**IN THE GENERAL COURT OF JUSTICE**

**SUPERIOR COURT DIVISION**

**FILE NO.**

**STATE OF NORTH CAROLINA**

**NEW HANOVER COUNTY**

Franks, Marteke Latwuan, )

*Petitioner ) PETITION*

*) FOR*

*) DECLARATORY JUDGMENT*

V )

)

STATE OF NORTH CAROLINA, )

MARTEKE LATWUAN FRANKS, )

*respondents. )*

**OVERVIEW OF THIS ACTION**

Pursuant to the Declaratory Judgments Act in North Carolina General Statutes Article 26 Chapter 1, Petitioner moves the court for a declaratory judgment and/or decree, and declaratory relief, concerning the legal relationship, status, rights and duties, and a determination of construction of instruments involving parties, and petitioner’s rights which are and have been restrained by respondent’s Acts.

**PARTIES**

Petitioner sojourns upon the lands within the territorial jurisdiction of this Court and petitions this Court pursuant to the statutory right granted to it by Congress and adopted by the Commonwealth. Petitioner furthermore grants personal jurisdiction.

Respondent STATE OF NORTHCAROLINA is within judicial knowledge and subject to the jurisdiction of this Court. Respondent has a main office at 2 South Salisbury Street Raleigh, North Carolina. Proper service of process has been achieved in accordance with due process and provisions of statutes concerning Entities (artificial persons) and registered agents.

All Parties have been given Notice of this Action by petitioner and this Court in Accordance with law.

**JURISDICTION**

1. Jurisdiction is proper in this Court. See N.C, Gen. Stat. §§ 1-253 ("Declaratory Judgment

Act"), 7A-245 (a)(3).

1. The purpose of the Declaratory Judgment Act is to settle and afford relief from

uncertainty and insecurity with respect to rights, status, and other legal relations. *See*

*Nationsuide Mut. Ins. Co. v. Roberrs, 261 N.C. 285,287 (1964).*

1. An action under the Declaratory Judgment Act may be used to determine the construction

of a statute. *See City of Raleigh v. Norfolk S. Ry,, 275 N.C. 454,461 (1969).*

1. The Declaratory Judgment Act is to be liberally construed and administered. *See*

*Nalionwide Mut. Ins. Co, v. Roberts, 261 N.C. 285,287 (1 964).*

1. This Court has Jurisdiction over the persons and subject matter pursuant to N.C. Gen. Stat. 1-82.,

et seq., U.S.C. 28 section 2201, and the Declaratory Judgments Act.

1. The defense of sovereign immunity is not applicable to this action because it is

brought pursuant to N.C.G.S. § 1-253, et seq., by which the State of North Carolina

and its entities have waived any defense of sovereign immunity in connection with

an action by “[a]ny person interested under a…written contract or other writings

constituting a contract, or whose rights, status or other legal relations are affected by

a…contract or franchise, may have determined any question of construction or

validity arising under the…contract, or franchise, and obtain a declaration of rights,

status, or other legal relations thereunder. A contract may be construed either before

or after there has been a breach thereof.” N.C.G.S. § 1-254.

1. An actual, justiciable controversy exists between the Petitioner and Respondents at present. *See*

*Sharpe v. Park Newspapers of Lumberton, Inc., 3 1 7 N.C. 579,583 (1 986).*

There is an actual controversy (see affidavit attached).

**CAUSE OF ACTION**

Petitioner is unsure and uncertain as to his rights and obligations concerning a public record, an instrument, showing an organization was organized which was issued by respondents. Petitioner’s rights are being effected by statutes, regulations and ordinances of the respondents and their political subdivisions and municipal corporations as a result of the issue and use of the instrument.

Petitioner wishes and desires to correct any and all misunderstandings between the parties. Petitioner believes and thereon alleges that respondents are his trustees, agents, substitutes and employees. Respondents have acted as if petitioner is an agent, employee, and trustee or property belonging to respondents or some Corporation.

**ISSUES**

Respondent State of North Carolina (“State”) is a sovereign state of the United States of America, with its capital and seat of government in Raleigh, Wake County, North Carolina, is capable of suing and being sued, and is subject to the laws and Constitution of North Carolina and is charged with the duty, under the Constitution of North Carolina, of guarding and maintaining the public education system. See N.C. Const. art. I, § 15.

Respondent New Hanover County is a body politic and corporate, capable of suing and being sued whose purpose is, among other things, to provide capital outlay funds to the public schools operating in or to students residing in Mecklenburg County, North Carolina.

Petitioner has contacted, inquired, given notice, and spoken with respondent's agents and has in good faith attempted to clarify, verify, ascertain, and discover the legal relationship, status, rights , duties and obligations which appears to exist between the parties. No response was ever given or question answered or inquiry satisfied.

Petitioner believes and thereon alleges that the respondents have a legal duty to speak, but have remained silent so that petitioner will act to his legal injury, and that the respondents will obtain a thing of value from petitioner as a result.

Petitioner is uncertain as to allegation of facts surrounding the creation of an organization and the Token, Evidence, Proof and Mark evidencing its legal existence. Petitioner believes and thereon alleges the organization was organized in a state of infancy and as a result of false and misleading words and information on a report filed with the registrar.

Petitioner is the executor of his estate and claims an estate in the estate of the Agency/Organization. Petitioner believes and thereon alleges that respondents used petitioner’s property in commercial and legal transactions without petitioner’s knowledge or consent.

Petitioner Believes and thereon alleges Certain Rights are guaranteed by law, and that petitioner is entitled to the rents, produce, profits, monies and proceeds derived from his property. Plaintiff alleges and claims injury and loss as a result of respondents acts.

**FINDINGS OF EVIDENCE, SUBSEQUENT FACTS AND SUBSEQUENT TRUTH**:

a) The record shows that Respondent failed to confirm that Respondent “accept complete

responsibility and liability” in regards to all relevant lawful matters, and

b) The record shows that Respondent failed to “confirm that Respondent will hold

the Petitioner Franks, Marteke Latwuan harmless throughout this entire lawful process”, and

c) The record shows that Respondent failed to confirm that Respondent are able, willing and

competent to lawfully respond to any and all lawful questions;

***Expressum facit cessare tacitum***. What is expressed renders what is implied silent. (Maxim of Law) therefore:

I) Respondent accept that Respondent are not performing in good conscience

i.e. not with bona fide intentions, and

II) Respondent accept that Respondent are not willing to confirm that Respondent will not hold the

Petitioner harmless and that Respondent indeed intend to harm Petitioner, and

III) Respondent consider that Respondent are unable, unwilling and/or incompetent in the discharging

of Respondent lawful obligations;

**CLAIM FOR RELIEF**

NOW WHEREFORE, petitioner demands a declaration and decree concerning:

1. The Petitioner has a right to a declaration from this Court that Petitioner’s relationship to the Entity styled MARTEKE LATWUAN FRANKS and the legal duties and rights associated with the operation of a State Agency, and the status of petitioner in relationship to respondents at law.
2. The Petitioner has a right to a declaration from this Court that Clarification and a determination of construction of the instrument, and the facts surrounding its Creation.
3. The Petitioner has a right to a declaration from this Court that Petitioner’s rights are affected by respondents Acts, Statutes, regulations, and ordinances.

Furthermore, Petitioner demands declaratory relief in form of an order directing respondent to:

(1)        Injunctive relief against the Respondent’s enforcement of any statute, ordinance, or regulation;

(2)        Injunctive relief to compel enforcement of any statute, ordinance, or regulation;

(3)        Declaratory relief to establish or disestablish the validity of any statute, ordinance, or regulation; or

(4)        The enforcement or declaration of quiet enjoyment.

**PRAYER FOR RELIEF**

The plaintiff prays for: 1) special damages in the sum of $17,500; 2) general damages according to proof [proved in trial]; 3) reasonable attorney's fees; 4) costs of suit; 5) Grant preliminary and permanent injunctive relief. 6) such other and further relief as the court shall deem proper.

Immediately stay or restrain and preliminarily and permanently enjoin the STATE OF NORTH CAROLINA from illegally asserting jurisdiction it does not have over the Petitioner.

**VERIFICATION**

I certify, under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 25th of April, 2014. By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Acting Executor

c/o Orange Street-1305

New Hanover County, North Carolina

without the United State

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AFFIDAVIT

I Franks,Marteke Latwuan do solemnly and sincerely declare, that

[insert declaration] The undersigned author believes himself/herself to be a part of the ecclesia, a free inhabitant\* of what is called, "\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_", and all matters that pertain to him/her are ecclesiastical matters. He/she has repented and has been forgiven for showing any honor to godless inventions of added laws outside of the law of the land, The Holy Bible, 1611 King James, in obedience to the command forbidding such acts. Therefore he/she is not an attorney, is not schooled in Roman Civil Law, and his/her communication is to be examined in light of the substantive nature of the Law of the Land\*, without any Civil Law form, which is foreign to him/her.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declaration Act 1835.