

In The  
**Supreme Court of the United States**

—◆—  
STATE OF DELAWARE,

*Plaintiff,*

v.

COMMONWEALTH OF PENNSYLVANIA  
AND STATE OF WISCONSIN,

*Defendants,*

AND

STATE OF ARKANSAS, *et al.*,

*Plaintiffs,*

v.

STATE OF DELAWARE,

*Defendant.*

—◆—  
**STATE OF DELAWARE'S ANSWER  
TO COMMONWEALTH OF  
PENNSYLVANIA'S COUNTERCLAIM**  
—◆—

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November 18, 2016

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The State of Delaware, by and through undersigned counsel, hereby answers the Commonwealth of Pennsylvania's Counterclaim as follows:



### **COUNTERCLAIMS**

23. Admitted that Pennsylvania seeks to take custody of sums escheated to the State of Delaware by MoneyGram Payment Systems, Inc. Otherwise denied.

24. Paragraph 24 states a legal conclusion and Pennsylvania's request for relief to which no response is required.

#### **I. Jurisdiction**

25. Admitted.

#### **II. Parties**

26. Admitted.

27. Admitted.

28. Admitted.

#### **III. Facts**

##### **A. MoneyGram Money Orders and Official Checks**

29. Admitted.

30. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 30.

31. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 31.

32. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 32.

33. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 33.

34. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 34.

35. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 35.

36. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 36.

37. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 37.

38. Denied.

39. Denied.

40. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 40.

41. Admitted.

42. Denied.

43. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 43.

44. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 44.

45. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 45.

46. Denied.

47. Denied.

48. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 48.

49. Paragraph 49 states legal conclusions to which no response is required.

50. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 50.

51. Admitted that as to the value of MoneyGram uncashed Official Checks, MoneyGram is not the owner. Otherwise, Delaware lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 51.

52. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 52.

**B. Pennsylvania's Disposition of Abandoned and Unclaimed Property Act**

53. Paragraph 53 states legal conclusions to which no response is required.

54. Admitted that Paragraph 54 quotes, in part, from 72 P.S. § 1301.1. Otherwise denied.

55. Admitted that MoneyGram issues money orders. Otherwise denied.

56. Paragraph 56 states legal conclusions to which no response is required.

57. Paragraph 57 states legal conclusions to which no response is required.

58. Paragraph 58 states legal conclusions to which no response is required.

59. Paragraph 59 states legal conclusions to which no response is required.

60. Paragraph 60 states legal conclusions to which no response is required.

61. Admitted that Pennsylvania, Wisconsin, and eighteen other States retained a third-party auditor, Treasury Services Group ("TSG"), to conduct a review of MoneyGram's Official Checks. Otherwise denied.

62. Admitted that Pennsylvania has asserted that an amount estimated to be \$10,293,869.50 represents a sum equal to the amount previously escheated to Delaware for Official Checks that Pennsylvania asserts were purchased in Pennsylvania from 2000-2009. Otherwise denied.

63. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 63.

64. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 64.

65. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 65.

66. Paragraph 66 states legal conclusions to which no response is required.

67. Paragraph 67 states legal conclusions to which no response is required.

68. Admitted.

69. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 69.

70. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 70.



71. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 71.

**C. Disposition of Abandoned Money Orders and Traveler's Checks Act**

72. Paragraph 72 contains Pennsylvania's characterization of a Supreme Court decision that speaks for itself and to which no response is required.

73. Admitted that Senator Hugh Scott was one of three sponsors of S. 1895 introduced in the United States Senate on or about May 29, 1973. Delaware lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 73.

74. Admitted that Paragraph 74 contains a partial quote of language contained in 119 Cong. Rec. S9749-9750 (daily ed. May 29, 1973). Otherwise denied.

75. Admitted that 12 U.S.C. §§ 2501-03 contains the Disposition of Abandoned Money Orders and Traveler's Checks Act. Delaware lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 75.

76. Admitted that 12 U.S.C. § 2503 contains the quoted language.

77. Admitted that 12 U.S.C. § 2502(1) contains the quoted language.

78. Paragraph 78 states legal conclusions to which no response is required.

79. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 79.

80. Paragraph 80 states legal conclusions to which no response is required.

81. Paragraph 81 states legal conclusions to which no response is required.

82. Paragraph 82 states legal conclusions to which no response is required.

#### **D. Pennsylvania's Demands for Payment**

83. Admitted.

84. Admitted.

85. Admitted that on January 25, 2016, Pennsylvania sent Delaware a letter which contains the statement, "please accept this letter as a demand that you remit the above total to the Pennsylvania Treasury." Otherwise denied.

86. Admitted that included with the January 25, 2016 letter was a spreadsheet which Pennsylvania asserted "substantiat[ed] the foregoing total." Otherwise denied.

87. Admitted that the January 25, 2016 letter included the phrase, "please accept this letter as a demand that MoneyGram no longer submit any

uncashed 'official checks' that were purchased in Pennsylvania to Delaware." Otherwise denied.

88. Admitted that Delaware responded to the January 25, 2016 letter on February 3, 2016. Otherwise denied.

89. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 89.

90. Delaware lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 90.

91. Admitted that Delaware has taken the position that the sums payable on the Pennsylvania Checks are not subject to custody by the Pennsylvania Treasurer. Otherwise denied.

#### **E. Federal Common Law**

92. Admitted that Delaware has taken the position that the sums payable on the Pennsylvania Checks are not subject to custody by the Pennsylvania Treasurer. Otherwise denied.

93. Admitted.

94. Admitted that the quoted language is contained in the cited decision. To the extent Paragraph 94 states a legal conclusion, no response is required.

95. Paragraph 95 states legal conclusions to which no response is required.

96. Admitted that significant sums are escheated to Delaware each year under the secondary rule. Otherwise denied.

97. Admitted.

98. Admitted that the quoted language is contained in the cited concurrence in denial of certiorari. Otherwise denied.

99. To the extent Paragraph 99 states a legal conclusion, no response is required. Otherwise denied.

#### **IV. Claims for Relief**

##### **Counterclaim I: Declaratory Judgment Act, 28 U.S.C. § 2201**

100. Delaware's responses to the foregoing paragraphs of Pennsylvania's counterclaims are incorporated as if fully set forth herein.

101. Admitted.

102. Admitted.

103. Admitted that a ruling by this Court on whether MoneyGram Official Checks are subject to the custody of their state of purchase or the state of MoneyGram's incorporation will conclusively resolve this dispute. Otherwise denied.

104. Admitted.

105. Paragraph 105 states a legal conclusion and Pennsylvania's request for relief to which no response is required.

106. Paragraph 106 states a legal conclusion and Pennsylvania's request for relief to which no response is required.

107. Paragraph 107 states a legal conclusion and Pennsylvania's request for relief to which no response is required.

108. Paragraph 108 states a legal conclusion and Pennsylvania's request for relief to which no response is required.

109. Paragraph 109 states a legal conclusion and Pennsylvania's request for relief to which no response is required.

110. Paragraph 110 states a legal conclusion and Pennsylvania's request for relief to which no response is required.

**Counterclaim II: Declaratory Judgment Act,  
28 U.S.C. § 2201**

111. Delaware's responses to the foregoing paragraphs of Pennsylvania's counterclaims are incorporated as if fully set forth herein.

112. Denied.

113. Admitted.

114. Admitted that a ruling by this Court on whether MoneyGram Official Checks are subject to the custody of their state of purchase or the state of MoneyGram's incorporation will conclusively resolve this dispute. Otherwise denied.

115. Admitted.

116. Paragraph 116 states a legal conclusion and Pennsylvania's request for relief to which no response is required.

117. Paragraph 117 states a legal conclusion and Pennsylvania's request for relief to which no response is required.

118. Paragraph 118 states a legal conclusion and Pennsylvania's request for relief to which no response is required.

**Counterclaim III: Violation of  
12 U.S.C. § 2503**

119. Delaware's responses to the foregoing paragraphs of Pennsylvania's counterclaims are incorporated as if fully set forth herein.

120. Paragraph 120 states legal conclusions to which no response is required.

121. Paragraph 121 states legal conclusions to which no response is required.

122. Paragraph 122 states legal conclusions to which no response is required.

The remaining paragraphs contain Pennsylvania's demand for relief to which no response is required.

Respectfully submitted,

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