UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HARLEM GLOBETROTERS INTERNATIONAL, INC.,

Plaintiff,

v.

SMALL BUSINESS ADMINISTRATION, et al.,

Defendants.

Civil Action No. 24-1164 (RBW)

ANSWER

Defendants Small Business Administration ("SBA") and Isabella Casillas Guzman, in her official capacity as SBA Administrator, by and through the undersigned counsel, respond as follows to the separately numbered paragraphs and prayer for relief in Plaintiff Harlem Globetrotters International, Inc.'s Complaint, ECF No. 1, in this case under the Administrative Procedure Act, 5 U.S.C. § 706. Any allegations not specifically admitted, denied, or otherwise responded to below are hereby denied. To the extent the Complaint refers to or quotes from external documents, statutes, or other sources, Defendants may refer to such materials for their complete and accurate contents, but such references are not intended to be, and should not be construed as, an admission that the cited materials are (a) correctly cited or quoted by Plaintiff, (b) relevant to this, or any other, action, or (c) admissible in this, or any other, action. For ease of reference, this Answer replicates the headings contained in the Complaint. Although Defendants believe that such headings require no response, to the extent that a response is deemed required and those headings and titles could be construed to contain factual allegations, those allegations are denied.

INTRODUCTION

1. The first sentence of this paragraph consists of a quotation allegedly of Albert Einstein. Defendants lack knowledge or information sufficient to form a belief as to whether the quotation is authentic. The substance of the quotation is a statement of opinion, which requires no response. The remainder of this paragraph consists of Plaintiff's characterization of its alleged actions, circumstances, and reasons for bringing suit, which require no response.

2. This paragraph consists of Plaintiff's characterization of a federal statute and SBA's implementation of it. Defendants aver that the statute is the best evidence of its contents, respectfully refer the Court to the statute for a complete and accurate statement of its contents and deny any allegations inconsistent therewith. Defendants admit that SBA began accepting applications on April 26, 2021.

3. Admitted except as to Plaintiff's characterization of SBA's decision as conclusory and unreasoned, which are characterizations and legal conclusions that require no response.

4. Defendants dispute Plaintiff's characterization of the Notice of Award as "executed," but otherwise admit.

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

9. This paragraph purports to quote from and characterize a hearing transcript, which is the best evidence of its contents. Defendants respectfully refer the Court to the transcript for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

10. This paragraph consists of Plaintiff's quotation from and characterization of a hearing transcript, which is the best evidence of its contents. Defendants refer the Court to the transcript for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

11. This paragraph purports to quote from and characterize a treatise, which is the best evidence of its contents. Defendants respectfully refer the Court to the treatise for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

12. This paragraph consists of legal conclusions, which require no response, and purports to quote from and characterize a treatise, which is the best evidence of its contents. Defendants respectfully refer the Court to the treatise for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

13. This paragraph purports to quote from and characterize a hearing transcript, which is the best evidence of its contents. Defendants refer the Court to the transcript for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

14. The first sentence of this paragraph consists of Plaintiff's characterization of its alleged actions, which requires no response. Defendants deny the second sentence, which contains an embedded legal conclusion that requires no response.

15. This paragraph consists of legal conclusions, which requires no response.

16. This paragraph consists of legal conclusions, which requires no response.

17. This paragraph consists of legal conclusions, which requires no response. To the extent a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

JURISDICTION AND VENUE

18. This paragraph consists of legal conclusions, which require no response.

19. This paragraph consists of legal conclusions, which require no response.

20. This paragraph purports to quote from and characterize a statute, which is the best evidence of its contents. Defendants respectfully refer the Court to the statute for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

21. This paragraph purports to quote from and characterize a hearing transcript, which is the best evidence of its contents. Defendants refer the Court to the transcript for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

22. This paragraph consists of legal conclusions, which require no response.

23. This paragraph consists of legal conclusions, which require no response.

24. This paragraph consists of legal conclusions, which require no response.

25. This paragraph purports to quote from and characterize a hearing transcript, which is the best evidence of its contents. Defendants refer the Court to the transcript for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

26. This paragraph purports to quote from and characterize a hearing transcript, which is the best evidence of its contents. Defendants refer the Court to the transcript for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

27. This paragraph consists of legal conclusions, which require no response.

28. This paragraph consists of legal conclusions, which require no response.

PARTIES

29. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

30. Admitted.

31. Admitted.

BACKGROUND

A. Shuttered Venue Operators Grant Program

32. This paragraph purports to characterize statutes, which are the best evidence of their contents. Defendants respectfully refer the Court to the statutes for a complete and accurate statement of their contents and deny any allegations inconsistent therewith.

33. This paragraph purports to characterize a statute, which is the best evidence of its contents. Defendants respectfully refer the Court to the statute for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

34. This paragraph purports to characterize a statute, which is the best evidence of its contents. Defendants respectfully refer the Court to the statute for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

35. This paragraph consists of legal conclusions, which require no response.

B. HGI Applies for SVOG Funding.

36. Admitted.

37. Admitted.

38. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of this paragraph. The second sentence purports to characterize the documents that Plaintiff submitted in support of its grant application, which are the best evidence of their contents. Defendants respectfully refer the Court to the documents for a complete and accurate statement of their contents and deny any allegations inconsistent therewith.

39. Admitted.

40. Admitted.

41. Admitted except as to Plaintiff's characterization of the notice as conclusory, which is a legal conclusion that requires no response.

C. HGI Files in This District Court Seeking Relief and SBA Agrees

42. This paragraph purports to characterize a complaint, which is the best evidence of its contents. Defendants respectfully refer the Court to the complaint for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

43. This paragraph purports to characterize a complaint, which is the best evidence of its contents. Defendants respectfully refer the Court to the complaint for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

44. This paragraph consists of legal conclusions, which require no response.

45. Admitted.

46. Defendants dispute Plaintiff's characterization of the Notice of Award as "executed," but otherwise admit.

47. This paragraph purports to characterize a website, which is the best evidence of its contents. Defendants respectfully refer the Court to the website for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

48. This paragraph purports to quote from and characterize a Notice of Award, which is the best evidence of its contents. Defendants respectfully refer the Court to the Notice of Award for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

49. This paragraph purports to quote from and characterize a Notice of Award, which is the best evidence of its contents. Defendants respectfully refer the Court to the Notice of Award for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

50. Defendants admit the first sentence of this paragraph and lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence.

51. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

52. This paragraph purports to characterize a website, which is the best evidence of its contents. Defendants respectfully refer the Court to the website for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

D. SBA Concedes Award to HGI But Refuses to Distribute Funds

53. Defendants deny that they informed Plaintiff that SBA had "awarded" it funds, but otherwise admit the allegations in this paragraph.

54. This paragraph purports to characterize a statute, which is the best evidence of its contents. Defendants respectfully refer the Court to the statute for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

55. This paragraph purports to quote from and characterize a statute, which is the best evidence of its contents. Defendants respectfully refer the Court to the statute for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

56. This paragraph consists of legal conclusions, which require no response.

57. The first sentence of this paragraph purports to quote from and characterize a hearing transcript, which is the best evidence of its contents. Defendants respectfully refer the Court to the hearing transcript for a complete and accurate statement of its contents and deny any allegations inconsistent therewith. The second sentence consists of legal conclusions, which require no response.

E. HGI's Jurisdictional Ping Pong

58. Defendants dispute Plaintiff's characterization of its communication to Plaintiff, but otherwise admit.

59. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. To the extent a response is required, this paragraph purports to quote from and characterize a judicial opinion, which is the best evidence of its contents. Defendants respectfully refer the Court to the judicial opinion for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

60. This paragraph purports to quote from and characterize a judicial opinion, which is the best evidence of its contents. Defendants respectfully refer the Court to the judicial opinion for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

61. Defendants dispute Plaintiff's characterization of the Notice of Award as "executed," but otherwise admit.

62. This paragraph purports to characterize a complaint, which is the best evidence of its contents. Defendants respectfully refer the Court to the complaint for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

63. This paragraph purports to quote from and characterize a hearing transcript, which is the best evidence of its contents. Defendants refer the Court to the transcript for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

64. This paragraph purports to quote from and characterize a judicial opinion, which is the best evidence of its contents. Defendants respectfully refer the Court to the judicial opinion for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

65. This paragraph purports to characterize this suit, which requires no response.

66. This paragraph consists of legal conclusions, which require no response.

67. This paragraph consists of legal conclusions and Plaintiff's characterization of its alleged actions and the relief required, which require no response.

COUNT I (AGAINST ALL DEFENDANTS): SBA'S DENIAL OF HGI'S ACCESS TO SVOG FUNDS IS ARBITRARY, CAPRICIOUS, AN ABUSE OF DISCRETION, AND NOT IN ACCORDANCE WITH THE LAW.

68. Defendants reallege and incorporate their responses to each of the proceeding paragraphs as if fully set forth herein.

69. This paragraph purports to quote from and characterize a statute, which is the best evidence of its contents. Defendants respectfully refer the Court to the statute for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

70. This paragraph consists of legal conclusions, which require no response.

71. This paragraph consists of legal conclusions, which require no response.

72. This paragraph consists of legal conclusions, which require no response.

COUNT II: SBA'S DECISION TO WITHHOLD FUNDS BASED ON THE CAA IS ARBITRARY, CAPRICIOUS, AN ABUSE OF DISCRETION, AND NOT IN ACCORDANCE WITH THE LAW.

73. Defendants reallege and incorporate their responses to each of the proceeding paragraphs as if fully set forth herein.

74. This paragraph consists of legal conclusions, which require no response.

75. Admitted.

76. This paragraph consists of legal conclusions, which require no response.

77. This paragraph consists of legal conclusions, which require no response.

COUNT III: SBA'S INTERPRETATION OF "OBLIGATION" IS ARBITRARY, CAPRICIOUS, AN ABUSE OF DISCRETION, AND NOT IN ACCORDANCE WITH THE LAW.

78. Defendants reallege and incorporate their responses to each of the proceeding paragraphs as if fully set forth herein.

79. This paragraph consists of legal conclusions, which require no response.

80. This paragraph purports to quote from and characterize a hearing transcript, which is the best evidence of its contents. Defendants refer the Court to the transcript for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

81. This paragraph consists of legal conclusions, which require no response.

82. This paragraph consists of legal conclusions, which require no response.

COUNT IV: PROMISSORY ESTOPPEL

83. Defendants reallege and incorporate their responses to each of the proceeding paragraphs as if fully set forth herein.

84. This paragraph purports to quote from and characterize a Notice of Award, which is the best evidence of its contents. Defendants respectfully refer the Court to the Notice of Award for a complete and accurate statement of its contents and deny any allegations inconsistent therewith.

85. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

86. This paragraph consists of legal conclusions, which require no response.

87. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

PRAYER FOR RELIEF

The remaining paragraphs consist of Plaintiff's prayer for relief, which require no response. To the extent a response is required, Defendants deny that Plaintiff is entitled to the relief requested or to any relief whatsoever.

* * *

In further response to the Complaint, Defendants raise the following defenses. Defendants respectfully request and reserve the right to amend, alter, and supplement the defenses contained in this Answer as the facts and circumstances giving rise to the Complaint become known to Defendants throughout the course of this litigation.

First Defense

Sovereign immunity bars a portion of Plaintiff's requested relief.

Second Defense

Defendants have no clear, ministerial duty to disburse grant funds.

Third Defense

SBA's decision was the product of reasoned decision making, supported by record evidence, and consistent with the law.

* * *

Fourth Defense

Plaintiff is neither eligible for nor entitled to attorney's fees or costs.

Dated: June 28, 2024

Respectfully submitted,

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