

DISTRICT COURT, CITY AND COUNTY OF DENVER,
COLORADO
1437 Bannock Street, Denver, Colorado 80202

Plaintiffs:

Ananda Marga, Inc., a Colorado Nonprofit Corporation; Fernando Kumar (aka Ac. Tirthananda Avt.), an individual; Donald W. Nelson (aka Ac. Vedaprajnananda Avt.), an individual; Rubens C. Teixeira (aka Ac. Rainhitananda Avadhya), an individual; Prabha Thakur (aka Avtk. Ananda Vibha Ac.), an individual; Jody Wright (aka Ac. Devanistha), an individual; William C. Dorf (aka Valmiki), an individual; L. Michael Hemmelgarn (aka Vinaya), an individual; Wayland Secrest (aka Vishadeva), an individual; Ananda Marga of Denver, Inc., a Colorado Nonprofit Corporation; Ananda Marga Pracaraka Samgha, Inc., a Colorado Nonprofit Corporation; Ananda Marga Women's Welfare, Inc., a Kansas Nonprofit Corporation; Ananda Marga Yoga Society, Inc., an Illinois Nonprofit Corporation; Ananda Dhiira Sierra Foothills, Inc., a California Nonprofit Corporation; Ananda Marga of Albany, Inc., a New York Nonprofit Corporation; Ananda Marga of Eugene, Inc., an Oregon Nonprofit Corporation; New Day Ananda Marga School of Portland, Inc., an Oregon Nonprofit Corporation; Progressive Schools, Inc., a Florida Nonprofit Corporation; Ananda Marga of Minneapolis, Inc., a Minnesota Nonprofit Corporation; Ananda Marga of North Carolina, Inc., a North Carolina Nonprofit Corporation; Ananda Marga of New York City, Inc., a New York Nonprofit Corporation; Ananda Marga of Philadelphia, Inc., a Pennsylvania Nonprofit Corporation; Ananda Marga of Vermont, Inc., a Vermont Nonprofit Corporation

v.

Defendants:

Acharya Vimalananda Avadhuta, an individual; Clark E. Forden, an individual; Dipendra Kumar Singh (aka Acarya Dharmapremananda Avadhuta), an individual; Dirk Duill (aka Acarya Divyalokeshananda Avadhuta), an individual; Shyam Sundar Kaushesh, an individual; Piyush Bhatnagar, an individual; and Steve Maniscalco, an individual

Attorneys for Defendants:

George W. Mueller (#5292)
Robert T. Cosgrove (#12217)
Burns, Wall, Smith and Mueller, P.C.
303 East 17th Avenue, Suite 800
Denver, Colorado 80203
Telephone: 303-830-7000
Facsimile: 303-830-6708
gmueller@bwsml.com; rcosgrove@bwsml.com

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Case No: 2010CV1867

Division 1

**DEFENDANTS' FIRST AMENDED JOINT ANSWER TO FIRST AMENDED
COMPLAINT,
AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

COME NOW Defendants Acarya Vimalananda Avadhuta, Clark E. Forden, Dipendra Kumar Singh (a.k.a. Acarya Dharmapremandanda Avadhuta), Dirk Duill (a.k.a. Acarya Divyalokeshananda Avadhuta), Shyam Sundar Kaushesh and Piyush Bhatnagar (collectively "Defendants"), by counsel, and in answer to Plaintiffs' First Amended Complaint ("Complaint") state the following. The Defendants deny all allegations not specifically admitted herein.

Jurisdiction and Venue

1. Paragraph 1 states a legal conclusion, to which no answer is required.
2. The first sentence of paragraph 2 states a legal conclusion, to which no answer is required. The Defendants admit that they are the rightful officers and directors of Ananda Marga, Inc., ("AM Inc.") which is incorporated, transacts business, and owns property in Colorado. Defendants deny the last sentence of paragraph 2.
3. Paragraph 3 states a legal conclusion, to which no answer is required.

The Parties

1. Defendants deny that the Corporation is a Plaintiff. Given the dispute regarding the lawful leadership of the Corporation, as more fully stated in Defendants' Counterclaims and incorporated herein, Defendants will refer to the individual Plaintiffs collectively as the "Former Board." Defendants admit that AM Inc. is a Colorado nonprofit corporation with offices at 854 Pearl Street, City and County of Denver, Colorado 80203.
2. Defendants deny that Fernando Kumar (a.k.a. Ac. Tiirthananda Avt.) is a current Director and Officer of AM Inc.
3. Defendants deny that Donald W. Nelson (a.k.a. Ac. Vedaprajinananda Avt.) is a current Director and Officer of AM Inc.
4. Defendants deny that Rubens C. Texeira (a.k.a. Ac. Rainjitananda Avt.) is a current Director and Officer of AM Inc.
5. Defendants deny that Prabha Thakur (a.k.a. Avtk. Ananda Vibba Ac.) is a current Director of AM Inc.
6. Defendants deny that Jody Wright (a.k.a. Ac. Devanistha) is a current Director of AM Inc.
7. Defendants deny that William C. Dorf (a.k.a. Valmiki) is a current Director of AM Inc.

8. Defendants deny that L. Michael Hemmelgarn (a.k.a. Vinaya) is a current Director of AM Inc.
9. Defendants deny that Wayland Secrest (a.k.a. Vishvadeva) is a current Director of AM Inc.
10. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 10 of the Complaint and for that reason deny the same.
11. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 11 of the Complaint and for that reason deny the same.
12. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 12 of the Complaint and for that reason deny the same.
13. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 13 of the Complaint and for that reason deny the same.
14. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 14 of the Complaint and for that reason deny the same.
15. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 15 of the Complaint and for that reason deny the same.
16. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 16 of the Complaint and for that reason deny the same.
17. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 17 of the Complaint and for that reason deny the same.
18. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 18 of the Complaint and for that reason deny the same.
19. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 19 of the Complaint and for that reason deny the same.
20. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 20 of the Complaint and for that reason deny the same.
21. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 21 of the Complaint and for that reason deny the same.
22. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 22 of the Complaint and for that reason deny the same.

23. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 23 of the Complaint and for that reason deny the same.
24. Defendants admit the allegations contained in paragraph 24 of the Complaint.
25. Defendants admit the allegations contained in paragraph 25 of the Complaint.
26. Defendants admit the allegations contained in paragraph 26 of the Complaint.
27. Defendants admit the allegations contained in paragraph 27 of the Complaint.
28. Defendants admit the allegations contained in paragraph 28 of the Complaint.
29. Defendants deny that Mr. Bhatnagar is an Indian citizen. Defendants admit the remaining allegations in paragraph 29 of the Complaint.
30. Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 16 and, on that basis, deny the same.

General Allegations

31. Defendants hereby incorporate their answers to all the previous paragraphs as if fully set forth herein.
32. Defendants admit the allegations contained in paragraph 32 of the Complaint.
33. Defendants state that AM Inc.'s 1974 Bylaws speak for themselves and deny any allegations contained in paragraph 33 that are inconsistent therewith .
34. Defendants state that AM Inc.'s 1974 Bylaws speak for themselves and deny any allegations contained in paragraph 34 that are inconsistent therewith. Defendants admit that AM Inc. is referred to within the global organization of Ananda Marga Pracaraka Samgha ("AMPS") as the Sectorial Office of the New York Sector. Defendants admit that AM Inc. is associated with AMPS and affirmatively state that the central office of AMPS ("AMPS Central") is the parent organization for AM Inc.
35. Defendants admit that AM Inc. is recognized as a church by the Internal Revenue Service (IRS) for purposes of recognition of tax exempt status under section 501(c)(3) of the Internal Revenue Code. Defendants further admit that the IRS has recognized AM Inc.'s affiliates as churches and as subordinate entities to AM Inc. Defendants further admit that one of AM Inc.'s objectives, among many, is to propagate the philosophy and practices of Yoga.
36. Defendants admit that AM Inc. has subordinate affiliates throughout the United States and North America, among other locations. Defendants further admit that AM Inc. maintains control over the assets of its subordinates. Defendants affirmatively state that AMPS Central, as

the global parent organization, maintains ultimate authority and control over the assets of the assets of AM Inc. and its subordinate affiliates.

37. Defendants admit the allegations contained in paragraph 37 of the Complaint but deny that paragraph 37 contains a complete and adequate description of the governance structure of AM Inc.

38. Defendants admit the allegations contained in the first three sentences of paragraph 38 of the Complaint but deny that these allegations provide a complete and adequate description of the governance structure of AM Inc. Defendants deny the allegations contained in the last sentence of paragraph 38 of the Complaint.

39. Defendants deny the allegations contained in paragraph 39 of the Complaint.

40. Defendants lack knowledge or information sufficient to form a belief in the truth of the first two sentences of paragraph 40 and on that basis deny the same. Defendants deny the last sentence in paragraph 40 of the Complaint.

41. Defendants deny the allegations in paragraph 41 of the Complaint.

42. Defendants deny the allegations in paragraph 42 of the Complaint.

43. Defendants admit that AM Inc.'s subordinate affiliates are subordinate entities of AM Inc. and that AM Inc. controls the assets of each subordinate affiliate. Defendants deny that such structure is in sharp contrast to the governing structure in the rest of the AMPS organization and deny that the allegations contained in paragraph 43 of the Complaint provide a complete and adequate description of the governance structure of AM Inc.

- a. The Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 43a and on that basis deny the same.
- b. The Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 43b and on that basis deny the same.
- c. The Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 43c and on that basis deny the same.
- d. The Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 43d and on that basis deny the same.

- e. The Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 43e and on that basis deny the same.
- f. The Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 43f and on that basis deny the same.

44. The Defendants lack knowledge or information sufficient to form a belief in the truth of the allegations contained in paragraph 44 and on that basis deny the same.

45. As the Plaintiffs have alleged amendments to the Bylaw of AM Inc. and have not specified which Bylaws they refer to in paragraph 45 of the Complaint, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45 of the Complaint and on that basis deny the same.

46. Defendants state that the 1982 Amended Bylaws speak for themselves and deny any allegations in paragraph 46 of the Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 46 of the Complaint.

47. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 and, on that basis, deny the same. Defendants further deny that any resolution adopted by the Former Board after October 30, 2005 had any legal effect.

48. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 and, on that basis, deny the same. Defendants further deny that any resolution adopted by the Former Board after October 30, 2005 had any legal effect.

49. Defendants deny that Fernando Kumar is a Director of AM Inc. or the current Sectorial Secretary of AM Inc. Defendants admit that Plaintiff Kumar was appointed as Sectorial Secretary in 2003.

50. Defendants deny that the individual named Plaintiffs are the duly appointed and elected Board of Directors and Officers of AM Inc.

51. Defendants admit that AMPS's founder and spiritual leader died in 1990. Defendants further admit that there has since been disagreement within AMPS and that a so-called faction of AMPS members purport to have established a competing governing body of in 2003, challenging the legal authority of AMPS/AMPS Central. Defendants lack knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations regarding a 2007 split and the formation of another so-called faction and on that basis deny the same. Defendants further deny that AM Inc.'s Board of Directors could not determine which of the so-called factions had authority over AMPS, AMPS Central, and AM Inc. Defendants lack knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations regarding amendments to AM Inc.'s Bylaws and on that basis deny the same. Defendants further deny that any action taken by

the Former Board after October 30, 2005 had any legal effect. Defendants deny any remaining allegations in paragraph 51 not specifically admitted herein.

52. Defendants admit that there are lawsuits pending in India through which one or more dissident groups seek to wrest control from AMPS Central. Defendants deny that the Indian courts do not recognize any single claimant or its General Secretary to be AMPS/AMPS Central. The Defendants deny the remaining allegations in paragraph 52 of the Complaint.

53. The Defendants admit that they are associated with AMPS/AMPS Central and that Ac. Dhruvananda Avadhuta is its General Secretary. The Defendants admit that the Central Office of AMPS is currently located in Ranchi, India but deny that AMPS/AMPS Central is a faction competing for control. The Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 53 of the Complaint and on that basis deny the same.

54. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 and, on that basis, deny the same. Defendants further deny that any resolution adopted by the Former Board after October 30, 2005 had any legal effect.

55. Defendants admit that Ac. Dhruvananda Avt., the General Secretary of AMPS/AMPS Central, sent a letter to Defendant Vimalananda on or around January 9, 2009, and state that this letter speaks for itself. Defendants therefore deny any allegations in paragraph 55 inconsistent therewith.

56. Defendants admit that Defendant Vimalananda appointed new members of the Board of AM Inc. under the direction of the General Secretary of AMPS/AMPS Central and that the individuals listed in paragraph 56 of the Complaint are the new members of the Board of AM Inc.

57. Defendants deny all the allegations contained in paragraph 57 of Complaint.

58. Defendants admit that they directed that a letter be sent to the Former Board on or around February 12, 2010. Defendants further state that the February 12, 2010 letter speaks for itself and therefore deny any allegations in paragraph 58 of the Complaint inconsistent therewith. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 58 and on that basis deny the same.

59. Defendants admit that on or around February 12, 2010, Defendants Forden and Duill sent a letter to the members of the New York Sector of AMPS. Defendants further state that that letter speaks for itself and therefore deny any allegations in paragraph 59 of the Complaint inconsistent therewith.

60. Defendants admit that AM Inc. holds real and personal property in the state of Colorado and that such property should now be subject to the control of the Defendants, as the duly appointed Board of AM Inc.

61. Defendants admit that Ac. Dhruvananda Avt., Defendant Ac. Vimalananda Avt. and one or more of the other Defendants has represented to individuals, businesses, affiliates and others both within and outside the state of Colorado that the Defendants are the duly appointed Board of Directors of AM Inc. Defendants deny making such representations to the Internal Revenue Service. Defendants further deny that any such representations are false or misleading.

FIRST CLAIM FOR RELIEF
Declaratory Relief

62. Defendants hereby incorporate their answers to all the previous paragraphs as if fully set forth herein.

63. Defendants deny the allegations contained in paragraph 63 of the Complaint.

64. Defendants admit that they are the rightful Directors and/or Officers of AM Inc. and have mentioned legal action against the Former Board as an option if the Former Board refused to cooperate with the Defendants.

65. Defendants admit that the Court may grant declaratory relief, but deny that the Court may grant the declaratory judgment that Plaintiffs seek.

SECOND CLAIM FOR RELIEF
Injunctive Relief

66. Defendants hereby incorporate their answers to all the previous paragraphs as if fully set forth herein.

67. Defendants deny the allegations in paragraph 67 of the Complaint.

68. Defendants deny the allegations in paragraph 68 of the Complaint.

69. Defendants deny the allegations in paragraph 69 of the Complaint.

THIRD CLAIM FOR RELIEF
Violation of the Colorado Nonprofit Corporation Act—Unauthorized Assumption of Corporation Powers

70. Defendants hereby incorporate their answers to all the previous paragraphs as if fully set forth herein.

71. Defendants admit that they act as and on behalf of AM Inc. and deny the remaining allegations in paragraph 71 of the Complaint.

72. Defendants deny the allegations in paragraph 68 of the Complaint.

FOURTH CLAIM FOR RELIEF

Violation of the Colorado Nonprofit Corporation Act—Unauthorized Possession of Corporate Assets and Property

73. Defendants hereby incorporate their answers to all the previous paragraphs as if fully set forth herein.
74. Defendants deny the allegations in paragraph 74 of the Complaint.
75. Defendants deny the allegations in paragraph 75 of the Complaint.
76. Defendants deny the allegations in paragraph 76 of the Complaint.
77. Defendants further deny that the Plaintiffs are entitled to the relief requested or to any relief whatsoever.

AFFIRMATIVE DEFENSES

Defendants set forth herein their affirmative defenses to the Complaint.

1. The Complaint fails to state a claim upon which relief can be granted.
2. The Plaintiffs have failed to join one or more indispensable parties.
3. The individual Plaintiffs have no authority or capacity to sue on behalf of AM Inc.
4. Ac. Dhruvananda Avadhuta is the rightful and legitimate General Secretary of AMPS and as such has the power to remove or transfer Secretaries of all levels within AMPS, including Plaintiff Fernando Kumar.
5. AMPS Central, with registered headquarters in Ananda Nagar and administrative offices currently located in Ranchi, is the rightful and legitimate governing body of AMPS and has power and control over AM Inc., its property, assets, members and subordinate affiliates.
6. Plaintiff Fernando Kumar's act in convening a meeting of the individual Plaintiffs to amend AM Inc.'s Bylaws was *ultra vires* because it occurred after October 30, 2005, the date on which Kumar was removed as Sectorial Secretary by the legitimate religious authority of AMPS.
7. The individual Plaintiffs' act purporting to amend AM Inc.'s Bylaws was not approved by AMPS Central and was therefore *ultra vires*.
8. AM Inc. and its subordinate affiliates have held and do hold their respective assets and real and personal property for the benefit of AMPS Central, the global parent organization.

9. The Plaintiffs' claims are barred by the doctrine of unclean hands.
10. The scope of the Court's subject matter jurisdiction and the judicial methodologies available to the Court for adjudicating some issues that will arise under this dispute is limited by the First Amendment.
11. The Plaintiffs' claims are barred by the principles of judicial estoppel.
12. The Plaintiffs' claims are barred by the principles of equitable estoppel.
13. The Plaintiffs' claims are barred by the principle of unconscionability.
14. Defendants intend to rely upon any further defense learned during the course of discovery or trial of this matter.

WHEREFORE, Defendants, individually and collectively, respectfully request that this Court:

1. Enter judgment in favor of Defendants and against Plaintiffs on all counts;
2. Award Defendants their costs in this action, including but not limited to reasonable attorney's fees; and
3. Grant such other and further relief as this Court deems just and proper.

FIRST AMENDED COUNTERCLAIMS
FOR DECLARATORY AND INJUNCTIVE RELIEF

COME NOW Defendants and Counterplaintiffs Acharya Vimalananda Avadhuta, Clark E. Forden, Dipendra Kumar Singh (a.k.a. Acarya Dharmapremánada Avadhuta), Dirk Duill (a.k.a. Acarya Divyalokeshananda Avadhuta), Shyam Sundar Kaushesh, and Piyush Bhatnagar (collectively, "Counterplaintiffs"), by counsel, and for their counterclaims against the individual named Plaintiffs in the original action state the following.

Introduction

1. Ananda Marga is a religious denomination that has its origins in 7,000 year-old Asian spiritual traditions. Translated into English, its name means "path of bliss." Integral to Ananda Marga are service to the poor and needy and engaging in certain meditative practices.
2. Ananda Marga Pracaraka Samgha ("AMPS") is the religious organization founded in India in 1955 in which members of AMPS live out its social philosophy and religious practices. AMPS is registered and incorporated in India.

3. AMPS has follower-members located around the world and is organized into nine sectors, which are each in turn divided into regions, dioceses, and smaller units. The secretary (or head) of each of these units is a religious leader (a monk or nun) who is appointed by a leader in the global office in India. AMPS's global office is referred to as "AMPS Central." AMPS Central is the highest authority in AMPS, and the position of General Secretary is one of the second highest organizational authority within AMPS Central, after the President.

4. According to the teachings, social code and Constitution of AMPS, the General Secretary has many powers, including but not limited to the power to appoint or transfer secretaries of all levels within AMPS.

5. The sector of AMPS that encompasses the United States is known as the New York Sector. The New York Sector also encompasses Canada, Mexico, Central America and the Carribean Islands. Ananda Marga, Inc. ("AM Inc."), a nonprofit Colorado corporation and purported plaintiff in the original action, is the corporate entity for the New York Sectorial Office, the highest AMPS authority within the New York Sector. Each sector is led by a Sectorial Secretary, who is unilaterally appointed and can be unilaterally transferred or removed by the General Secretary of AMPS.

6. This dispute arose when the individual named Plaintiffs and Counterdefendants (herein referred to collectively as the "Former Board" or "Counterdefendants") unlawfully sought to incite an insurrection against AMPS Central by, among other things, (1) ignoring an order from the AMPS General Secretary removing Counterdefendant Fernando Kumar (a.k.a. Tiirthananda) as the Sectorial Secretary of the New York Sector, (2) purporting to make resolutions and amend the bylaws of AM Inc. so as to institutionalize the Former Board's disregard for the General Secretary's authority, and (3) continuing to act as and hold themselves out to be the rightful Board of Directors of AM Inc.

Jurisdiction and Venue

7. This action is brought pursuant to Rules 57 and 65 of the Colorado Rules of Civil Procedure and the Uniform Declaratory Judgments Act, for declaratory and injunctive relief to determine and enforce the rights of the Counterplaintiffs pursuant to the First Amendment of the Constitution of the United States.

8. This Court has personal jurisdiction over each individual Counterdefendant because they have willingly subjected themselves to the jurisdiction of this Court by purposely and willfully availing themselves of this Court in filing the original action.

9. This Court further has jurisdiction over the parties and subject matter of this litigation consistent with First Amendment limitations as articulated in *The Bishop and Diocese of Colorado v. Mote*, 716 P.2d 85 (Colo. 1986); *Levitt v. Calvary Temple of Denver*, 33 P.3d 1227 (Colo. App. 2001); *Watson v. Jones*, 80 U.S. (13 Wall.) 679 (1871); *Serbian Eastern Orthodox Diocese for the United States of America and Canada v. Miliojevich*, 426 U.S. 696 (1976); *Jones*

v. Wolf, 443 U.S. 595 (1979); and *Kedroff v. St. Nicholas Cathedral of the Russian Orthodox Church in North America*, 244 U.S. 94 (1952).

10. Venue is proper in the City and County of Denver pursuant to Rules 98(a) and (c) of the Colorado Rules of Civil Procedure.

The Parties

11. Defendant and Counterplaintiff Acharya Vimalananda Avadhuta (“Vimalananda”) is the rightfully appointed Sectorial Secretary and President of AM Inc., a Colorado nonprofit corporation with offices at 854 Pearl Street, City and County of Denver, Colorado, 80203.

12. Defendant and Counterplaintiff Clark E. Forden is the rightfully appointed corporate secretary of AM Inc.

13. Defendant and Counterplaintiff Dipendra Kumar Singh (a.k.a. Acarya Dharmapremananda Avadhuta) is the rightfully appointed Vice President of AM Inc.

14. Defendant and Counterplaintiff Dirk Duill (a.k.a. Acarya Divyalokeshananda Avadhuta) is the rightfully appointed Secretary and Treasurer of AM Inc.

15. Defendant and Counterplaintiff Shyam Sunkar Kaushesh is a rightfully appointed member of the Board of Directors of AM Inc.

16. Defendant and Counterplaintiff Piyush Bhatnagar is a rightfully appointed member of the Board of Directors of AM Inc.

17. Counterdefendant Fernando Kumar (a.k.a. Acarya Tirthananda Avadhuta) (“Tirthananda”) purports to be a current director and/or officer of AM Inc. and is currently wrongfully asserting and exercising control over the corporate affairs and property of AM Inc. in contravention of the proper religious authorities of AMPS and AM Inc.

18. Counterdefendant Donald W. Nelson (a.k.a. Acarya Vedaprajinananda Avadhuta) purports to be a current director and/or officer of AM Inc. and is currently wrongfully asserting and exercising control over the corporate affairs and property of AM Inc. in contravention of the proper religious authorities of AMPS and AM Inc.

19. Counterdefendant Rubens C. Texeira (a.k.a. Acarya Rainjitananda Avadhuta) purports to be a current director and/or officer of AM Inc. and is currently wrongfully asserting and exercising control over the corporate affairs and property of AM Inc. in contravention of the proper religious authorities of AMPS and AM Inc.

20. Counterdefendant Prabha Thakur (a.k.a. Avadhutika Ananda Vibha Acarya) purports to be a current director and/or officer of AM Inc. and is currently wrongfully asserting and exercising control over the corporate affairs and property of AM Inc. in contravention of the proper religious authorities of AMPS and AM Inc.

21. Counterdefendant Jody Wright (a.k.a. Acarya Devanistha) purports to be a current director and/or officer of AM Inc. and is currently wrongfully asserting and exercising control over the corporate affairs and property of AM Inc. in contravention of the proper religious authorities of AMPS and AM Inc.
22. Counterdefendant William C. Dorf (a.k.a. Valmiki) purports to be a current director and/or officer of AM Inc. and is currently wrongfully asserting and exercising control over the corporate affairs and property of AM Inc. in contravention of the proper religious authorities of AMPS and AM Inc.
23. Counterdefendant L. Michael Hemmelgarn (a.k.a. Vinaya) purports to be a current director and/or officer of AM Inc. and is currently wrongfully asserting and exercising control over the corporate affairs and property of AM Inc. in contravention of the proper religious authorities of AMPS and AM Inc.
24. Counterdefendant Wayland Secrest (a.k.a. Vishvadeva) purports to be a current director and/or officer of AM Inc. and is currently wrongfully asserting and exercising control over the corporate affairs and property of AM Inc. in contravention of the proper religious authorities of AMPS and AM Inc.

General Allegations

25. Counterplaintiffs hereby incorporate all the allegations from previous paragraphs as if fully set forth herein.

AMPS Religious Hierarchy

26. In 1955, spiritual leader Shrii Shrii Anandamurti (the “Guru”) founded an organization in India called Ananda Marga Pracaraka Samgha (“AMPS”), which translated into English means “the organization for the propagation of the path of bliss.” AMPS is an international religious organization built upon the spiritual philosophies of universalism and self-realization, and the social philosophy of service to humanity.
27. The Guru registered and incorporated AMPS in India under the West Bengal Societies Registration Act in 1964.
28. AMPS is a hierarchical religious organization with established spiritual and organizational governing structures.
29. The general members (“*margii*” in the singular, “*margiis*” in the plural) are those who have been initiated into the spiritual practice of Ananda Marga meditation by a certified AMPS teacher and who practice this meditation twice a day as prescribed in AMPS’s scriptural teachings.

30. Those who successfully master higher and more difficult levels of spiritual discipline may be elevated to higher titles of religious authority within AMPS through specific certification training programs established by the Guru.

31. A *margii* who rises in religious ranks may attain, in ascending order, to the titles of *tattvika*, *acarya* (alternatively spelled *acharya*), and finally *purodha*.

32. Some *margiis* who have been certified as *tattvika* and *acarya* may choose to take up monastic vows of celibacy and poverty and become an *avadhuta* (male) or *avadhutika* (female), a monk or nun. Because *avadhutas* dedicate their whole lives to advance the mission of AMPS, their vows require a stricter code of discipline and conduct and an uncompromising obedience to the direction of the *Purodha Pramukha*, the spiritual leader of AMPS.

33. In order to attain the next religious title, a *margii* must submit to examination to demonstrate having mastered the corresponding spiritual requirements. Each of these religious ranks is governed by an elected board that administers the examination, certifies the results, confers membership upon a successful examinee, supervises its members' conduct, and administers discipline to the members of its rank.

34. If necessary, a board may revoke the certificate of a member who violates the relevant codes of conduct, including the code of conduct that governs all AMPS *margiis*.

35. Because these religious titles are cumulative, with each new title adding further weight to a *margii's* spiritual credentials, a *margii* who has attained multiple religious titles is subject to the oversight of the boards of each spiritual rank. Thus an *acarya* is answerable to both the *Tattvika* Board and the *Acarya* Board for his or her conduct.

36. Because of the level of commitment required by the *avadhutas*, the monks or nuns, the *Avadhuta* Board is always involved in matters of *avadhuta* discipline.

37. The rank of *purodha* is the highest religious rank in AMPS.

38. AMPS's social code, *Caryacarya*, as propounded by the Guru, directs the manner in which the *margiis* are to conduct themselves with one another and as an organization. With respect to the structure of leadership within AMPS, *Caryacarya* instructs that, "[a]s far as possible, only *purodhas* will be elected or nominated for any responsible post of the Marga."

39. The *Purodha* Board is the highest spiritual body in AMPS. Its members are elected every five years from among the general body of *purodhas* of AMPS.

40. The *purodhas* also elect from among themselves one *purodha* to serve as the *Purodha Pramukha*, the highest authority in all of AMPS. The *Purodha Pramukha* is the spiritual head of AMPS and is elected for life.

AMPS Organizational Hierarchy

41. In addition to its hierarchy of religious authority, AMPS also has a hierarchy of organizational authority. The *purodhas* elect from among themselves members to serve on the Central Committee, the policy making body of AMPS. The Central Committee members are elected for five year terms.
42. The *Purodha Pramukha* is the *ex officio* President of the Central Committee and his approval is required for passage of all resolutions made and actions taken by the Central Committee.
43. The *Purodha Pramukha* selects one *purodha* from the Central Committee to be the General Secretary. The General Secretary manages the day-to-day affairs of AMPS.
44. Attached hereto as Exhibit 1 is a true and accurate copy of § 25 of the Constitution of AMPS.
45. Pursuant to Section 25 of the AMPS Constitution, the General Secretary convenes all meetings of AMPS, issues notices to the members, oversees the AMPS bank accounts in conjunction with the AMPS General Finance Secretary, and signs for all monies and properties on behalf of AMPS.
46. Section 25 also gives the General Secretary the power to incur debt on behalf of AMPS; sue or be sued on behalf of AMPS; and defend lawsuits against AMPS or its officers, employees, or members.
47. With respect to individual members, Section 25 of the AMPS Constitution gives the General Secretary “the power to appoint different level Secretaries/Branch Secretaries/Assistant Secretaries/members, or agents and employees, and to transfer any of them according to law and these regulations for proper administration of the affairs of the Society.” That same section gives the General Secretary the power to “suspend, discharge or remove any member and Branch Secretary, different level Secretaries/ Officers/Agents/Employees for violation of the code of conduct, directions or orders.”
48. The General Secretary announces his assignments and transfers through posting orders.
49. All actions taken and decisions made by the General Secretary are subject to the ultimate approval of the *Purodha Pramukha* in his capacity as President.
50. The Central Committee is further subdivided into departments, each responsible for different aspects of the governance of AMPS. These departments include finance, publications, training, public relations, and AMPS’s educational work and humanitarian relief efforts. The secretaries, or heads, of these departments make up the Central Executive Committee, a cabinet-like body whose members are selected from among the Central Committee members by the General Secretary. The General Secretary is the head of the Central Executive Committee.

51. Additionally, because AMPS is an incorporated entity in India, it is required by Indian law to have a Governing Body, a body that is similar to a Board of Directors for a U.S. Corporation. There is substantial overlap among the members of the Governing Body and the members of the Central Committee and Central Executive Committee.

52. The *margiis* refer collectively to the global religious and organizational authorities – the *Tattvika*, *Acarya*, *Avadhuta* and *Purodha* Boards, the Central Committee, the Central Executive Committee, the Governing Body, the General Secretary, and the President/*Purodha Pramukha* – as “AMPS Central.”

AMPS Global Structure

53. Because AMPS is an international organization, it has developed a global hierarchy designed to maintain AMPS Central’s oversight of the AMPS sectors throughout the world.

54. Internationally, AMPS is divided into nine geographic sectors, and each sector is led by an *avadhuta*, a monk, who is appointed by the General Secretary to be the Sectorial Secretary, subject to the approval of the President/*Purodha Pramukha*.

55. Only an *avadhuta* may serve as a Sectorial Secretary, and a Sectorial Secretary who ceases to be an *avadhuta* is disqualified from continuing to serve as Sectorial Secretary.

56. The Sectorial Secretary of a sector manages the day-to-day affairs of that sector and answers directly to the General Secretary of AMPS.

57. Pursuant to Section 25 of the AMPS Constitution, Sectorial Secretaries are appointed by the General Secretary of AMPS and may be transferred or removed by the General Secretary of AMPS, subject to the approval of the President/*Purodha Pramukha*.

58. The Sectorial Secretary also leads the Sectorial Executive Committee, which consists of the secretaries of sectorial departments. These departments correspond to the Central Committee departments. The Sectorial Secretary is the chair of the Sectorial Executive Committee and an *ex-officio* member of each sectorial department.

59. Each sectorial department secretary answers to both the Sectorial Secretary and the secretary in the Central Executive Committee who heads that particular department. For example the secretary of the sectorial education department answers to both the Sectorial Secretary and the education secretary on the Central Executive Committee.

60. Each sector is further divided into regions and dioceses. Each of these units has a governing structure similar to that at the Sectorial level. They are led by *avadhutas* who are chosen to be secretaries in the same manner as the Sectorial Secretary – appointed by the General Secretary subject to the approval of the President/*Purodha Pramukha*.

61. A Diocese Secretary reports directly to the Regional Secretary, who in turn reports to the Sectorial Secretary.

62. Dioceses are subdivided into *bhuktis* (also called districts), *upabhuktis* (or subdistricts), and smaller units in some instances. The leaders of these smaller units are general *margiis*, chosen by peers through an election process. The elected leader is then presented to the Regional Secretary for approval and, if approved, leads under the supervision of the Diocese, Regional, and Sectorial Secretaries.

AMPS In India

63. While the Guru was alive, he was the *Purodha Pramukha* and President of AMPS.

64. Although AMPS's registered headquarters is in the township of Ananda Nagar in the state of West Bengal, India, AMPS Central's administrative offices (the "Central Office") had been located in Kolkata, West Bengal ("Calcutta").

65. After the Guru's death in 1990, the different ethnic groups within AMPS in India disagreed over the location of the AMPS Central Office and over the governance and control of AMPS. These tensions culminated in 2002 when AMPS Central moved the Central Office from Calcutta to its registered headquarters in Ananda Nagar.

66. Those who objected to this move expressed their dissatisfaction by remaining behind in Calcutta, purporting to declare a new governing body of AMPS, and filed a civil suit in India challenging the authority of the AMPS Central Governing Body. These individuals are referred to collectively herein as the "Calcutta Dissidents."

67. Immediately following the filing of the suit by the Calcutta Dissidents, AMPS Central's headquarters in Ananda Nagar experienced a violent attack, and AMPS Central thereafter moved the Central Office to Ranchi, India as a safety measure.

68. In 2003 after conducting an internal judicial inquiry, the *Purodha Pramukha*, at the recommendation of the *Purodha* Board, expelled from AMPS those *purodhas* belonging to or sympathetic with the Calcutta Dissidents, and General Secretary Acarya Dhruvananda Avadhuta ("General Secretary Dhruvananda") expelled any non-*purodhas* with similar sentiments.

69. Since 2003, the Calcutta Dissidents have raised multiple legal challenges to the authority of AMPS Central and particularly of General Secretary Dhruvananda.

70. Every court in India that has ruled upon any action involving legal challenges to the authority of the Central Office and General Secretary Dhruvananda has recognized the Central Office in Ranchi as the existing AMPS governing body, has recognized Dhruvananda as the General Secretary of AMPS, and has ordered that the Central Office and General Secretary Dhruvananda remain in control of AMPS.

First Litigation – Title Suit 305/2003

71. In 2003, the Calcutta Dissidents filed civil suit T.S. 305/2003 in the court of the Civil Judge (Senior Division) in the district of Purulia, West Bengal, Republic of India, a trial court with original jurisdiction over matters of equity, among other things (the "Trial Court"). The

Calcutta Dissidents sought three things: (1) a declaration that the Calcutta Dissidents' leaders are the governing body of AMPS, (2) a temporary and permanent injunction ordering General Secretary Dhruvananda and other officers of the Central Office to cease from continuing to act as AMPS Central, and (3) a court order directing General Secretary Dhruvananda and the Central Office leaders to hand over the control of AMPS to the Calcutta Dissidents.

72. The Trial Court denied the petition for temporary injunction on March 18, 2006 and ruled that the Central Office should continue to act as AMPS Central while the remaining claims were pending. The Calcutta Dissidents appealed that decision.

73. On July 19, 2006 the Additional District Judge, 2nd court, Purulia, the court with intermediate appellate jurisdiction over such matters (the "Intermediate Appellate Court"), affirmed the Trial Court's ruling on different grounds, stating that "the existing Governing Body will remain as it is and they will function as functioning now," until final resolution of the Calcutta Dissidents' remaining claims. The Intermediate Appellate Court also placed some additional requirements upon General Secretary Dhruvananda and the Central Office.

74. On appeal, the Calcutta High Court, the highest court in the state of West Bengal (the "High Court"), affirmed the Trial Court's and Intermediate Appellate Court's rulings denying the temporary injunction and ordered that "the present governing body of the Samgha [society] shall continue to function." However, the High Court stayed the additional requirements imposed by the Intermediate Appellate Court. The High Court issued its order on September 25, 2006.

75. A true and accurate copy of the High Court's order is attached hereto as Exhibit 2.

76. The remaining issues in T.S. 305/2003 are still pending with the trial court.

Second Litigation – Title Suit 359/2003

77. In 2003, the Calcutta Dissidents also filed civil suit T.S. 359/2003 in the Trial Court, seeking that General Secretary Dhruvananda and the Central Office leaders be temporarily enjoined from continuing to act as AMPS Central and that General Secretary Dhruvananda and the Central Office be enjoined from giving effect to the orders expelling the Calcutta Dissidents.

78. The Trial Court again denied the petition for temporary injunction on June 14, 2005, and the Calcutta Dissidents appealed.

79. The Intermediate Appellate Court set aside the Trial Court's ruling in part on December 24, 2007. It ordered that the expulsion orders should not be given effect, but nonetheless stated that "it would not be prudent to restrain [AMPS Central] from continuing in the office." The Intermediate Appellate Court affirmed that "the present governing body will remain in management" of AMPS.

80. The remaining issues in T.S. 359/2003 are still pending with the trial court.

Third Litigation – Ananda Marga Primary School

81. In 2008, an *avadhutika* or nun who had been posted by General Secretary Dhruvananda in 2003 to be the principal of the Ananda Marga Primary School and who was subsequently replaced in 2007 by General Secretary Dhruvananda filed civil suit T.S. 90/2008 in the Trial Court. She sought a declaration that General Secretary Dhruvananda is not the General Secretary of AMPS and asked the Trial Court to temporarily and permanently enjoin General Secretary Dhruvananda from giving effect to his posting order replacing her as principal.

82. In considering the temporary injunction the Trial Court reviewed the history of litigation by the Calcutta Dissidents against General Secretary Dhruvananda and the Central Office and denied her petition on July 1, 2008.

83. The Trial Court found that “on the strength of the orders of the Ld. [Learned] Appellate Court as well as the Hon’ble [Honorable] High Court, the function of [Dhruvananda] as the General Secretary of the said Samgha cannot be challenged.” The Trial Court further found that under the AMPS Constitution, General Secretary Dhruvananda “has every right and status to pass any transfer or posting order at any time to the plaintiff.”

84. A true and accurate copy of the Trial Court’s opinion and order is attached hereto as Exhibit 3.

AMPS in the United States: Tax-Exemption Matters

85. In 1970, the New York Sector of AMPS was duly incorporated in Kansas as the Ananda Marga Yoga Society of Kansas, Inc. (“AMYS”), the predecessor to AM Inc.

86. From the time of its original incorporation, AMYS recognized AMPS as its parent organization.

87. AMYS was a parent organization to other AMPS-related organizations in the United States.

88. On November 19, 1970, the Internal Revenue Service (“IRS”) recognized AMYS’s status as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code (the “Code”). The IRS further issued AMYS Group Exemption Number 2306 and determined that qualified subordinates of AMYS would also be exempt from Federal income tax under § 501(c)(3) of the Code.

89. On March 21, 1974, AM Inc. was duly incorporated pursuant to the Colorado Nonprofit Corporation Act.

90. The Internal Revenue Service (“IRS”) has issued a determination letter recognizing AM Inc. as a church, exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code.

91. In an April 15, 1980 letter to AM Inc., the IRS acknowledged that AM Inc. had become the new parent organization and therefore the holder of Group Exemption Number 2306.
92. In August 1981, AMYS became a subordinate organization to AM Inc., and its individual tax exemption was terminated.
93. Attached as Exhibit 4 is a true and accurate copy of AM Inc.'s 2001 IRS Form 990, the federal return required of tax-exempt organizations, which it filed with the IRS on April 30, 2002.
94. In this 2001 Form 990, AM Inc. identifies "Ananda Marga Central, India" as "our parent organization" and reflects monies contributed by AM Inc. to AMPS Central to support "our religious, charitable and educational outreach efforts."
95. The 2001 Form 990 reflects that AM Inc.'s total revenue for 2001 was \$408,246, and that AM Inc. gave \$92,817, almost one-quarter of its revenue for the year, to AMPS Central. This amount was over 70% of the money that AM Inc. expended for its program services.
96. The 2001 Form 990 was signed by Counterdefendant Rubens C. Texeira ("Texeira") under penalty of perjury.
97. Attached as Exhibit 5 is a true and accurate copy of AM Inc.'s 2002 IRS Form 990, which it filed with the IRS on May 9, 2003.
98. In this 2002 Form 990, AM Inc. identifies "Ananda Marga Central, India" as "our parent organization" and reflects monies contributed by AM Inc. to AMPS Central to support "our religious, charitable and educational outreach efforts."
99. The 2002 Form 990 reflects that AM Inc.'s total revenue for 2002 was \$404,219, and that AM Inc. gave \$47,684, over one-tenth of its revenue for the year, to AMPS Central. This amount was almost half of the money that AM Inc. expended for its program services.
100. The 2002 Form 990 was signed by Counterdefendant Texeira under penalty of perjury.
101. Attached as Exhibit 6 is a true and accurate copy of AM Inc.'s 2003 IRS Form 990, which it filed with the IRS on May 10, 2004.
102. In this 2003 Form 990, AM Inc. identifies "Ananda Marga Central, India" as "our parent organization" and reflects monies contributed by AM Inc. to AMPS Central to support "our religious, charitable and educational outreach efforts."
103. The 2003 Form 990 reflects that AM Inc.'s total revenue for 2002 was \$360,928, and that AM Inc. gave \$37,818, over one-tenth of its revenue for the year, to AMPS Central. This amount was over 65% of the money that AM Inc. expended for its program services.
104. The 2003 Form 990 was signed by Counterdefendant Texeira under penalty of perjury.

AMPS in the United States: Immigration Visas

105. Because the AMPS General Secretary may assign *margiis* from other countries to various posts in the United States, AM Inc., or its predecessor AMYS, has regularly sought immigration visas for these individuals.

106. In these visa applications and accompanying documentation, AM Inc., or its predecessor AMYS, has repeatedly represented to the United States immigration authority that these individuals are assigned to the New York Sector by the General Secretary and/or AMPS Central.

107. On October 11, 1972, the United States Immigration and Naturalization Service (“INS”) recognized the Ananda Marga Yoga Society of Kansas, Inc. as a religious organization and, under section 203(a)(3) of the Immigration and Nationality Act, granted clergy status to the person then appointed by the General Secretary to be the Sectorial Secretary of the New York Sector.

108. In this 1972 ruling, the INS regional commissioner found based on the record before him that “the Acting General Secretary of the Ananda Marga Pracaraka Samgha in India appointed the beneficiary as a religious minister attached to the Ananda Marga Yoga Society in North America, which is a branch of Ananda Marga Pracaraka Samgha (Central).”

109. On February 14, 2003, AM Inc. submitted to the visa office of the United States Consulate in New Delhi, India a letter to accompany the R-1 Visa Petition for a Mr. Shambhu Sharan. A true and accurate copy of this letter is attached as Exhibit 7.

110. This February 14, 2003 letter states that AMPS’s “Central authorities recently extended Mr. Sharan’s assignment to North America for 5 years” and requests an R-1 multiple entry visa for Mr. Sharan.

111. This February 14, 2003 letter was signed by Counterdefendant Texeira.

112. On July 7, 2005, AM Inc. submitted to the visa office of the United States Consulate in Calcutta, India (“Calcutta Visa Office”) a letter to accompany the R-1 Visa Petition for a Mr. Ramanand Singh. A true and accurate copy of this letter is attached as Exhibit 8.

113. This July 7, 2005 letter states that AMPS’s “Central authorities recently extended the assignment of Mr. Singh to North America for 5 years” and requests an R-1 multiple entry visa for Mr. Singh.

114. This July 7, 2005 letter was signed by Counterdefendant Texeira.

115. Upon information and belief, these R-1 visa applications were granted.

AMPS in the United States: Bylaws

116. Upon information and belief, AM Inc.'s Directors certified and adopted bylaws on March 30, 1974.

117. AM Inc.'s Directors amended its bylaws on July 21, 1982 (the "1982 Amended Bylaws"). A true and accurate copy of the 1982 Amended Bylaws is attached hereto as Exhibit 9.

118. The 1982 Amended Bylaws state that AM Inc. "is affiliated with 'Ananda Marga Pracaraka Samgha, Central,' the global parent organization."

119. Article 5 of the 1982 Amended Bylaws states that "[t]he Sectorial Secretary is appointed by the General Secretary of Ananda Marga Pracaraka Samgha, Central. The remaining officers shall be appointed by the Sectorial Secretary."

120. The 1982 Amended Bylaws also state that any amendments to the Bylaws must be approved by the Sectorial Secretary.

121. Upon information and belief, the original 1974 Bylaws articulated a similar process for the selection of the Sectorial Secretary of AM Inc. and for the approval of amending AM Inc.'s bylaws.

Insubordination by the Former Board

122. In 2003, General Secretary Dhruvananda appointed Counterdefendant Tiirthananda as the Sectorial Secretary of the New York Sector of AM Inc.

123. At the time, Tiirthananda had attained to the titles of *tattvika* and *acarya* and had taken the *avadhuta* monastic vows of poverty, celibacy, and uncompromising obedience.

124. On October 30, 2005, General Secretary Dhruvananda issued an order transferring Counterdefendant Tiirthananda to another sector and replacing Tiirthananda with a new Sectorial Secretary for the New York Sector.

125. A true and accurate copy of the October 30, 2005 posting order is attached hereto as Exhibit 10.

126. Despite the established governing order of AMPS, Tiirthananda disregarded General Secretary Dhruvananda's transfer order and refused to vacate his post as New York Sectorial Secretary.

127. Upon information and belief, Tiirthananda led the members of the Former Board in purporting to amend AM Inc.'s bylaws so as to prevent the unilateral removal of the Sectorial Secretary by the General Secretary. The Former Board purports to have adopted these amended bylaws in January 2006.

128. Upon information and belief, all members of the Former Board were aware of General Secretary Dhruvananda's October 30, 2005 posting order transferring Tiirthananda when the Former Board purported to amend the bylaws in 2006.

129. The 2006 amended bylaws have no legal effect because Tiirthananda was removed as Sectorial Secretary on October 30, 2005. Therefore, all actions by Tiirthananda as purported Sectorial Secretary after October 30, 2005, including but not limited to the purported approval of the 2006 amended bylaws, were unauthorized.

130. All actions taken by the Former Board since October 30, 2005 have no legal effect.

The EC Movement

131. Tiirthananda and the Former Board do not purport to belong to the Calcutta Dissidents or to act under their direction.

132. Tiirthananda and the members of the Former Board belong to or are sympathetic to a movement that calls itself Effecting Change ("EC").

133. Upon information and belief, the EC movement has not elected its own Central Committee, General Secretary, or *Purodha Pramukha*.

134. The EC movement seeks to incite an insurrection against General Secretary Dhruvananda, the *Purodha Pramukha*, and other leaders in AMPS Central.

Appointment of a New AM Inc. Board of Directors

135. On February 28, 2006 General Secretary Dhruvananda once again issued a posting order removing Tiirthananda as Sectorial Secretary of New York Sector. He appointed Counterplaintiff Vimalananda as the new Sectorial Secretary and directed Tiirthananda to report to the Central Office in Ranchi to receive his next assignment.

136. A true and accurate copy of the February 28, 2006 posting order is attached hereto as Exhibit 11.

137. After being appointed Sectorial Secretary of the New York Sector, Counterplaintiff Vimalananda wrote several letters to Tiirthananda asking him to hand over control of AM Inc. and the New York Sector. Tiirthananda ignored these requests.

138. From 2007 through 2008, after learning of the purported amendments to AM Inc.'s bylaws, General Secretary Dhruvananda issued several letters and other communications to the Counterdefendant Former Board members advising them that "no change whatsoever can be made without approval and consent of the parent body of the Ananda Marga." General Secretary Dhruvananda informed them that such changes were "highly irregular, objectionable, illegal and unethical," and directed the Former Board "to revert the unauthorized changes without any further delay," and send copies of the old and new bylaws to AMPS Central.

139. AMPS Central also sent communications to Tirthananda personally, informing him that his behavior was “a gross violation of GURU’s mandate, irregular and unethical, and a serious offence that amounts to defiance of the code of conduct prescribed for [*avadhutas*].”
140. Tirthananda and the Former Board effectively ignored each of these letters.
141. Faced with the Former Board’s repeated insubordination, General Secretary Dhruvananda directed Counterplaintiff Vimalananda, the Sectorial Secretary, to appoint a new Board of Directors of AM Inc. in a communication dated January 9, 2009.
142. A true and accurate copy of the January 9, 2009 communication from General Secretary Dhruvananda to Counterplaintiff Vimalananda is attached hereto as Exhibit 12.
143. Pursuant to Articles 5 and 6 of the 1982 Amended Bylaws, Counterplaintiff Vimalananda removed all members of the Former Board as Directors of AM Inc. and appointed all the Counterplaintiffs and defendant Steve Maniscalco as the Directors of AM Inc.
144. Counterplaintiff Vimalananda communicated this change to the rest of the New York Sector in October 2009 and to the members of the Former Board personally in February 2010.
145. Despite such notice, the Former Board refuses to hand over control of AM Inc. and its assets, including but not limited to membership lists, corporate records, bank accounts and the corporate offices, to the Counterplaintiffs as the properly appointed Board of AM Inc.

The Former Board’s Misrepresentations

146. Although the Former Board refuses to acknowledge the authority of General Secretary Dhruvananda and AMPS Central, since October 30, 2005 the Former Board has continued to invoke AMPS Central’s authority in making representations to U.S. immigration authorities, seeking immigration visas for *margiis* who are sympathetic to the EC movement.
147. On March 22, 2008, the Former Board, purporting to act on behalf of AM Inc., submitted a letter to the Calcutta Visa Office to accompany the R-1 Visa Petition for a Ms. Bishnupriya Panigrahy. A true and accurate copy of this letter is attached as Exhibit 13.
148. This March 22, 2008 letter is virtually identical in structure and substance to Exhibit 7, (the February 14, 2003 letter) and Exhibit 8 (the July 7, 2005 letter). It states that Ms. Panigrahy was purportedly assigned by AM Inc.’s “Central authorities” to North America for five years and seeks an R-1 multiple entry visa for her.
149. This March 22, 2008 letter was signed by Counterdefendant Texeira.
150. Ms. Panigrahy was not posted to the New York Sector by General Secretary Dhruvananda or AMPS Central.

151. Upon information and belief, Ms. Panigrahy was not posted to the New York Sector by any individual that the Calcutta Dissidents purport to be the General Secretary.

152. Upon information and belief, this R-1 visa application was approved.

153. Tirthananda and the Former Board have continued to represent to other members of the New York Sector that they are the rightful Board of Directors of AM Inc. and to purport to issue notices on behalf of AM Inc.

AMPS Discipline of Counterdefendants Tirthananda and Texeira

154. Counterdefendant Tirthananda's repeated insubordination and refusal to cooperate with AMPS Central violated AMPS's code of conduct. Therefore on February 26, 2010, AMPS Central removed Counterdefendant Tirthananda's certifications as *tattvika*, *acarya*, and *avadhuta*. A true and accurate copy of the letter informing Tirthananda's of the removal of his titles is attached hereto as Exhibit 14.

155. Counterdefendant Texeira's repeated insubordination and refusal to cooperate with AMPS Central violated AMPS's code of conduct. Therefore on February 26, 2010, AMPS Central sent a letter to Counterdefendant Texeira warning him that further disobedience would result in the removal of his religious certifications. On May 7, 2010, AMPS Central removed Texeira's certifications as *tattvika*, *acarya*, *avadhuta* and *purodha*. A true and accurate copy of the May 7, 2010 letter (using Texeira's Sanskrit name of Rainjitananda) is attached hereto as Exhibit 15.

156. Counterdefendants Tirthananda and Texeira are now only general *margiis* and hold no titles of religious authority within AMPS. As general *margiis*, neither is eligible to hold any positions of religious or organizational leadership in AMPS unless they repent and are recertified by each respective board in AMPS.

FIRST COUNTERCLAIM Declaratory Relief Regarding Religious Office

1. Counterplaintiffs hereby incorporate all the allegations from previous paragraphs as if fully set forth herein.

2. AMPS General Secretary Dhruvananda, has twice acted in his recognized religious and legal authority to transfer Counterdefendant Tirthananda from his post as Sectorial Secretary of the New York Sector – once on October 30, 2005, before the alleged amendment of Ananda Marga, Inc.'s bylaws, and a second time on February 28, 2006, after Tirthananda's repeated insubordination.

3. General Secretary Dhruvananda appointed Counterplaintiff Vimalananda as Sectorial Secretary of the New York Sector and directed him to appoint new members of the Board of Directors of Ananda Marga, Inc.

4. Counterplaintiff Vimalananda removed the Counterdefendant Former Board members on October 23, 2009 pursuant to the 1982 Amended Bylaws and General Secretary Dhruvananda's direction.

5. On October 23, 2009, Vimalananda appointed Counterplaintiffs Clark E. Forden, Dipendra Kumar Singh (a.k.a. Acarya Dharmapremananda Avadhuta), Dirk Duill (a.k.a. Acarya Divyalokeshananda Avadhuta), Shyam Sundar Kaushesh, Piyush Bhatnagar, and Defendant Steve Maniscalco to be the members of the Board of Directors of Ananda Marga, Inc. Defendant Maniscalco has since resigned as a Director.

6. The Counterdefendant Former Board members wrongfully claim to be the lawful Directors of Ananda Marga, Inc.

7. Counterdefendant Tiirthananda wrongfully claims to be and have lawful authority to act as the Sectorial Secretary of the New York Sector of Ananda Marga Pracaraka Samgha.

8. The rights, status and other legal relations of Ananda Marga, Inc. have been affected by the improper actions of Tiirthananda and the members of the Former Board.

9. Pursuant to Colo. R. Civ. Proc. 57(a), the Court has "the power to declare rights, status and other legal relations whether or not further relief is or could be claimed."

10. Pursuant to *Levitt v. Calvary Temple of Denver*, *Kedroff v. St. Nicholas Cathedral of the Russian Orthodox Church in North America*, and *Serbian Eastern Orthodox Diocese of America and Canada v. Miliojevich*, Counterplaintiffs, as the duly appointed Board of Ananda Marga, Inc., seek a declaration that Counterplaintiff Vimalananda is the rightfully appointed Sectorial Secretary of the New York Sector of Ananda Marga Pracaraka Samgha and that all the Counterplaintiffs are the rightfully appointed Board of Directors of Ananda Marga, Inc.

11. Pursuant to Colo. R. Civ. Proc. 57, the Counterplaintiffs, as the rightfully appointed Board of Directors of Ananda Marga, Inc., respectfully request that this Court enter a Declaratory Judgment in their favor and against the Counterdefendants as described in paragraphs 1(a)-1(k) of the prayer for relief.

SECOND COUNTERCLAIM
Declaratory Relief Regarding Corporate Assets and Property

12. Counterplaintiffs hereby incorporate all the allegations from previous paragraphs as if fully set forth herein.

13. Counterplaintiff Vimalananda, as the duly appointed Sectorial Secretary of the New York Sector of Ananda Marga Pracaraka Samgha, has requested of Tiirthananda and the other Counterdefendant Former Board members to turn over possession and/or control of the assets, real property and personal property of Ananda Marga, Inc. to the Counterplaintiffs, as the duly appointed Board of Directors of Ananda Marga, Inc.

14. The Counterdefendant Former Board members have refused to hand over such possession and/or control.

15. The Counterdefendant Former Board members have wrongfully retained possession and/or control over all the assets, real property, and personal property of Ananda Marga, Inc., including but not limited to membership lists, corporate records, bank accounts, and the corporate offices.

16. The rights, status or other legal relations of Ananda Marga, Inc. have been affected by the improper actions of the Counterdefendant Former Board members.

17. Pursuant to Colo. R. Civ. Proc. 57(a), the Court has “the power to declare rights, status and other legal relations whether or not further relief is or could be claimed.”

18. Under the neutral principles approach recognized in *Bishop and Diocese of Colorado v. Mote*, Counterplaintiffs, as the duly appointed Board of Ananda Marga, Inc., seek a declaration that they have the legal right to the possession, use and control of the assets, real property, and personal property of Ananda Marga, Inc.

19. Pursuant to Colo. R. Civ. Proc. 57, Counterplaintiffs respectfully request that this Court enter an order denying the Plaintiffs’ prayer for declaratory relief and enter a Declaratory Judgment in Counterplaintiffs’ favor as described in paragraph 1(k) of the prayer for relief.

THIRD COUNTERCLAIM
Injunctive Relief – Counterdefendant Tiirthananda

20. Counterplaintiffs hereby incorporate all the allegations from previous paragraphs as if fully set forth herein.

21. Counterplaintiff Vimalananda, as the duly appointed Sectorial Secretary of Ananda Marga Pracaraka Samgha, has requested that Counterdefendant Tiirthananda hand over control of Ananda Marga, Inc.

22. Counterdefendant Tiirthananda has refused Counterplaintiff Vimalananda’s request and continues to hold himself out as the duly appointed Sectorial Secretary of the New York Sector of Ananda Marga Pracaraka Samgha.

23. Tiirthananda is illegally exercising or attempting to exercise authority over Ananda Marga, Inc., its assets and property, its subordinate affiliates and members within the New York Sector, the assets and property of Ananda Marga, Inc.’s subordinate affiliates, and its Board.

24. In so doing, Tiirthananda is causing serious and irreparable injury to Ananda Marga, Inc. and to the Counterplaintiffs, who are the duly appointed Board of Directors of Ananda Marga, Inc. and, unless enjoined, will continue to do so.

25. Because this injury involves the control and direction of a religious organization, it cannot be adequately compensated by money damages, and Counterplaintiffs do not have an adequate remedy at law.

26. Pursuant to Colo. R. Civ. Proc. 65, this Court has the power to issue injunctions where there is no adequate remedy at law.

27. Counterplaintiffs seek an order enjoining Tirthananda from holding himself out as the Sectorial Secretary of the New York Sector of Ananda Marga Pracaraka Samgha; from exercising or attempting to exercise control over Ananda Marga, Inc. and its assets, members, subordinate affiliates, and Board; and requiring him to surrender possession and control of Ananda Marga, Inc. to Counterplaintiff Vimalananda as the duly appointed Sectorial Secretary of the New York Sector of Ananda Marga Pracaraka Samgha.

28. Pursuant to Colo. R. Civ. Proc. 65, the Counterplaintiffs respectfully request that this Court enter an order denying the Defendants' prayer for injunctive relief and granting Counterplaintiffs' prayer for injunctive relief as indicated in paragraphs 2(a)-2(c) of the prayer for relief.

FOURTH COUNTERCLAIM **Injunctive Relief – All Counterdefendants**

29. Counterplaintiffs hereby incorporate all the allegations from previous paragraphs as if fully set forth herein.

30. Counterplaintiff Vimalananda, as the duly appointed Sectorial Secretary of Ananda Marga Pracarka Samgha, has requested that the Counterdefendant Former Board members hand over possession and control of Ananda Marga, Inc., its assets and property, its subordinate affiliates, and the assets and property of its subordinate affiliates.

31. The Counterdefendant Former Board members have refused Counterplaintiff Vimalananda's request and continues to hold themselves out as the duly appointed Directors of Ananda Marga, Inc.

32. The Counterdefendant Former Board members are illegally exercising authority and control over Ananda Marga, Inc., its assets and property, its subordinate affiliates and members within the New York Sector, and the assets and property of Ananda Marga, Inc.'s subordinate affiliates.

33. In so doing, the Counterdefendant Former Board members are causing serious and irreparable injury to Ananda Marga, Inc. and to the Counterplaintiffs, who are the duly appointed Board of Directors of Ananda Marga, Inc. and, unless enjoined, will continue to do so.

34. Because this injury involves the control and direction of a religious organization, it cannot be adequately compensated by money damages, and Counterplaintiffs do not have an adequate remedy at law.

35. Pursuant to Colo. R. Civ. Proc. 65, this Court has the power to issue injunctions where there is no adequate remedy at law.

36. Counterplaintiffs seek an order enjoining the Counterdefendants from holding themselves out as the Board of Directors of Ananda Marga, Inc.; enjoining the Counterdefendants from exercising authority and control over Ananda Marga, Inc. and its assets, members and subordinate affiliates; and requiring the Counterdefendants to surrender control of Ananda Marga, Inc., to the Counterplaintiffs as the duly appointed Board of Directors of Ananda Marga, Inc. and to give the Counterplaintiffs an accounting of the assets and property of Ananda Marga, Inc. since October 30, 2005.

37. Pursuant to Colo. R. Civ. Proc. 65, the Counterplaintiffs respectfully request that this Court enter an order denying the Counterdefendants' prayer for injunctive relief and granting Counterplaintiffs' prayer for injunctive relief as indicated in paragraphs 2(d)-2(h) of the prayer for relief.

WHEREFORE, the Counterplaintiffs respectfully request that this Court:

1. Enter an order granting declaratory relief as follows:

- (a) Ananda Marga Pracaraka Samgha is a hierarchical religious organization.
- (b) Ananda Marga Pracaraka Samgha is the global parent organization of Ananda Marga, Inc.
- (c) Acarya Dhruvananda Avadhuta is the General Secretary of Ananda Marga Pracaraka Samgha.
- (d) Acarya Dhruvananda Avadhuta transferred Counterdefendant Fernando Kumar (a.k.a. Tiirthananda) from his post as Sectorial Secretary of the New York Sector of Ananda Marga Pracaraka Samgha on October 30, 2005.
- (e) Any actions taken by Counterdefendant Tiirthananda as purported Sectorial Secretary of the New York Sector of Ananda Marga Pracaraka Samgha since October 30, 2005 are of no legal effect.
- (f) Acarya Vimalananda Avadhuta is the rightfully appointed Sectorial Secretary of the New York Sector of Ananda Marga Pracaraka Samgha.
- (g) Counterplaintiff Acarya Vimalananda Avadhuta removed Counterdefendants Fernando Kumar (a.k.a. Tiirthananda), Donald W. Nelson (a.k.a. Acarya Vedaprajinananda Avadhuta), Rubens C. Texeira (a.k.a. Rainjitananda), Prabha Thakur (a.k.a. Avadhutika Ananda Vibha Acarya), Jody Wright (a.k.a. Acarya Devanistha), William C. Dorf (a.k.a. Valmiki), L. Michael

Hemmelgarn (a.k.a. Vinaya), and Wayland Secrest (a.k.a. Vishvadeva) from their positions as members of the Board of Ananda Marga, Inc.

- (h) Counterplaintiffs Acarya Vimalananda Avadhuta, Clark E. Forden, Dipendra Kumar Singh (a.k.a. Acarya Dharmapremananda Avadhuta), Dirk Duill (a.k.a. Acarya Divyalokeshananda Avadhuta), Shyam Sundar Kaushesh and Piyush Bhatnagar are the rightfully appointed Board of Directors of Ananda Marga, Inc.
- (i) Counterdefendants Fernando Kumar (a.k.a. Tiirthananda), Donald W. Nelson (a.k.a. Acarya Vedaprajinananda Avadhuta), Rubens C. Texeira (a.k.a. Rainjitananda), Prabha Thakur (a.k.a. Avadhutika Ananda Vibha Acarya), Jody Wright (a.k.a. Acarya Devanistha), William C. Dorf (a.k.a. Valmiki), L. Michael Hemmelgarn (a.k.a. Vinaya), and Wayland Secrest (a.k.a. Vishvadeva) have no authority to direct, supervise, or act on behalf of Ananda Marga, Inc., and they have had no such authority since October 30, 2005.
- (j) Any actions taken by Counterdefendants Fernando Kumar (a.k.a. Tiirthananda), Donald W. Nelson (a.k.a. Acarya Vedaprajinananda Avadhuta), Rubens C. Texeira (a.k.a. Rainjitananda), Prabha Thakur (a.k.a. Avadhutika Ananda Vibha Acarya), Jody Wright (a.k.a. Acarya Devanistha), William C. Dorf (a.k.a. Valmiki), L. Michael Hemmelgarn (a.k.a. Vinaya), and Wayland Secrest (a.k.a. Vishvadeva) as the purported Board of Directors of Ananda Marga, Inc. since October 30, 2005 have had no legal effect.
- (k) The 2006 purported amendments to the Ananda Marga, Inc. bylaws by the Counterdefendants have no legal effect.
- (l) The Counterplaintiffs have the right to exercise authority and control over the assets, real property and personal property of Ananda Marga, Inc.

2. Enter an order granting injunctive relief as follows:

- (a) Counterdefendant Fernando Kumar (a.k.a. Tiirthananda) is enjoined from holding himself out as the Sectorial Secretary of the New York Sector of Ananda Marga Pracaraka Samgha.
- (b) Counterdefendant Fernando Kumar (a.k.a. Tiirthananda) is enjoined from exercising authority and control, or attempting to exercise authority and control over Ananda Marga, Inc., its assets and property, its members and subordinate affiliates, the assets and property of its subordinate affiliates, and its Board of Directors.
- (c) Counterdefendant Fernando Kumar (a.k.a. Tiirthananda) is ordered to surrender possession and control of Ananda Marga, Inc., its assets and property, its members and subordinate affiliates, the assets and property of its

subordinate affiliates, and its Board of Directors to Counterplaintiff Acarya Vimalananda Avadhuta.

- (d) Counterdefendants Fernando Kumar (a.k.a. Tirthananda), Donald W. Nelson (a.k.a. Acarya Vedaprajinananda Avadhuta), Rubens C. Texeira (a.k.a. Rainjitananda), Prabha Thakur (a.k.a. Avadhutika Ananda Vibha Acarya), Jody Wright (a.k.a. Acarya Devanistha), William C. Dorf (a.k.a. Valmiki), L. Michael Hemmelgarn (a.k.a. Vinaya), and Wayland Secrest (a.k.a. Vishvadeva) are enjoined from individually holding themselves out as the officers and/or Directors of Ananda Marga, Inc.
- (e) Counterdefendants Fernando Kumar (a.k.a. Tirthananda), Donald W. Nelson (a.k.a. Acarya Vedaprajinananda Avadhuta), Rubens C. Texeira (a.k.a. Rainjitananda), Prabha Thakur (a.k.a. Avadhutika Ananda Vibha Acarya), Jody Wright (a.k.a. Acarya Devanistha), William C. Dorf (a.k.a. Valmiki), L. Michael Hemmelgarn (a.k.a. Vinaya), and Wayland Secrest (a.k.a. Vishvadeva) are enjoined from collectively holding themselves out as the Board of Directors of Ananda Marga, Inc.
- (f) Counterdefendants Fernando Kumar (a.k.a. Tirthananda), Donald W. Nelson (a.k.a. Acarya Vedaprajinananda Avadhuta), Rubens C. Texeira (a.k.a. Rainjitananda), Prabha Thakur (a.k.a. Avadhutika Ananda Vibha Acarya), Jody Wright (a.k.a. Acarya Devanistha), William C. Dorf (a.k.a. Valmiki), L. Michael Hemmelgarn (a.k.a. Vinaya), and Wayland Secrest (a.k.a. Vishvadeva) are enjoined from exercising authority and control, or attempting to exercise authority and control over Ananda Marga, Inc., its assets and property, its members and subordinate affiliates, and the assets and property of its subordinate affiliates.
- (g) Counterdefendants Fernando Kumar (a.k.a. Tirthananda), Donald W. Nelson (a.k.a. Acarya Vedaprajinananda Avadhuta), Rubens C. Texeira (a.k.a. Rainjitananda), Jody Wright (a.k.a. Acarya Devanistha), William C. Dorf (a.k.a. Valmiki), L. Michael Hemmelgarn (a.k.a. Vinaya), and Wayland Secrest (a.k.a. Vishvadeva) are ordered to surrender authority and control of Ananda Marga, Inc., its assets and property, its members and subordinate affiliates, and the assets and property of its subordinate affiliates to the Counterplaintiffs.
- (h) Counterdefendants Fernando Kumar (a.k.a. Tirthananda), Donald W. Nelson (a.k.a. Acarya Vedaprajinananda Avadhuta), Rubens C. Texeira (a.k.a. Rainjitananda), Jody Wright (a.k.a. Acarya Devanistha), William C. Dorf (a.k.a. Valmiki), L. Michael Hemmelgarn (a.k.a. Vinaya), and Wayland Secrest (a.k.a. Vishvadeva) are ordered to give an accounting of their use of all assets and real and personal property of Ananda Marga, Inc. since October 30, 2005.

3. Grant Counterplaintiffs such other and further relief as this Court deems just and proper.

Dated this 14th day of May, 2010.

Respectfully submitted,

BURNS, WALL, SMITH & MUELLER, P.C.

By: /S/ Robert T. Cosgrove
George W. Mueller, #5292
Robert T. Cosgrove, #12217

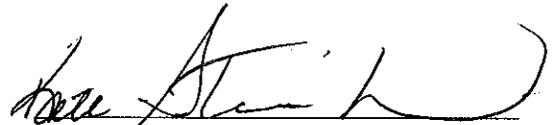
ATTORNEYS FOR THE ABOVE-NAMED
COUNTERPLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of May, 2010, a true and correct copy of the above and foregoing First Amended Answer to First Amended Complaint, Affirmative Defenses and Counterclaims was filed and served via LexisNexis File and Serve pursuant to C.R.C.P. 121 §§1-26, addressed to the following:

Alexander Halpern, Esq.
1426 Pearl Street, Ste. 201
Boulder CO 80302
ahalpern@halpernllc.com

Stephen Erwin, Esq.
The Highlander Law Firm
885 Arapahoe Avenue
Boulder, CO 80302
highlanderlaw@gmail.com


Kate Steinhour