

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

DERALD MORGAN, RICK AND CINDY)
GRAVER, WILLIAM AND GLORIA PHIPPS,)
and DAVID LOTT,)

Complainants,)

v.)

File No. WC-2017-0037

CARL RICHARD MILLS,)
CARRIAGE OAKS ESTATES,)
DISTINCTIVE DESIGNS, and)
CARING AMERICANS TRUST)
FOUNDATION, INC. (f/k/a Caring)
Americans Foundation, Inc.))

Respondents.)

**REPLY TO RESPONDENTS' STATEMENT OF ADDITIONAL UNCONTROVERTED
MATERIAL FACTS**

COME NOW Complainants Derald Morgan, Rick and Cindy Graver, William and Gloria Phipps, and David Lott ("Complainants") by and through counsel, Schenewerk & Finkenbinder, Attorneys at Law, LLC, and for their Reply to Respondents' Statement of Additional Uncontroverted Material Facts, state as follows:

STATEMENT OF ADDITIONAL UNCONTROVERTED FACTS

15. Respondents are not and have never been subject to the jurisdiction of the Public Service Commission because they do not, nor have they ever, operated a public utility. *Exhibit B, Respondents' Motion to Dismiss Complainant's Amended Petition.*

RESPONSE: Deny. Whether Respondents are subject to the jurisdiction of the Public Service Commission is a legal conclusion to which no response is required. Bare legal

conclusions in motions for summary judgment are properly disregarded. *Xavier v. Bumbarner & Hubbell Anesthesiologists*, 923 S.W.2d 428, 433 (Mo. App. W.D. 1996).

16. In accordance with Section 393.825 and 393.900 RSMo, the Missouri Department of Natural Resources has found the Not-for-Profit to be in full statutory compliance. *Exhibit 3, Respondents Motion to Dismiss Complainants Second Amended Complaint.*

RESPONSE: Deny. Whether Respondents complied with Sections 393.825 and 393.900, RSMo. is a legal conclusion to which no response is required. Bare legal conclusions in motions for summary judgment are properly disregarded. *Xavier v. Bumbarner & Hubbell Anesthesiologists*, 923 S.W.2d 428, 433 (Mo. App. W.D. 1996).

Respectfully Submitted,
SCHENEWERK & FINKENBINDER,
ATTORNEYS AT LAW, LLC

By: /s/ Karl Finkenbinder

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CERTIFICATE OF SERVICE

The below signed counsel hereby certifies that a true and accurate copy of the foregoing was sent to all counsel of record via email on January 22, 2018, to the following email addresses:

Bryan Wade [bryan.wade@huschblackwell.com]; Ryan Smith [ryan.smith@ded.mo.gov]; Whitney Smith [whitney.smith@huschblackwell.com]; and Jacob Westen [Jacob.westen@psc.mo.gov]

/s/ Karl Finkenbinder
Karl Finkenbinder