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IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

STATE OF DELAWARE,

Plaintiff,

STATE OF TEXAS,

Plaintiff-Intervenor,

vs.

STATE OF NEW YORK,

Defendant.

**ANSWER OF THE STATE OF NEW YORK TO
THE COMMONWEALTH OF MASSACHUSETTS'
FIRST AMENDED COMPLAINT**

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Counsel of Record

ROBERT A. FORTE
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August 6, 1993

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The State of New York, defendant, by its counsel, for its Answer to the Commonwealth of Massachusetts' First Amended Complaint, says:

1. Admits paragraph 1.
2. Admits paragraph 2.
3. Admits paragraph 3.
4. Admits paragraph 4 except denies that the unclaimed distributions held by The Depository Trust Company or Cede

& Co. result from the failure of the brokerage and bank members of The Depository Trust Company to claim the property.

5. Admits the first sentence of paragraph 5. Denies the second sentence of that paragraph because its overbroad characterization of the complaints in intervention is inaccurate.

6. Admits paragraph 6.

7. Admits in paragraph 7 that the Supreme Court rendered its decision on March 30, 1993, but denies that the paragraph accurately reflects the content of the decision which speaks for itself.

8. Admits paragraph 8

9. Admits paragraph 9.

10. Admits paragraph 10 but denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning Massachusetts state law.

11. Admits only that paragraph 11 asserts the right of the Commonwealth of Massachusetts to pursue its claims in this case.

12. Admits paragraph 12 except denies that "unclaimed distributions" are held only by the State of New York.

13. Admits paragraph 13 except denies that New York has escheated unclaimed distributions from intermediaries incorporated in the Commonwealth of Massachusetts other than the brokerages identified in paragraph 14.

14. Admits paragraph 14.

15. Denies paragraph 15.

AFFIRMATIVE DEFENSES

16. The affirmative defenses previously raised by New York to the complaints in intervention are repeated and realleged as though fully set forth herein.

17. New York's escheat of unclaimed securities distributions from the Massachusetts incorporated brokerages named in paragraph 14 of the Amended Complaint is proper under the Court's primary rule.

COUNTERCLAIMS

18. New York claims entitlement to the custodial possession of unclaimed distributions wrongfully taken by the Commonwealth of Massachusetts which are owed to creditors whose last known addresses on the debtor intermediaries' books and records are in New York.

19. New York claims entitlement to the custodial possession of unclaimed distributions wrongfully taken by the Commonwealth of Massachusetts from debtor intermediaries incorporated in New York when the creditors' last known addresses are not shown by the debtor intermediaries' books and records.

20. New York claims entitlement to the custodial possession of unclaimed distributions wrongfully taken by the Commonwealth of Massachusetts from debtor intermediaries whose principal places of business are in New York when the debtor intermediaries' books and records do not show the creditors' last known addresses and the debtor intermediaries are not incorporated in any State.

21. New York claims entitlement to the custodial possession of unclaimed distributions wrongfully taken by the Commonwealth of Massachusetts and owed to New York pursuant to any ruling, principle or determination announced or to be announced by the Court.

PRAYER FOR RELIEF

WHEREFORE, the State of New York prays:

1. The Commonwealth of Massachusetts' prayer for relief be denied.

2. Judgment be entered on New York's counterclaims for any unclaimed distributions to which New York is entitled which were wrongfully taken by the Commonwealth of Massachusetts, plus prejudgment interest at the prevailing rate.

3. Such other and further relief as this Court deems just and proper.

Dated: New York, New York
August 6, 1993

Respectfully submitted,

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