IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, LAW DIVISION

By The Hand Club For Kids, NFP, Inc., An Illinois not-for-profit corporation Plaintiff, v. Illinois Department of Employment Security; Director of Department of Employment Security; Board of Review of Illinois Department of Employment Security; and Kim E. Wimberly, Defendants.	Case No. 17 L 50886

PLAINTIFF'S REPLY IN SUPPORT OF COMPLAINT

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INTRODUCTION

Since its creation in 2001, By The Hand Club For Kids has been a ministry of The Moody Church and has qualified for a religious exemption under § 211.3 of the Illinois Unemployment Insurance Act (the "Act"). In 2017, however, the Department revoked that longstanding exemption despite there being no changes to Illinois law or By The Hand's operations or purpose. At the administrative hearing in this case, the Department's Referee noted that earlier determinations about By The Hand's exempt status were made when "things were run a little bit differently around here." (2 R. at 296.) The Department now tries to justify its decision by emphasizing the free meals, free medical care, and free education that By The Hand provides to children. According to the Department, these acts of Christian charity address "matters of social concern" and prove that By The Hand is operated primarily for secular purposes. Defs' Memo. at 16. The Department's decision is clearly erroneous and should be overturned for several reasons.

First, the Department's decision fails to give proper weight to By The Hand's Christian founding, identity, and mission, as well as its unquestionably religious activities, such as chapel services, Bible studies, and intentional times of discipleship, prayer, and worship. When considered as a whole, it is undeniable that By The Hand is "operated primarily for religious purposes" and entitled to an exemption under § 211.3(A)(2) of the Act. Second, the decision wrongly treats the provision of free food, free medical care, and free education to children as strictly secular activities. In so doing, it improperly rejects By The Hand's good-faith and sincere characterization of its own activities as religious and imposes an unconstitutional and overly restrictive view of what qualifies as faith-based activity. Finally, by applying the Act's requirements to a religious organization like By The Hand, the decision raises additional constitutional problems and violates the Illinois Religious Freedom Restoration Act.

ARGUMENT

I. The Department's decision is wrong because the record shows By The Hand's primary purpose is to help kids have a relationship with Jesus Christ.

The Department does not (because it cannot) dispute that By The Hand's articles of incorporation, bylaws, operations manual, and general policies and procedures reflect a distinctly Christian purpose and mission. So the Department merely responds by arguing that By The Hand's "[i]ntentions are not enough." Defs' Memo. at 5. That is true enough: an organization's primary purpose is determined based on "its charter, bylaws, and actual method and facts relating to its operation." *Provena Covenant Med. Ctr. v. Dep't of Revenue*, 236 Ill. 2d 368, 408, 925 N.E.2d 1131, 1155 (2010). But when all those sources are fairly considered here, they show that By The Hand's primary purpose is to help children experience the "abundant life" that comes through a personal relationship with Jesus Christ. There can be no denying that is a religious purpose.

Although the Department claims it looks at the "totality" of the circumstances, Defs' Memo. at 11, its evaluation of By The Hand's purpose and activities continues to be very selective. It is telling that the Department's brief fails to mention that By The Hand:

- Is and always has been a ministry of The Moody Church;[1]
- Adopted a comprehensive statement of religious doctrine and belief that governs the organization (1 R. at 165–66);
- Gives each student a Bible upon enrollment (2 R. at 321);
- Holds regular chapel services and Bible studies for the students, including intentional times of worship, preaching, prayer, and scripture memorization (2 R. at 320–21);

[1] The Department incorrectly claims that By The Hand "chose to cease to be a part of the ministry of The Moody Church when it incorporated in 2005 and became an independent entity." Defs' Memo. at 12. The Department offers no legal authority for this novel proposition, and the assertion is directly at odds with the Department's own conclusion that By The Hand is "operated, supervised, controlled, or principally supported" by The Moody Church. (4 R. at 816.) Furthermore, it conflicts with the uncontroverted testimony of Tom Sawyer, the Chairman of the Board and Principal Officer of By The Hand, who explained that By The Hand "began with Moody Church, and is still a ministry of Moody Church." (2 R. at 370).

- Uses an evangelistic curriculum called Evangelism Explosion to teach students about the Christian faith (2 R. at 321);

- Sets aside specific times to pray with students and their families and to teach students about the Christian faith (2 R. at 331, 335; 3 R. at 587 [Travis Aff. ¶¶ 17, 21]);

- Takes students to Bible camps and Christian concerts and retreats throughout the year (3 R. at 587 [Travis Aff. ¶ 22]);

- Plays only Christian music during programming (3 R. at 565);

- Posts its theme scripture verse, John 10:10, throughout each program site's lobby and classrooms (3 R. at 587 [Travis Aff. ¶ 19]);

- Requires employees to be Christians, affirm their salvation in Jesus Christ, and agree with By The Hand's statement of faith as a condition of employment (3 R. at 586 [Travis Aff. ¶¶ 8, 12, 14]);

- Requires employees to certify that they regularly attend a "Bible believing local church" and agree to adhere to biblical standards of living (4 R. at 627);

- Requires employees and volunteers to lead Bible study and chapel, pray with and disciple students, and to be Christian role models (2 R. at 325);

- Employs a spiritual development specialist at each program site, who is tasked with ensuring consistency in chapel services and Bible studies and discipling students in the Christian faith (2 R. at 324, 330–31; *see also* 3 R. at 586 [Travis Aff. ¶ 13]); and

- Measures success in large part on whether 100% of students "have a personal and saving relationship with Jesus Christ" and are "involved in a local church" (4 R. at 646).

It is no accident that the Department overlooks these critical facts. It knows it would be odd indeed for a primarily secular organization to perform any—let alone all—of these activities. They are hallmarks of a religious organization, not a secular one.

These undisputed facts also demonstrate why the Department's reliance on *St. Augustine's Center for American Indians, Inc. v. Department of Labor*, 114 Ill. App. 3d 621, 449 N.E.2d 246 (1983), is unavailing. Unlike By The Hand, the entity there was a social welfare organization whose bylaws plainly stated a secular purpose: "provid[ing] counseling, casework and supportive

services, and scholarship aid for American Indians." *Id.* at 622. In fact, other than offering voluntary worship services on one floor of its three-story building, the organization did not provide any other religious programming, training, education, discipleship, counseling, or fellowship. Nor is there any indication that it restricted employment to members of its own faith as By The Hand does here. *St. Augustine's* also is distinguishable because the court reviewed the administrative decision under the incorrect legal standard ("manifest weight of the evidence"), and the Illinois Supreme Court has since clarified that the "clearly erroneous" standard of review applies to cases like this one. *See AFM Messenger Serv., Inc. v. Dep't of Employment Sec.*, 198 Ill. 2d 380, 395–96, 763 N.E.2d 272, 281–82 (2001). It is thus no surprise that at least one court has concluded that *St. Augustine's* "does little to unmuddy the murky waters that are 'religious purposes' under section 211.3(A)(2) of the Act." *Unity Christian School v. Rowell*, 2014 IL App. (3d) 120799, ¶ 30, 6 N.E.3d 845, 852.

Because By The Hand's Christian founding, identity, mission, and activities all show that By The Hand is "operated primarily for religious purposes," the Department clearly erred in holding otherwise. *See, e.g., Nampa Christian Schs. Found., Inc. v. State*, 719 P.2d 1178, 1183–84 (Idaho 1986) (holding that independent school was operated primarily for religious purposes where teachers were required to have beliefs consistent with the school's statement of faith, be heavily involved in local churches, and integrate the school's religious position into the instruction); *Community Lutheran Sch. v. Iowa Dep't of Job Service*, 326 N.W.2d 286, 291 (Iowa 1982) (separately incorporated parochial schools were operated primarily for religious purposes where they were created "to rear children in the Christian faith 'in all their schooling'" and adhering to the Lutheran faith was a perquisite to teach in the schools).

II. The Department's decision is also wrong because educating students and meeting their physical needs are religious activities too.

In addition to failing to properly consider *all* of By The Hand's activities, the Department's decision should be overturned because it substitutes the government's view of religion for that of By The Hand's. Constitutional concerns require the Department to defer to By the Hand's characterization of its own activities as religious, which it obviously did not do here.

A. The Department improperly rejected By The Hand's good-faith characterization of its activities as religious and instead imposed its own overly restrictive definition of religion.

The Department insists it is not "questioning [By The Hand's] religious beliefs or that those beliefs are held in good faith." Defs' Memo. at 10. But the practical effect of its decision is to prefer its view of what qualifies as "religious" activity over By The Hand's.

No one disputes that By The Hand's chapel services, Bible studies, and regular times of discipleship, prayer, and worship constitute religious activities. The only way the Department could take away the exemption, then, was to conclude that By The Hand's other activities (that is, providing free food, free medical care, and free education) are secular ones. Indeed, that is exactly what it did. *See* Defs' Memo. at 16 (claiming that those activities are "not religious in nature"). But Illinois courts have explained that constitutional concerns require the government to accept a religious entity's good faith "characterization of its activities and beliefs as religious." *Fairview Haven v. Dep't of Revenue*, 153 Ill. App. 3d 763, 773, 506 N.E.2d 341, 348 (1987). Thus, when the "particular purposes and activities of a religious organization are claimed to be other than religious," the government may only engage in two inquiries: "Does the religious organization assert that the challenged purposes and activities are religious, and is that assertion bona fide?" *Calvary Baptist Church of Tilton v. Dep't of Revenue*, 349 Ill. App. 3d 325, 331, 812 N.E.2d 1, 5–6 (2004).

Here, the record plainly shows that By The Hand sincerely believes that providing free food, free medical care, and free education is an *exercise* of its religious beliefs requiring it to care for others. Because the Department concedes that characterization is made in good faith, *see* Defs' Memo. at 10, it must treat those activities as religious for purposes of applying § 211.3(A)(2). When the correct standard is applied, the Department's reason for revoking By The Hand's exemption falls away.

Not surprisingly, the Department rejects the good-faith deference rule, claiming that the Court should recognize a difference between the "meaning behind" By The Hand's activities and their "fundamental nature." Defs' Memo. at 12. So even though the Department does not doubt that By The Hand is exercising its religious beliefs when it provides free food, free medical care, and free education to children, it refuses to treat them as "religious" activities for purposes of applying the exemption. The distinction is unsupported, unhelpful, and ultimately unworkable.

The truth is that the line between religious and secular activity "is hardly a bright one." *Corp. of Presiding Bishop of the Church of Jesus Christ of Latter-day Saints v. Amos*, 483 U.S. 327, 336 (1987). The nature or purpose of an activity often depends on its motivation. This is especially so for religious activities. Reading the Bible, for example, can be a religious act if done to learn more about God or a secular one if done merely as a history or literature lesson. Likewise, eating bread and drinking wine can be part of Holy Communion or a nice snack. And killing animals can be ritual sacrifice, animal cruelty, or the preparation of food depending on the reason for the killing. *See Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993) (holding that city ordinances purportedly designed to prevent animal cruelty and preserve public health were unconstitutional because they singled out religious slaughter of animals). The examples could go on and on. The point is that trying to separate an activity's purpose from its

motivation is an unworkable standard and raises serious constitutional issues, as explained in more detail below.

In *Meek v. Pittenger*, the Supreme Court explained that it would "simply ignore reality" to "separate secular education functions from the predominantly religious." 421 U.S. 349, 365–66 (1975), *overruled on other grounds by Mitchell v. Helms*, 530 U.S. 793 (2000). The Court reasoned that, regardless of whether the subject is "remedial reading," "advanced reading," or simply "reading," teachers remain teachers and "religious doctrine" will inevitably "become intertwined with secular instruction." *Id.* 421 U.S. at 370.

For similar reasons, the court in *Unity Christian School v. Rowell* overturned the Department's ruling that a parochial school that taught secular subjects was "operated primarily for secular educational purposes," explaining that the critical fact was that those subjects were taught "in a faith-based environment." 2014 IL App. (3d) 120799, ¶¶ 33–34.

Although the Department tries to distinguish *Unity Christian* in its brief, it fails to do so in any meaningful way. It simply notes that the parochial school there was required by state law to teach secular subjects, whereas By The Hand is not required by law "to provide homework help, tutoring, language and reading literacy programs, health education, access to health services or a meal program." Defs' Memo. at 8. It is difficult to comprehend why the Department thinks this matters. If anything, that By The Hand voluntarily provides services for free supports its claim that it operates primarily for religious purposes. *Cf. Provena Covenant Med. Ctr.*, 236 Ill. 2d at 410 (denying property tax exemption where "the record clearly established that the primary purpose for which the PCMC property was used was providing medical care to patients *for a fee*") (emphasis added).[2]

[2] The Department also claims that the *Unity Christian* court's analysis of whether the school was operated primarily for religious purposes is "dicta" because the school was ultimately unable to satisfy the exemption's other requirement

The Department would have done well to remember that Illinois courts have been "quite cautious in attempting to define, for tax and unemployment insurance purposes, what is or is not a religious activity or organization—for obvious policy and constitutional reasons." *Community Renewal Soc'y v. Dep't of Labor*, 108 Ill. App. 3d 773, 779, 439 N.E.2d 975, 978 (1982) (internal quotations and brackets omitted). The principle the Department seeks to have enshrined in law—that an activity cannot be religious if it addresses "matters of social concern"—is unprecedented, unworkable, and defies common sense. Religious activities can—and frequently do—address "matters of social concern." As other courts have recognized, that By The Hand's "religious motives" also happen to "serve the public good" is "hardly reason to deny" it a "religious exemption." *Kendall v. Director of Div. Employment Sec.*, 473 N.E.2d 196, 199 (Mass. 1985).

Because the Department's decision disregards By The Hand's good-faith characterization of its activities and rests on an unconstitutional and overly restrictive view of religion, the Court should overturn it as clearly erroneous for this reason as well.

B. By The Hand cannot reasonably be described as "businesslike" or "commercial" because it offers all its services for free.

With its decision in jeopardy, the Department pleads for this Court to "conclude [By The Hand's] after-school programs were businesslike and more characteristic of a commercial after-school program than a facility used primarily for religious purposes." Defs' Memo. at 9. The Department contends that such a conclusion is "wholly reasonable from the record" and finds support in Illinois case law. But neither the record nor the cases referenced by the Department support its request.

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that it be operated or controlled by a church. Defs' Memo. at 7. But the court in *Unity Christian* expressly held that it had to reach that issue because the underlying decision "rested solely on a finding that Unity was not operated primarily for a religious purpose." 2014 IL App. (3d) 120799, ¶ 26.

In *Faith Builders Church v. Department of Revenue*, 378 Ill. App. 3d 1037, 882 N.E.2d 1256 (2008), a church-affiliated daycare charged tuition and imposed financial penalties for late payment of tuition and late pickup of students. The daycare would discharge students if their parents did not fully pay tuition and any outstanding penalties by the end of the week. *Id.* at 1040–41. Because such measures "suggest a business relationship more than a religious one," the court held that the daycare "was businesslike and more characteristic of a commercial day care than a facility used primarily for religious purposes." *Id.* at 1046.

Similarly, in *Franciscan Communities, Inc. v. Hamer*, 2012 IL App (2d) 110431, ¶ 36, 975 N.E.2d 733, 748 (2012), the court held that a continuing care retirement community was not entitled to a religious property tax exemption because the "evidence overwhelmingly showed" that it "was businesslike and characteristic of a commercial enterprise." The retirement community in that case had generated $17.4 million in gross revenue from fees paid by residents. *Id.* ¶ 31. As a result, the court concluded the retirement community "was not *giving* care to the elderly; it was *selling* care to the elderly, as well as a certain lifestyle for those in independent living, at competitive market rates." *Id.* ¶ 36. (emphasis in original).

Unlike the daycare in *Faith Builders* and retirement community in *Franciscan Communities*, By The Hand does not charge—and never has—for its services. (2 R. at 321.) It simply is not "businesslike" or "commercial" under any accepted meaning of those terms.

III. Overturning the Department's decision is necessary to avoid serious constitutional problems and to avoid violating the Illinois Religious Freedom Restoration Act.

Courts must interpret and apply statutes so as "to avoid raising doubts of its constitutionality." *St. Martin Evangelical Lutheran Church v. South Dakota*, 451 U.S. 772, 780 (1981); *see also People v. Cornelius*, 213 Ill. 2d 178, 189, 821 N.E.2d 288, 296 (2004) ("We remind our circuit courts that statutory enactments are presumed constitutional, and that it is the

duty of the court to construe a statute so as to affirm its constitutionality, if such a construction is reasonably possible."). This doctrine of constitutional avoidance counsels for overturning the Department's decision.[3]

A. The Department's interpretation and application of the Act, which treats the provision of free food, free medical care, and free education as strictly secular activities, is unconstitutional.

Free exercise and establishment concerns prohibit the government from determining, based on its own subjective standards, whether a particular activity is religious or secular. *See, e.g., Thomas v. Review Bd. of Indiana Employment Sec. Div.*, 450 U.S. 707, 714 (1981) (because determining "what is a 'religious' belief or practice is more often than not a difficult and delicate task," the "resolution of that question" may not "turn upon a judicial perception of the particular belief or practice in question"); *New York v. Cathedral Academy*, 434 U.S. 125, 133 (1977) ("The prospect of church and state litigating in court about what does or does not have religious meaning touches the very core of the constitutional guarantee against religious establishment.").

Although the Department acknowledges the validity of this well-established constitutional principle, it denies violating it, claiming that it has not "determined what constitutes a religious belief or practice." Defs' Memo. at 10. But, as noted above, the Department plainly decided that some of By The Hand's activities—namely, providing free food, medical care, and education to children—are not religious activities. The Department's brief reiterates this conclusion, stating that such activities are "matters of social concern and *not religious in nature*." Defs' Memo. at 16 (emphasis added).

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[3] The Department's suggestion that all debatable questions must be resolved in favor of taxation, *see* Defs' Memo. at 6, is legally incorrect, especially in light of the constitutional considerations here. *See, e.g., Kendall v. Director of Div. of Employment Sec.*, 473 N.E.2d 196, 199 ("Although tax exemptions are normally ... given a strict construction with all doubts construed against the taxpayer ... the rule of strict construction is superseded in instances where there is a strong possibility that the statute in question infringes upon a party's right to the free exercise of religion.").

As explained above, there can be no question that By The Hand would have kept its exemption had the Department deferred to By The Hand's characterization of its own activities. Indeed, the Department does not suggest otherwise. Because the underlying decision prefers the Department's view of religion over By The Hand's, this Court should overturn the decision to avoid violating the First Amendment to the U.S. Constitution and Article I, Section 3 of the Illinois Constitution.

B. Applying the Act to By The Hand will result in constitutional problems related to its religiously motivated employment decisions and ability to part ways with unwanted "ministers."

The Department seems to think the religious exemption here is simply a matter of legislative grace. It is not. The General Assembly had good reasons for exempting churches and religious organizations from the Act's requirements, none better than the Religion Clauses of the U.S. and Illinois Constitutions.

As explained in By The Hand's opening brief, applying the Act's requirements to religious organizations like By The Hand raises several constitutional problems. *See* Pl's Memo. at 9–15. The Department's argument that these constitutional concerns are "extremely hyperbolic," Defs' Memo. at 10, is itself hyperbolic. The reality is that the religious exemption provided for under § 211.3(A)(2) is necessary because it relieves real burdens on the free exercise of religion and avoids governmental entanglement with religion.

In *Grace Lutheran Church v. North Dakota Employment Security Bureau*, 294 N.W.2d 767, 774 (N.D. 1980), for example, the court recognized that "disturbing" problems would arise if religious school employees could seek unemployment benefits because a government agency would be required to determine whether the termination was justified. The court noted that the employees were "hired partially on the basis of religious and moral qualifications" and "required by contract to teach in accordance with the 'confessional standards' of the Lutheran Church." *Id.*

In light of those facts, the court realized that disputes inevitably would arise when the school dismissed an employee for failing to teach according to its religious tenets because the employee might contend that the dismissal was due to some other reason, such as budgetary concerns. *Id.* The court reasoned that, in such cases, the state agency "would have to determine whether or not the teacher did, in fact, fail to adhere to the religious tenets of the church." *Id.* Because the constitution prohibits that sort of government entanglement, the court interpreted and applied the unemployment insurance law to avoid "disharmony" with the constitution. *Id.*

Like the school in *Grace Lutheran Church*, By The Hand hires only Christians who agree with and are willing to abide by its religious beliefs, including its Christian code of conduct. Because the Act prevents employees from receiving unemployment benefits if they are discharged for "misconduct," applying the Act to By The Hand will force the Department (and courts) to determine, for instance, whether a violation of By The Hand's statement of faith or code of conduct qualifies as a "deliberate and willful violation of a reasonable rule or policy." 820 Ill. Comp. Stat. Ann. 405/602.[4] The government simply may not resolve such religious and theological disputes. *See, e.g.*, *Fairview Haven*, 153 Ill. App. 3d at 772–73 ("[G]overnmental bodies are precluded from resolving disputes on the basis of religious doctrine, and must respect the internal autonomy of religious organizations.").

Applying the Act to religious organizations like By The Hand will also interfere with their ability to part ways with unwanted "ministers." In *Hosanna-Tabor Evangelical Lutheran Church & School v. E.E.O.C.*, 565 U.S. 171, 196 (2012), the Supreme Court held that imposing a financial "penalty" on a religious organization "for terminating an unwanted minister" is "no less prohibited

[4] The Act defines "misconduct," in relevant part, as a "deliberate and willful violation of a reasonable rule or policy of the employing unit, governing the individual's behavior in the performance of his [or her] work." 820 Ill. Comp. Stat. Ann. 405/602.

by the First Amendment than an order overturning the termination." *Id.* at 195. Here, the Act would increase By The Hand's contribution (tax) rate for firing employees, including "ministerial" ones. *See* 820 Ill. Comp. Stat. Ann. 405/1506.1. The Department does not dispute this, claiming only that By The Hand "is not a church" and "may be required to help alleviate the burdens of employees it terminates." Defs' Memo. at 13. The "ministerial exception," however, recognizes that *all* religious organizations (not just churches) have the constitutional right to decide for themselves "who will preach their beliefs, teach their faith, and carry out their mission." *Hosanna-Tabor*, 565 U.S. at 196.

Interestingly, the Department concedes in its brief that By The Hand is permitted to make employment decisions based on its religious beliefs, which of course is something only religious organizations have the right to do. *See* Defs' Memo. at 12, 13. Yet the Department's decision concludes that By The Hand is primarily secular. So which is it? That the Department now feels compelled to admit that By The Hand may "hire and fire its ministers as its sees fit" tells this Court all it needs to know. Defs' Memo. at 12. By The Hand is a religious organization, plain and simple.

When religious organizations like By The Hand are subjected to the Act's requirements, constitutional problems are sure to abound. Indeed, that is why the Act includes a religious exemption. The Court can (and should) avoid these serious constitutional infirmities by overturning the Department's decision and interpreting the Act to exempt By The Hand from its application.

C. Applying the Act to By The Hand will result in a violation of the Illinois Religious Freedom Restoration Act.

The Department claims that the Illinois Religious Freedom Restoration has no application here because there is "nothing" in its decision that "burdens [By The Hand's] exercise of religion."

Defs. Memo. at 15. Not true. In fact, courts considering the issue have held that applying a state's unemployment insurance law to a religious organization imposes significant burdens.

In *Christian School Association of Greater Harrisburg v. Pennsylvania*, 423 A.2d 1340 (Pa. Commw. Ct. 1980), for example, the court held that applying Pennsylvania's law to private religious schools would present a substantial risk of infringing the First Amendment. The court explained that applying the law would result in a financial burden on their religious exercise through: (1) added tax liability; (2) increased record keeping; and (3) required participation in compensation eligibility hearings for their former employees. *Id.* at 1344. The court further noted that the prospect of eligibility hearings could have a chilling effect on termination decisions and would require the Department and the courts to define "good cause" for the suspension or discharge of a religious school employee. *Id.* at 1344–45.

Because those same burdens would exist if the Act were applied to By The Hand, taking away its religious exemption—and imposing a tax instead—has the "tendency to coerce [By The Hand] into acting contrary to its religious beliefs." *Lyng v. Nw. Indian Cemetery Protective Ass'n*, 485 U.S. 439, 450–51 (1988). Indeed, would the exemption be restored (and tax burden avoided) if By The Hand stopped providing free meals to the children? What if it stopped providing free medical care or stopped helping students with their homework? Would that tip the scales and cause the Department to once again view By The Hand as primarily religious? That these questions must be asked shows how the Department's decision pressures By The Hand to give up certain activities it sincerely believes to be an exercise of its religion.

This Court should overturn the Department's decision and restore By The Hand's religious exemption to avoid violating the Illinois Religious Freedom Restoration Act.

CONCLUSION

Based on the foregoing reasons, and the reasons set forth in its opening brief, By The Hand respectfully requests that the Court overturn the Department's erroneous ruling, hold that By The Hand qualifies for the religious exemption under § 211.3(A)(2) of the Act, and avoid the serious constitutional problems that otherwise would result.

Dated: June 6, 2018

Respectfully submitted,

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**Admitted under Supreme Court Rule 707*

CERTIFICATE OF SERVICE

I hereby certify that I served Illinois Department of Employment Security; Director of Illinois Department of Employment Security; Board of Review of Illinois Department of Employment Security; and Kim E. Wimberly with the foregoing Plaintiff's Reply in Support of Complaint, via U.S. mail, with sufficient postage before 5 p.m. on June 6, 2018.

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