IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

CIVIL ACTION NO. 1:83-CV-00293-MPM

HORACE WILLIE MONTGOMERY, ET AL. **PLAINTIFFS**

VS.

STARKVILLE MUNICIPAL SCHOOL DISTRICT, ET AL. **DEFENDANTS**

Consolidated with

WILLIAM HARRIS, ET AL. **PLAINTIFFS**

And

UNITED STATES OF AMERICA **PLAINTIFF-INTERVENOR**

VS.

OKTIBBEHA COUNTY SCHOOL DISTRICT, ET AL. **DEFENDANTS**

MEMORANDUM IN SUPPORT OF JOINT MOTION FOR DECLARATION OF UNITARY STATUS AND APPROVAL OF AGREED ORDER OF DISMISSAL

The Starkville-Oktibbeha Consolidated School District (the "District") and the United States of America (the "United States") (collectively, the "Parties") submit this Memorandum in Support of their Joint Motion for Declaration of Unitary Status and Approval of Agreed Order of Dismissal. The Parties agree that the District has complied in good faith with this Court's desegregation orders and has eliminated, to the extent practicable, all vestiges of discrimination resulting from the former racially dual system.

The Parties respectfully request the Court declare the District unitary in all areas, dissolve all injunctions entered in this case, and dismiss this case with prejudice.

I. Summary of the Case

On June 30, 1969, black private plaintiffs filed a complaint against Defendant Starkville Municipal Separate School District and the Defendant Oktibbeha County School District challenging the racially segregated systems of public education. On August 6, 1969, the Court split the cases for each school district,[1] and on February 5, 1970, and February 6, 1970, this Court entered orders requiring the Starkville Municipal Separate School District and the Oktibbeha County School District, respectively, to immediately cease operation of dual school systems and to immediately begin to operate unitary school systems as required by the Supreme Court of the United States in *Alexander v. Holmes County Board of Education*, 396 U.S. 19 (1969). These orders required each district to immediately implement non-segregative policies in the following areas of operation: student assignment; faculty and staff; facilities; extracurricular activities; and transportation. On October 3, 1986, the Court granted the United States' motion to intervene into the Oktibbeha County School District desegregation case.

In the 2013 legislative session, the Mississippi Legislature passed and the Governor approved House Bill 716, which mandated consolidation of the two districts, effective July 1, 2015. In its 2014 session, the Mississippi Legislature passed and the Governor approved Senate Bill 2818, which, among other things, named the new consolidated school district

[1] The two case styles were: *Montgomery v. Starkville Municipal Separate School District*, EC 69-37(A) (later renumbered as EC 83-293) and *Harris v. Oktibbeha County School District*, EC 69-37.

the "Starkville-Oktibbeha Consolidated School District" and added funding provisions for the new consolidated district.

With respect to their desegregation obligations, the school districts filed a Joint Motion to Consolidate Cases on November 14, 2014, followed by their Motion to Approve New Desegregation Order. ECF No. 10. On January 14, 2015, the Court granted the school districts' Joint Motion to consolidate the two federal desegregation cases. ECF No. 13.

The District subsequently moved for court approval of its proposed desegregation plan on March 17, 2015. ECF No. 15. The Parties engaged in discovery thereafter, and on May 22, 2015, the United States filed its Response, objecting to, among other things, certain provisions of the District's proposed plan related to elementary student assignment, educational opportunities for former Oktibbeha students, and assignment of faculty and staff to the Consolidated District. ECF No. 20. On June 5, 2015, the District filed its Reply to the Response of the United States. ECF No. 23.

Following a telephonic Court conference and negotiations, the Parties filed a Joint Motion to Approve Desegregation Order for the 2015-2016 school year on July 7, 2015. ECF No. 25. The Parties agreed to, among other things, "work together to submit a proposed desegregation order to the Court. . ., which shall govern the Consolidated District starting with the 2016-2017 school year . . . until the District is declared unitary." ECF No. 25. On July 13, 2015, the Court granted the Parties' motion and approved a desegregation order for the District to govern the Consolidated District for the 2015-2016 school year. ECF No. 26. Following entry of that order, the Parties worked in good faith to develop and, on March

2, 2016, jointly moved the Court to approve a desegregation plan for the District.[2] ECF No. 33. The Court approved that desegregation plan on March 3, 2016 (the "2016 Order"), which still governs today. ECF No. 34.

The United States closely monitored the District's compliance, including by conducting four site visits to the District in December 2015, January 2016, April 2019, and September 2022. The United States visited every District school and interviewed school and District-level administrators on a variety of subjects related to the District's compliance. The United States has also sent, and the District has responded to, multiple formal and informal requests for information, written interrogatories, and requests for production of documents. The District has consistently filed the required annual reports documenting its progress toward fulfillment of its desegregation obligations. The United States sent the District multiple letters outlining its compliance concerns, discussed in more detail below, and the Parties have held multiple virtual meetings to discuss and resolve these concerns. The Parties have worked collaboratively, with the assistance of a consultant retained by the United States, to ensure the District's full compliance with the Court's orders.

The District has conferred with the Bi-Racial Advisory Committee regarding its motion for unitary status in an effort to gauge community response to the District's motion. The Parties now file this Memorandum in Support of the Joint Motion for Unitary Status. The

[2] Both sets of private plaintiffs were previously represented by attorney Wilbur Colom. The last evidence on the docket sheet of Mr. Colom's participation is an agreed order signed by Mr. Colom in December 2007 related to the Starkville case. On March 1, 2016, counsel for the District and the Government participated in a phone conference with Mr. Colom during which he advised he no longer had an interest in either the Starkville or Oktibbeha cases and that his clients were all deceased. Ex. 1, 03.01.206 Email.

Parties have concluded that the District has complied in good faith with this Court's orders for a reasonable period of time, and has, to the extent practicable, eliminated the vestiges of racial discrimination resulting from the former racially dual system. Specifically, as explained in detail below, the District has desegregated to the extent practicable student assignment, faculty, staff, transportation of students, facilities, and extracurricular activities.

II. The Starkville-Oktibbeha Consolidated School District is unitary.

A. Legal Standards

To achieve unitary status a school district must show that it (1) fully and satisfactorily complied with the Court's decrees for a reasonable period of time; (2) eliminated the vestiges of prior *de jure* discrimination to the extent practicable; and (3) demonstrated a good-faith commitment to the whole of the Court's decrees and to those provisions of the law and the Constitution that were the predicate for judicial intervention in the first instance. *See Missouri v. Jenkins*, 515 U.S. 70, 87-89 (1995); *Freeman v. Pitts*, 503 U.S. 467, 491-92, 498 (1992); *Bd. of Educ. of Okla. City Pub. Sch. v. Dowell*, 498 U.S. 237, 248-50 (1991).

The Supreme Court has identified six areas, known as the "*Green* factors" that a school district must address as part of the determination of whether it has fulfilled its duties and eliminated the vestiges of the prior dual system to extent practicable: (1) student assignment; (2) faculty; (3) staff; (4) transportation; (5) extracurricular activities; and (6) facilities. *See Dowell*, 498 U.S. at 250 (discussing *Green v. Cty. Sch. Bd. of New Kent Cty.*, 391 U.S. 430, 435 (1968)).

B. The District has eliminated, to the extent practicable, all vestiges of past discrimination and has complied with this Court's orders.

1. The District has fully integrated its faculty and staff.

Under the 2016 Order, the District is required to assign faculty and staff who work directly with students so that in no case will the racial composition of the staff indicate that a school is intended for black or white students. ECF No. 34 at 9. The 2016 Order also requires the District to hire, assign, promote, pay, demote and dismiss employees without regard to race except to the extent necessary to correct discrimination. *Id*. Under the 2016 Order, the District must assign faculty such that the percentage of black faculty at each school is within +/- 15% of the system-wide percentage of black faculty with the system-wide percentage of black faculty at the elementary school and middle/high school levels calculated separately. *Id*.

Summarized below, the data for the last three years illustrates the District has complied with its desegregation obligations at nearly all schools. *Singleton v. Jackson Municipal Separate School District.*, 419 F.2d 1211 (5th Cir. 1969). *See,* Figure 1, below. While the black faculty at The Learning Center, the District's alternative school, exceeds +/-15% of the District-wide average, the Parties agree that there is no indication of discrimination in the hiring or assignment of faculty to this school. In this specific circumstance, given the school's unique purpose and small faculty size (18 faculty members), the Parties agree that the demographics of the faculty at The Learning Center is not a basis to withhold unitary status from the District in this *Green* factor. Additionally, the District has implemented several measures to comply with the Order and ensure its faculty hiring and assignment process is conducted on a non-discriminatory basis. See

ECF No. 34 at 9. As required by the 2016 Order, principals at each school have established racially diverse committees to assist with interviewing applicants for school-based positions. ECF No. 34 at 9.

Figure 1: Faculty Assignment for school years 2021-2022 through 2023-2024[3]

2021-2022

Elementary Faculty	Black	White	Other	Totals	% Black	% White	% Other
Administrators	1	7	0	8	12.5%	87.5%	0
Teachers	27	134	1	162	16.7%	82.7%	< 1%
Teacher Asst.	48	14	2	62	75%	21.9%	3.1%
Total	76	155	3	234	32.5%	66.2%	1.3%

Middle/High School Faculty	Black	White	Other	Totals	% Black	% White	% Other
Administrators	9	4	0	13	69.2%	30.8%	0
Teachers	85	138	3	226	37.6%	61.1%	1.3%
Teacher Asst.	16	6	0	22	72.7%	27.3%)	0
Total	110	148	3	261	42.1%	56.7%	1.1%

2022-2023

Elementary Faculty	Black	White	Other	Totals	% Black	% White	% Other
Administrators	1	7	0	8	12.5%	87.5%	0
Teachers	26	129	0	155	16.8%	83.2%	0
Teacher Asst.	48	16	1	65	73.8%	24.6%	1.5%
Total	76	152	1	228	32.9%	66.7%	< 1%

Middle/High School Faculty	Black	White	Other	Totals	% Black	% White	% Other
Administrators	9	3	0	12	75%	25%	0
Teachers	89	119	4	212	42%	56.1%	1.9%
Teacher Asst.	18	5	1	24	75%	20.8%	4.2%
Total	116	127	5	248	46.8%	51.2%	2%

[3] Under the March 3, 2016, Desegregation Order, the District is to calculate the system-wide percentage of black faculty at the elementary and the middle/high school levels separately. [34, p. 9]. "Faculty" includes all full-time teachers, part-time teachers, teacher assistants, administrators, and other certified staff such as counselors and librarians.

2023-2024

Elementary Faculty	Black	White	Other	Totals	% Black	% White	% Other
Administrators	3	6	0	9	33.3%	66.7%	0
Teachers	26	134	1	161	16.1%	83.2%	<1%
Teacher Asst.	39	24	1	64	60.9%	37.5%	1.6%
Total	68	164	2	234	29.1%	70%	< 1%

Middle/High School Faculty	Black	White	Other	Totals	% Black	% White	% Other
Administrators	8	4	0	12	66.7%	33.3%	0
Teachers	91	121	4	216	42.1%	56%	1.9%
Teacher Asst.	21	5	1	27	77.8%	18.5%	3.7%
Total	120	130	5	255	47.1%	51%	1.9%

2. Transportation

The District's bus routes and assignment of students to buses are "designed to insure the transportation of all eligible pupils on a non-segregated and otherwise non-discriminatory basis." *Singleton*, 419 F.2d at 1218. Consistent with Mississippi Code Annotated § 37-41-3, the District provides transportation to all students who reside more than one mile from the school to which they are assigned. Black and white students are transported daily on the same buses.

Bus routes are designed for efficiency and without regard to race. Since the 2018-2019 school year, the District has used Traversa, a transportation software, to design its routes and increase the efficiency of ride times. Student race is not entered or displayed on the student information page of the Traversa software. Rather, students are represented by pin drops on a map. Routes are generated based on the location of the pin drops and designed for efficiency. Specifically, bus routes are generated based on a

student's pickup and drop-off address(es). As such, bus routes are designed in a race-neutral fashion.

The United States performed an extensive review of the District's transportation data. Specifically, the United States requested, and the District produced, transportation route maps and student assignment, by race, to each bus route. In addition, the United States identified bus routes that were disproportionately black or white, and the District provided a valid, nondiscriminatory explanation, as described above, for how it assigns students to each bus route. The District also confirmed that it does not have double bus routes, thereby alleviating a concern the United States raised regarding arrival times for students. The District recognized that some bus routes are longer than others. As such, the District adopted a bus purchase plan effective beginning with the 2020-21 school year, under which the District has purchased five new buses each school year. The District will purchase ten new buses every third year under the plan. Additionally, the District has added wi-fi access on the buses with the longest routes. This enables the students with the longest ride time to complete schoolwork while on the bus. All buses are also equipped with GPS, which allows parents to check the location and status of their student's bus. Overall, the United States found no evidence of discrimination in student transportation.

Finally, the Superintendent and Director of Transportation reevaluate the transportation system annually, as required by the 2016 Order, on a race neutral basis by evaluating routes for efficiency and bus ride times. The District worked with an outside vendor for the 2023-2024 school year to rebuild the bus routes to be as efficient as possible.

Based on the foregoing, the Parties agree that the District is unitary with respect to transportation.

3. Extracurricular activities

All extracurricular activities offered by the District are available to all students regardless of race. The District encourages participation in every activity without regard to race. The District provides equal opportunities for students to participate in extracurricular activities. *See,* Ex. 2 to Motion.

4. Student assignment and school configuration

a. Between-schools student assignment and school configuration

The 2016 Consent Order directed the District to implement a new student assignment plan to accommodate the new consolidated District. Specifically, the District was required to operate two feeder patterns for elementary school students: West Oktibbeha Elementary (grades K-5); and Sudduth Elementary (grades K-1), Henderson-Ward-Stewart Elementary (grades 2-4), and Overstreet School (grade 5). The District has adhered to this feeder pattern.

The District was also required to assign middle school students to Armstrong Middle School (grades 6-8) and high school students to Starkville High School (grades 9-12). Since implementation of the plan, the District opened Partnership Middle School (grades 6-7) and reconfigured the grade structure at Armstrong Junior High School (grades 8-9) and Starkville High School (grades 10-12). Because grades 6-12 remained in a single grade configuration, there were no between-school student assignment desegregation concerns. The District kept the United States apprised of these changes.

The District also operates an alternative school (The Learning Center) and Millsaps Career & Technology Center. The schools and their grade configurations are set out in Figure 2, below. None of the schools listed below are racially identifiable.[4]

Figure 2: Student Enrollment school years 2021-2022 through 2023-2024

School Year	School	Black	White	Other	Total
2021-2022	Sudduth Elementary (PreK-1)	555 (64.8%)	255 (29.8%)	47 (5.4%)	857
	Henderson Ward Stewart (2-4)	554 (60.3%)	296 (32.2%)	69 (7.5%)	919
	Overstreet Elementary (5)	247 (70.8%)	89 (25.5%)	13 (3.7%)	349
	West Elementary (PreK-5)	82 (47.9%)	81 (47.4%)	8 (4.7%)	171
	Partnership Middle School (6-7)	497 (67.9%)	189 (25.8%)	46 (6.3%)	732
	Armstrong Junior High (8-9)	516 (68.2%)	195 (25.8%)	46 (6%)	757
	Starkville High School (10-12)	689 (66.3%)	285 (27.4%)	66 (6.3%)	1,040
	Total	**3,140 (65.1%)**	**1,390 (28.8%)**	**295 (6.1%)**	**4,825**
2022-2023	Sudduth Elementary (PreK-1)	563 (63.6%)	254 (28.7%)	68 (7.7%)	885
	Henderson Ward Stewart (2-4)	589 (61.6%)	293 (30.6%)	74 (7.7%)	956
	Overstreet Elementary (5)	200 (66.2%)	81 (26.8%)	21 (7%)	302
	West Elementary (PreK-5)	87 (48.3%)	85 (47.2%)	8 (4.4%)	180

[4] The Learning Center, which is not included in Figure 2, has a black student enrollment that surpasses the percentage of black students enrolled in the District. The United States has requested, and the District has provided, extensive disciplinary data for the students enrolled at The Learning Center. The United States reviewed this data including the type of infraction leading to assignment to The Learning Center, the infraction description, prior disciplinary history, and student race. The United States did not find evidence indicating that assignments to The Learning Center were made in a racially discriminatory manner. Further, the District performed its own analysis of the data and did not identify a pattern of discriminatory placements.

	Partnership Middle School (6-7)	496 (66.8%)	204 (27.5%)	43 (5.7%)	743
	Armstrong Junior High (8-9)	516 (69.3%)	190 (25.5%)	38 (5.1%)	744
	Starkville High School (10-12)	669 (65.7%)	281 (27.6%)	68 6.7%)	1,018
	Total	**3,120 (64.6%)**	**1,388 (28.7%)**	**320 (6.6%)**	**4,828**
2023-2024	Sudduth Elementary (PreK-1)	587 (66%)	241 (27.1%)	61 (6.9%)	889
	Henderson Ward Stewart (2-4)	658 (63.1%)	320 (30.7%)	64 6.1%)	1,042
	Overstreet Elementary (5)	165 (60.4%)	91 (33.3%)	17 6.2%)	273
	West Elementary (PreK-5)	102 (50.7%)	98 (48.8%)	1 (<1%)	201
	Partnership Middle School (6-7)	464 (67.6%)	189 (27.6%)	33 (4.8%)	686
	Armstrong Junior High (8)	237 (63.5%)	106 (28.4%)	30 (8%)	373
	Starkville High School (9-12)	897 (67.2%)	367 (27.5%)	70 (5.2%)	1,334
	Total	**3,110 (64.8%)**	**1,412 (29.4%)**	**276 (5.8%)**	**4,798**

b. Student transfers

The District allows intra-district transfers for the following reasons: majority-to-minority transfers;[5] special education students whose Individualized Education Plan indicates the student's education welfare would be best served by a transfer to another school in the District; and elementary students whose parent or guardian is a District employee and resides in the District. The District also allows the following inter-district

[5] All schools in the District have majority black student enrollment; therefore, there are no majority-to-minority transfers in the District.

transfers: hardship transfers and transfers of students whose parents or guardians are District employees. Given the small number of both inter- and intra-district transfers, transfers have had a negligible impact on the racial demographics of the District's individual schools and the District-wide enrollment. ECF No. 68 at 5-6. The District does not allow student transfers where the cumulative effect of the transfers would impede desegregation in either the sending or receiving school district. See ECF No. 34 at 5.

5. Within-School Assignment

The 2016 Order prohibits the District from "maintain[ing] any classrooms or sections in any school in a racially discriminatory manner or on a racially segregated basis." *Id.* at 6. Under the 2016 Order, the District agreed to undertake certain steps related to its policies and notice to parents and students regarding its Gifted and Talented programs and its Advanced Program policy. The District has made meaningful strides in meeting each of the required steps, as described below.

a. Gifted and Talented Programs

As required by the 2016 Consent Order, the District continues to screen students for its Gifted and Talented programs using the Mississippi State Department of Education ("MDE") guidelines and uses tests, scales, and indices approved and/or mandated by the MDE in its screening processes. *Id.* at 6. In addition, the District promotes its Gifted and Talented programs through written notice to parents and students at the beginning of each school year and prior to any universal screening test. Written notices include information on the gifted referral process (*e.g.*, which grades will receive universal screening, guidance on initiating an individual referral, and alternative screening measures). Finally, the District

also provides updated and accurate information about its Gifted and Talented programs on its website.[6] *Id*.

In 2020, the United States raised some concerns about the disproportionately low numbers of black students in the District's Gifted and Talented Programs. The District responded by expanding access and referrals including through the Emerging Potential checklist and by implementing an additional universal screener for students in third grade. Further, the District has conducted professional development with its faculty related to increasing identification of students for the Gifted and Talented programs. The Parties agree that given these efforts, the District has met the requirements of the 2016 Consent Order with respect to its Gifted and Talented programs.

b. Advanced Program Policy

Under the 2016 Order, the District reviewed and updated its policy governing advanced course offerings at the middle school and high school levels. The revised advanced programs policy was initially implemented during the 2016-2017 school year. See ECF No. 34 at 7. Since that time, each year during course registration, school staff meet with parents and students in grades 5 through 12 to provide information on their courses including their advanced courses. The District also includes notice of the advanced program in the Student Handbook distributed at the beginning of the year.

In 2019, the United States requested information from the District in response to District data that indicated disproportionately low numbers of black students enrolled in the District's advanced courses. The United States requested, and the District produced,

[6] https://www.starkvillesd.com/departments/student-support-services/gifted-talented-education

extensive data and documents related to its advanced courses and the required prerequisites. In response to the United States questions and concerns, the District worked collaboratively with the United States and its consultant to develop and implement meaningful measures to ensure there are no barriers to enrollment in its advanced courses and that the District otherwise complies with the 2016 Order as it pertains to advanced programming. ECF No. 34 at 6-8. For example, the District removed the prerequisites for its advanced classes at the high school level. The District revised the prerequisites for its advanced math classes in seventh and eighth grades and automatically enrolls students who meet the prerequisites. The District also promotes its advanced programs policy and curriculum to students and parents through revised and improved written notices with information on how to enroll in advanced and honors courses, the benefits of advanced courses, the required academic prerequisites (if any), and alternatives to academic prerequisites where available. In addition, the District provides professional development for its staff on advanced classes. As a result of these steps, the enrollment of black students in the District's advanced classes has significantly improved. For the 2024-2025 school year, student enrollment in the District's advanced math classes for seventh and eighth grades is:

- 7th Grade Compacted Math: 137 students (56 black, 8 Asian, 5 Hispanic, 68 white);
- 8th Grade Algebra 1: 87 students (34 black, 2 Asian, 2 Hispanic, 49 white).

Finally, the United States has reviewed historic data for advanced math placement, including student prerequisite scores, and concluded that any disparities in student enrollment in advanced math are not attributed to discrimination on the basis of race.

Following years of careful review and because of the affirmative steps taken by the District, the Parties agree that the District has substantially complied with the requirements set forth in the 2016 Order and is unitary with respect to student assignment.

6. Facilities

The United States has reviewed facilities information provided by the District and visited all District schools. The United States confirmed that the District is complying with the requirements set forth in the 2016 Order. In particular, under the 2016 Order, the District was required to discontinue use of the metal outbuilding to the north of the main structure at The Learning Center (formerly East Oktibbeha Elementary School). ECF No. 34 at 10. Following the United States' site visit in April 2019, the District informed the United States that it had fully discontinued use of the classroom buildings to the south of the main structure for core curriculum instruction as required by the 2016 Order. ECF No. 34 at 10. As of this filing, the District only uses this building for storage and has therefore maintained its compliance with the 2016 Order. In its 2024 Annual Report, the District reported that it has plans to build a new high school. ECF No. 68 at 17. Although a final decision regarding grade configurations has not been made, there will not be two high schools in the District, and the District will continue to maintain a single-grade structure at the secondary level.

Overall, the United States did not find any evidence of discrimination in facilities. Therefore, the Parties agree that the District has complied with the requirements set forth in the 2016 Order and is unitary with respect to facilities.

7. Bi-racial Advisory Committee

The District has generally maintained a Bi-racial Advisory Committee as required by the Consent Decree. ECF No. 34. In addition, in the 2023-2024 school year, the District created a new position of Parent and Community Liaison to work closely with the community and staff to assist with parental engagement and serve as a resource for parents and staff during the school year. The Superintendent has consulted with the Bi-racial Advisory Committee regarding hiring practices, discipline protocols, and community feedback.

III. Conclusion

"[U]nitariness represents a finding 'that the school district has eliminated all aspects of *de jure* segregation[.]." *Price v. Austin Independent School District,* 945 F.2d 1307 (5th Cir. 1991) (quoting *Ross v. Houston Independent School District,* 699 F.2d 218, 219 (5th Cir. 1983)). "[T]he appropriate measure of unitariness [is] 'whether the past has been eradicated so far as it remains in the power of school officials and courts to do so[.]'" *Id.* at 1314 (quoting *Ross*, 699. F.2d at 227). The District has worked continuously to implement the 2016 Order and to remove, to the extent practicable, all vestiges of *de jure* segregation. The Parties agree that the District has fulfilled the requirements of the 2016 Order, eliminated all vestiges of *de jure* segregation to the extent practicable, and is unitary with respect to all six *Green* factors.

Respectfully submitted, this 8th day of August, 2025.

Starkville-Oktibbeha Consolidated School District

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CERTIFICATE OF SERVICE

I hereby certify that I have this day filed a true and correct copy of the above document with the Clerk of Court via the CM/ECF System, which caused notice of filing to be served on all registered counsel of record.

Dated: August 8, 2025.

/s/ John S. Hooks