

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

THE UNITED STATES OF AMERICA; and
COMMODITY FUTURES TRADING
COMMISSION,

Plaintiffs,

v.

STATE OF WISCONSIN; and JOSHUA L. KAUL,
in his official capacity as Attorney General of
Wisconsin,

Defendants,

v.

AMERICAN GAMING ASSOCIATION,

Proposed Intervenor-Defendant.

Case No. 2:26-cv-749

**PROPOSED ANSWER IN INTERVENTION BY THE AMERICAN GAMING
ASSOCIATION TO THE UNITED STATES OF AMERICA’S AND COMMODITY
FUTURES TRADING COMMISSION’S COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Intervenor-Defendant the American Gaming Association, by and through its attorneys of record, hereby admits, denies, and otherwise responds to the Complaint for Declaratory and Injunctive Relief (“Complaint”) filed by Plaintiffs United States of America and Commodity Futures Trading Commission (“CFTC”). Any and all allegations or inferences not specifically addressed herein are expressly denied.

INTRODUCTION

1. Paragraph 1 sets forth a legal conclusion and Plaintiffs’ characterization of their action and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 1.

2. Answering Paragraph 2, Intervenor-Defendant admits that the State of Wisconsin filed civil enforcement actions against the five specified entities, seeking declaratory and injunctive relief for those entities' violation of Wis. Stat. § 945.03(1m)(b), (c), and (g) and causing a public nuisance, but otherwise denies the allegations set forth in Paragraph 2.

3. Answering Paragraph 3, Intervenor-Defendant admits that the cited source contains the quoted language, but otherwise denies the allegations set forth in Paragraph 3.

4. Paragraph 4 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 4.

5. Paragraph 5 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 5.

6. Paragraph 6 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 6.

7. Answering Paragraph 7, Intervenor-Defendant is without sufficient information to admit the truth or falsity of the allegations, and on that basis denies them.

8. Paragraph 8 sets forth a legal conclusion and Plaintiffs' characterization of Defendants' litigation position and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 8.

9. Paragraph 9 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 9.

10. Paragraph 10 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 10.

11. Answering Paragraph 11, Intervenor-Defendant is without sufficient information to admit the truth or falsity of the allegations, and on that basis denies them.

12. Paragraph 12 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 12.

JURISDICTION AND VENUE

13. Paragraph 13 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 13.

14. Paragraph 14 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant is without sufficient information to admit the truth or falsity of the allegations, and on that basis denies them.

PARTIES

15. Answering Paragraph 15, Intervenor-Defendant admits that the United States of America enforces federal commodity derivatives laws through its agency, the CFTC.

16. Paragraph 16 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the CFTC is an agency of the United States Government and that the cited provision grants the CFTC's General Counsel authority to represent the CFTC in courts of law.

17. Answering Paragraph 17, Intervenor-Defendant admits the allegation.

18. Answering Paragraph 18, Intervenor-Defendant admits that Anthony S. Evers is the Governor of Wisconsin. Intervenor-Defendant further admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 18.

19. Answering Paragraph 19, Intervenor-Defendant admits that Joshua L. Kaul is the Attorney General of Wisconsin, but is without sufficient information to admit the truth or falsity of the remaining allegations, and on that basis denies them.

20. Answering Paragraph 20, Intervenor-Defendant admits that the State of Wisconsin Department of Administration Division of Gaming is a Wisconsin state agency that regulates gambling in the State of Wisconsin, but is without sufficient information to admit the truth or falsity of the remaining allegations, and on that basis denies them.

21. Answering Paragraph 21, Intervenor-Defendant admits that John Dillett is the Administrator of the Division of Gaming and is sued in his official capacity.

OTHER RELEVANT ENTITIES

22. Paragraph 22 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant is without sufficient information to admit the truth or falsity of the allegations, and on that basis denies them.

23. Paragraph 23 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant is without sufficient information to admit the truth or falsity of the allegations, and on that basis denies them.

24. Paragraph 24 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant is without sufficient information to admit the truth or falsity of the allegations, and on that basis denies them.

25. Paragraph 25 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant is without sufficient information to admit the truth or falsity of the allegations, and on that basis denies them.

26. Paragraph 26 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant is without sufficient information to admit the truth or falsity of the allegations, and on that basis denies them.

FACTUAL ALLEGATIONS

27. Paragraph 27 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 27.

28. Paragraph 28 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 28.

29. Paragraph 29 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the Commodity Exchange Act is a federal statute, but otherwise denies the allegations set forth in Paragraph 29.

30. Paragraph 30 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that Congress created the CFTC in 1974 and that the CFTC is charged with administering and enforcing the Commodity Exchange Act, but otherwise denies the allegations set forth in Paragraph 30.

31. Paragraph 31 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 31.

32. Paragraph 32 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 32.

33. Paragraph 33 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 33.

34. Paragraph 34 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 34.

35. Paragraph 35 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the CFTC has promulgated the cited regulations, but otherwise denies the allegations set forth in Paragraph 35.

36. Paragraph 36 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies that all event contracts listed on CFTC-regulated DCMs qualify as “swaps” as defined by the CEA, admits that the cited authority contains the quoted language, and otherwise denies the allegations set forth in Paragraph 36.

37. Paragraph 37 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 37.

38. Paragraph 38 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant is without sufficient information to admit the truth or falsity of the allegations, and on that basis denies them.

39. Paragraph 39 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 39.

40. Paragraph 40 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 40.

41. Paragraph 41 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 41.

42. Paragraph 42 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that Congress enacted the Future Trading Act of 1921 and Grain Futures Act of 1922, but otherwise denies the allegations set forth in Paragraph 42.

43. Paragraph 43 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that Congress enacted the Commodity Exchange Act in 1936, but otherwise denies the allegations set forth in Paragraph 43.

44. Paragraph 44 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that Congress enacted the Commodity Futures Trading Commission Act of 1974, and admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 44.

45. Paragraph 45 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 45.

46. Paragraph 46 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 46.

47. Paragraph 47 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 47.

48. Paragraph 48 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 48.

49. Paragraph 49 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 49.

50. Paragraph 50 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 50.

51. Paragraph 51 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 51.

52. Paragraph 52 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that Congress enacted the Commodity Futures Modernization Act of 2000, but otherwise denies the allegations set forth in Paragraph 52.

53. Paragraph 53 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 53.

54. Paragraph 54 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 54.

55. Paragraph 55 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 55.

56. Paragraph 56 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the CFTC has promulgated the cited regulations, but otherwise denies the allegations set forth in Paragraph 56.

57. Paragraph 57 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the CFTC has promulgated the cited regulations, but otherwise denies the allegations set forth in Paragraph 57.

58. Paragraph 58 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits the Dodd-Frank Wall Street Reform and Consumer Protection Act created Section 5c(c)(5)(C) of the CEA, but otherwise denies the allegations set forth in Paragraph 58.

59. Paragraph 59 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 59.

60. Paragraph 60 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 60.

61. Paragraph 61 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the CFTC published the cited advisory letter on March 12, 2026, but otherwise denies the allegations set forth in Paragraph 61.

62. Paragraph 62 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the CFTC published in the Federal Register the cited advance notice of proposed rulemaking on March 16, 2026, but otherwise denies the allegations set forth in Paragraph 62.

63. Answering Paragraph 63, Intervenor-Defendant admits that the Wisconsin Attorney General filed the cited civil enforcement action, and that the case was removed to the United States District Court for the Western District of Wisconsin.

64. Answering Paragraph 64, Intervenor-Defendant admits that the Wisconsin Attorney General filed the cited civil enforcement action, and that the case was removed to the United States District Court for the Western District of Wisconsin.

65. Answering Paragraph 65, Intervenor-Defendant admits that the Wisconsin Attorney General filed the cited civil enforcement action, and that the case was removed to the United States District Court for the Western District of Wisconsin.

66. Paragraph 66 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant is without sufficient information to admit the truth or falsity of the allegations, and on that basis denies them.

67. Paragraph 67 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 67.

68. Paragraph 68 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 68.

69. Paragraph 69 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 69.

70. Paragraph 70 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 70.

71. Paragraph 71 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language.

72. Paragraph 72 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 72.

73. Paragraph 73 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 73.

74. Paragraph 74 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 74.

75. Paragraph 75 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 75.

76. Paragraph 76 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 76.

77. Paragraph 77 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 77.

78. Paragraph 78 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 78.

79. Paragraph 79 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 79.

80. Paragraph 80 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 80.

81. Paragraph 81 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 81.

82. Paragraph 82 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 82.

83. Paragraph 83 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 83.

CLAIM FOR RELIEF

COUNT I

84. Answering Paragraph 84, Intervenor-Defendant repeats and incorporates all previous responses as if fully restated herein.

85. Paragraph 85 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits the allegations set forth in Paragraph 85.

86. Paragraph 86 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 86.

87. Paragraph 87 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 87.

88. Paragraph 88 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 88.

89. Paragraph 89 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant admits that the cited authority contains the quoted language, but otherwise denies the allegations set forth in Paragraph 89.

90. Answering Paragraph 90, Intervenor-Defendant admits that Wisconsin brought enforcement actions against prediction market operators seeking declaratory and injunctive relief for violation of state criminal statutes, but otherwise denies the allegations set forth in Paragraph 90.

91. Paragraph 91 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 91.

92. Paragraph 92 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 92.

93. Paragraph 93 sets forth a legal conclusion and thus requires no response. To the extent any response is required, Intervenor-Defendant denies the allegations set forth in Paragraph 93.

RELIEF REQUESTED

Intervenor-Defendant denies that Plaintiffs are entitled to the relief requested in their Complaint, or to any other form of relief.

AFFIRMATIVE DEFENSES

1. Intervenor-Defendant incorporates and asserts any and all affirmative defenses advanced by the Defendants in this action.

2. All possible affirmative defenses may not have been alleged insofar as sufficient facts were not available after reasonable inquiry upon filing of this Answer. Therefore, Intervenor-Defendant reserves the right to amend this Answer to allege additional affirmative defenses and claims, counterclaims, cross-claims or third-party claims, as applicable, upon further investigation and discovery.

WHEREFORE, Intervenor-Defendant prays for judgment as follows:

1. That Plaintiffs take nothing by way of their Complaint, and the same be dismissed with prejudice;
2. For such other and further relief as this Court may deem just and proper.

Respectfully submitted,

/s/ Allan B. Moore

Allan B. Moore
Counsel of Record
COVINGTON & BURLING LLP
One City Center
850 10th Street NW
Washington, DC 20001
(202) 662-6000
abmoore@cov.com

*Counsel for the American Gaming
Association*

July 14, 2026

CERTIFICATE OF SERVICE

I certify that, on July 14, 2026, I electronically filed the above document with the clerk of Court using the Eastern District of Wisconsin Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Respectfully submitted,

/s/ Allan B. Moore

Allan B. Moore
Counsel of Record
COVINGTON & BURLING LLP
One City Center
850 10th Street NW
Washington, DC 20001
(202) 662-6000
abmoore@cov.com

*Counsel for the American Gaming
Association*