that Christopher Dagg sent a letter dated December 8, 2017 to the Administrator of the J-Cap Pension Plan. The contents of that document speak for itself. To the extent a response is required, Defendants deny the remaining allegations contained in Paragraph 92.

93. Defendants state that the allegations in Paragraph 93 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 93. Defendants further state that the document referenced in Paragraph 93 speaks for itself. To the extent a response is required, Defendants deny the allegations in Paragraph 93.

94. Defendants state that the allegations in Paragraph 94 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 94. To the extent a response is required, Defendants deny the allegations in Paragraph 94.

95. Defendants state that the allegations in Paragraph 95 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 95. To the extent a response is required, Defendants deny the allegations in Paragraph 95.

96. Defendants state that the allegations in Paragraph 96 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants admit that the IRS promulgated the Revenue Procedure 2016-51, which speaks for itself, and Defendants deny all remaining allegations in Paragraph 96.

97. Defendants state that the allegations in Paragraph 97 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 97.

98. Defendants state that the allegations in Paragraph 98 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 98.

99. Defendants state that the allegations in Paragraph 99 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 99. Moreover, the allegations in Paragraph 99 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 99.

100. Defendants state that the allegations in Paragraph 100 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 100. To the extent a response is required, Defendants deny the allegations in Paragraph 100.

CLASS ACTION ALLEGATIONS

101. Defendants state that the summary of this lawsuit does not represent factual allegations to which a response is required. To the extent a response is required, Defendants admit that the named plaintiffs have brought this lawsuit, and the First Amended Complaint speaks for itself; Defendants deny all remaining allegations in Paragraph 101.

102. Defendants state that the summary of this lawsuit does not represent allegations to which a response is required. To the extent a response is required, Defendants admit that the named plaintiffs have brought this lawsuit, and the First Amended Complaint speaks for itself; Defendants deny all remaining allegations in Paragraph 102.

103. Defendants state that the allegations in Paragraph 103 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants admit that the pension plan submitted Forms 5500 to the U.S. Department of Labor, which documents speak for themselves.

104. Defendants state that the allegations in Paragraph 104 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants admit that the pension plan submitted Forms 5500 to the U.S. Department of Labor, which documents speak for themselves, and Defendants deny all remaining allegations in Paragraph 104.

105. Defendants state that the allegations in Paragraph 105 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants lack knowledge or information sufficient to admit the truth of the allegations in Paragraph 105 and, accordingly, denies the allegations in Paragraph 105.

106. Defendants state that the allegations in Paragraph 106 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 106.

107. Defendants state that the allegations in Paragraph 107 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants lack knowledge or information sufficient to admit the truth of the allegations set forth in Paragraph 107; accordingly, Defendants deny the allegations in Paragraph 107.

108. Defendants state that the allegations in Paragraph 108 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 108.

109. Defendants state that the allegations in Paragraph 109 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 109.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

110. Paragraphs 1-109 are incorporated by reference as if fully set forth herein.

111. Defendants state that the allegations in Paragraph 111 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 111.

112. Defendants state that the allegations in Paragraph 112 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 112.

113. Defendants state that the allegations in Paragraph 113 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 113.

114. Defendants state that the allegations in Paragraph 114 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 114.

115. Defendants state that the allegations in Paragraph 115 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 115.

116. Defendants state that the allegations in Paragraph 116 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 116.

SECOND CLAIM FOR RELIEF

117. Paragraphs 1-116 are incorporated by reference as if fully set forth herein.

118. Defendants state that the allegations in Paragraph 118 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 118.

119. Defendants state that the allegations in Paragraph 119 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 119.

120. Defendants state that the allegations in Paragraph 120 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 120.

121. Defendants state that the allegations in Paragraph 121 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 121. Defendants further state that the allegations in Paragraph 121 contain legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 121.

122. Defendants state that the allegations in Paragraph 122 are vague and ambiguous and uncertain as to time. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 122. Defendants further state that the allegations in Paragraph 122 contain legal

conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 122.

THIRD CLAIM FOR RELIEF

123. Paragraphs 1-122 are incorporated by reference as if fully set forth herein.

124. Defendants state that the allegations in Paragraph 124 contain legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 124.

125. Defendants state that the allegations in Paragraph 125 contain legal conclusions as to which no response is required. Defendants further state that they lack information and belief sufficient to admit the truth of the allegations set forth in Paragraph 125; accordingly, Defendants deny the allegations contained in Paragraph 125.

126. Defendants state that the allegations in Paragraph 126 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 126. To the extent a response is required, Defendants deny the allegations in Paragraph 126.

127. Defendants state that the allegations in Paragraph 127 are vague and ambiguous. Accordingly, Defendants can neither admit nor deny the allegations in Paragraph 127. To the extent a response is required, Defendants deny the allegations in Paragraph 127.

128. Defendants state that the allegations in Paragraph 128 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 128.

129. Defendants state that the allegations in Paragraph 129 represent legal conclusions as to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 129.

PRAYER FOR RELIEF

In response to Plaintiffs' Prayer for Relief and each subpart thereof, Defendants deny that Plaintiffs are entitled to any of the relief requested or to any relief whatsoever, and denies all allegations therein. Defendants pray that the Court deny Plaintiffs all relief requested.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Court lacks subject matter jurisdiction over this action, and cannot provide any relief to Plaintiffs because Plaintiffs lack standing under Article III of the United States Constitution.

Second Affirmative Defense

Plaintiffs' claims are barred in whole or in part by the applicable statute of limitations.

Third Affirmative Defense

Plaintiffs fail to state a claim or cause of action upon which relief can be granted.

Fourth Affirmative Defense

Plaintiffs' claims are barred in whole or in part by the doctrine of laches or estoppel.

Fifth Affirmative Defense

To the extent Plaintiffs have stated a claim upon which relief can be granted, Plaintiffs have proximately caused, contributed to, or failed to mitigate any and all losses claimed.

Sixth Affirmative Defense

Plaintiffs' claimed relief does not constitute appropriate equitable relief under ERISA § 502(a)(3), 29 U.S.C. § 1132(a)(3).

Seventh Affirmative Defense

This action may not be maintained as a class action because Plaintiffs cannot satisfy the requirements of Federal Rule of Civil Procedure 23.

Eighth Affirmative Defense

Queens Village Defendants are complying with their fiduciary obligation to enforce the pension plan's right to payment of the debt allegedly owed it by Queens Village.

Reservation of Rights

Defendants reserve the right to assert any additional affirmative defenses that may be discovered or disclosed during the course of additional discovery and investigation.

CROSS CLAIMS

Pursuant to Federal Rule of Civil Procedure 13(g), Defendants hereby assert, in the alternative, cross claims for indemnity or contributions against Defendant Delaware Charter Guaranty and Trust Company, d/b/a Principal Trust Company ("Principal"), in the event that Defendants are held liable as a co-fiduciary for any or all of Principal's alleged breaches.

1. Principal cannot be held liable as a co-fiduciary unless Principal committed a breach of fiduciary duty.

2. In the event that any or all of the Queens Village Defendants are held liable as a co-fiduciary, it will be as a result of a breach of fiduciary duty by Principal, for which Principal is primarily, if not exclusively, responsible.

3. The Second Circuit has held that "incorporating traditional trust law's doctrine of contribution and indemnity into the law of ERISA is appropriate." *Chemung Canal Tr. Co. v. Sovran Bank/Maryland*, 939 F.2d 12, 18 (2d Cir. 1991).

4. Accordingly, in the event that any or all of Queens Village Defendants are held liable as a co-fiduciary, Queens Village Defendants are entitled to indemnification or contribution from Principal in the amount of any judgment against Queens Village Defendants, including but not limited to any award of damages, fees, costs, or other relief.

PRAYER FOR RELIEF

WHEREFORE, Queens Village Defendants ask this Court to dismiss the Complaint and enter judgment in favor of the Queens Village Defendants and to grant such other and further relief as justice may require.

Dated: October 1, 2019

Respectfully Submitted,

/s/

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of October, 2019, the foregoing was served upon the following counsel for Plaintiffs and for Defendant Principal by electronic filing.

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_____/s/_____
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