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VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF CHESTERFIELD

PROFESSIONAL BACKGROUND SCREENING ASSOCIATION; IPROTECT SCREENING LLC; ROUNDSTONE, INC.; SCREENTHEM BACKGROUND INVESTIGATIONS, INC.; and S2VERIFY, LLC,	)	
Plaintiffs,	)	
v.	)	Case No. _____
VIRGINIA DEPARTMENT OF STATE POLICE Serve: 7700 Midlothian Turnpike North Chesterfield, VA 23235,	)	
and	)	
COLONEL JEFFREY S. KATZ, in his official capacity as Superintendent of the Virginia State Police, Serve: 7700 Midlothian Turnpike North Chesterfield, VA 23235,	)	
Defendants.	)	

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Professional Background Screening Association; iProtect Screening LLC; Roundstone, Inc.; ScreenThem Background Investigations, Inc.; and S2Verify, LLC (collectively, "Plaintiffs"), by counsel, state as follows for their Complaint for Declaratory and Injunctive Relief against Defendant Virginia State Police and Colonel Jeffrey S. Katz, in his official capacity as Superintendent of the Virginia State Police (the "VSP"):

INTRODUCTION

This case is about an unelected law enforcement agency that decided it could set its own price for doing business in Virginia—and set it at $30,000 per year, for every business, regardless of size, regardless of volume, and regardless of whether that business would ever receive a single sealed record. That decision was not authorized by the General Assembly. It was not the product of any rulemaking process. It was not supported by any cost analysis, any methodology, or any public explanation whatsoever. It was simply announced on a website. And it is unlawful.

On July 1, 2026, Virginia's Clean Slate law took effect, and with it came a new mandate: background screening services (called "business screening services" in this new statute, which is the term hereinafter used throughout) that handle Virginia criminal and traffic history records must register with the Virginia State Police ("VSP"), receive electronic notifications of sealing orders, and delete sealed records from their systems. The General Assembly authorized the VSP to charge a fee to cover the cost of providing those notifications—nothing more. The statutory language could not be clearer: the fee must be "used to cover the cost of providing such records." Va. Code § 19.2-392.16(C). That is the full extent of the VSP's fee-setting authority: a narrow cost-recovery mandate tethered to the actual expense of operating a document download portal that transmits sealing order notifications to registered businesses and records their acknowledgment of receipt. And nothing more.

What the VSP did instead was impose a flat $30,000 annual fee on every registered business screening service in the Commonwealth. That fee, however, is untethered to actual costs, unconstrained by any rulemaking process, and unapologetically uniform across businesses of vastly different sizes, revenue profiles, and operational footprints. The VSP did not conduct a cost study. It did not solicit public comment. It did not promulgate a regulation. In fact, its own internal

communications reveal that it did not even attempt to calculate what the program actually costs. Instead, VSP personnel looked at what other states charge, concluded that $30,000 was not "too insane," and posted the number online. That is not rulemaking. It is not cost recovery. Rather, it is a tax—and an arbitrary and unconstitutional one at that.

The consequences are severe and, for many of the Plaintiffs who bring this action, existential. The VSP's $30,000 ("New Annual Fee") functions not as a regulatory cost-recovery measure but as a market-restructuring mechanism—one that prices small and regional providers out of the Virginia market while imposing a burden on the large national companies that can absorb it, but not without disruption, and the untold reality is the trickledown effect to Virginia consumers. Businesses that perform a handful of Virginia searches per week, charge a few dollars per search, and have never maintained a database of sealed records now face a $30,000 annual bill for the privilege of continuing to operate. For Plaintiff Roundstone, Inc. ("Roundstone"), that fee exceeds its entire Virginia revenue. For ScreenThem Background Investigations, Inc. ("ScreenThem"), it is a death knell. For iProtect Screening LLC ("iProtect"), it forces a choice between financial instability, client losses, and market exit. None of those outcomes was authorized by the General Assembly. Yet, all of them flow directly from the VSP's unauthorized and arbitrary exercise of regulatory power.

The VSP's New Annual Fee is unlawful on three independent grounds. First, it exceeds the VSP's statutory authority under Code § 19.2-392.16, which limits the permissible fee to one that covers the actual cost of providing sealing order notifications, a limitation the VSP has ignored entirely. Second, it constitutes an unconstitutional tax, imposed by an unelected agency without legislative authorization, in violation of Articles I, IV, and VII of the Constitution of Virginia. Third, it violates the due process guarantee of Article I, Section 11 of the Constitution of Virginia

because a flat fee applied uniformly to every business screening service regardless of size, usage, or operational need bears no rational relationship to any legitimate government purpose.

Accordingly, Plaintiffs ask this Court to declare the VSP's $30,000.00 fee unlawful and enjoin its enforcement. The General Assembly drew a narrow lane. The VSP drove a bulldozer through it. Plaintiffs ask this Court to declare the $30,000 fee unlawful, enjoin its enforcement, and restore the boundaries the General Assembly actually drew.

PARTIES

1. The VSP is the law enforcement agency empowered by the General Assembly to enforce Virginia's criminal and motor vehicle laws. Code § 52-1 *et seq.* In that role, the VSP maintains and manages Virginia's criminal and traffic history records—sensitive but public information compiled and retained in connection with the VSP's law enforcement functions. As part of that mandate, the General Assembly has authorized the VSP to administer the Virginia Business Screening Services ("BSS") Program, which regulates businesses—including Plaintiffs iProtect, Roundstone, ScreenThem, and S2Verify—that access and use those records for business screening purposes.

2. Plaintiff Professional Background Screening Association ("PBSA") is a nonprofit trade association organized to represent the interests of its members, who are companies engaged in the provision of business screening services within the screening industry.

3. Plaintiff iProtect is a small, woman-owned Virginia-based public records data provider.

4. Plaintiff Roundstone is a small, family-owned wholesale county criminal records provider.

5. Plaintiff ScreenThem is a small, accredited consumer reporting agency ("CRA") that provides criminal history and related business screening services to clients across the United States.

6. Plaintiff S2Verify is an accredited CRA headquartered in Atlanta, Georgia, which provides business screening services to over 16,000 clients across the United States and internationally.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this matter under Code §§ 8.01-620, 8.01-184, and 2.2-4026.

8. This Court is a proper venue under Code § 8.01-261(1)(a), as this is the county or city in which the moving party regularly or systematically conducts affairs or business activity.

FACTUAL BACKGROUND

The Essential Role of the Business Screening Services Industry in Virginia Society

9. A "business screening service" consists of those "engaged in the business of collecting, assembling, evaluating, or disseminating Virginia criminal history records or traffic history records on individuals." Va. Code § 19.2-392.16(A). Some business screening service companies (such as consumer reporting agencies or "CRAs") assemble and evaluate that information to generate comprehensive screening reports for employers, landlords, contractors, and other business clients. These reports enable clients to assess risk, verify credentials, and protect their organizations and communities from fraud, financial loss, and other harm. Only a very small minority of CRAs maintain databases for resale purposes. The criminal background report process typically begins when a CRA receives a request from an end user client to run a criminal background check on a specific individual for which disclosure has been provided and authorization has been granted. The CRA will then conduct a "search" on the individual/applicant

using the name and date-of-birth or other information provided by the client to confirm whether the individual has prior criminal history records. While many background checks include the use of databases or database services for a component of the background check, they typically use them as a locator to identify jurisdictions to search for records and run any results returned from the database at the original source to determine if they are accurate and up to date for reporting.

10. Business screening service companies provide an essential service that promotes the safety and security of communities across the Commonwealth and the nation. Employers, financial institutions, churches, landlords, volunteer organizations, youth sports leagues, long-term care facilities, and countless other organizations rely on business screening service companies to help them make informed decisions about the individuals they hire, house, and entrust with vulnerable populations. Without access to accurate and timely business screening services, these organizations and the communities they serve would have no reliable means of identifying individuals whose backgrounds pose a risk to others.

11. The importance of these services is perhaps most acute where vulnerable populations are involved. Little leagues, youth sports organizations, and daycare programs—among others—depend on business screening to ensure that the adults entrusted with the supervision and care of children do not pose a safety risk. Long-term care facilities rely on screening to protect residents from potential financial exploitation and physical harm. Financial institutions use business screening to guard against embezzlement and fraud. Companies that provide in-home services such as installers, repair work, or delivery personnel use screening to help protect their customers in the sanctuary of their own home. In each of these contexts, business screening is not a mere formality; it is a critical safeguard against foreseeable harm to the most vulnerable members of society.

12. Business screening service companies also play a critical role in ensuring that individuals whose backgrounds are screened are evaluated on the basis of accurate and fairly obtained information. Plaintiffs iProtect, Roundstone, ScreenThem, and S2Verify each conduct searches anew in response to specific client requests, do not report expunged or sealed records, and do not maintain permanent databases of individual records for which criminal or traffic records are reported from. Plaintiffs are committed to accuracy, fairness, and the responsible use of public information.

13. The business screening services industry is intensely competitive, with speed, price, and accuracy each functioning as threshold requirements rather than differentiating features. Individual searches typically cost only a few dollars, with assembled reports typically costing tens of dollars, and companies depend on sustained transaction volume—rather than per-unit profit—to remain viable. The consequences of unreliable information extend far beyond a simple refund. Federal law mandates dispute procedures that require consumer reporting agencies to redo their work, work that is already competitively priced such that performing it a second time represents lost revenue even in the best case. But the financial exposure does not end there. An error in a background report risks the loss of the client relationship entirely, as hiring and placement decisions depend on information that can be relied upon without reservation. And at the far end of the risk spectrum sits litigation: a prospect that is neither remote nor speculative in an industry where the accuracy of reported information carries direct legal consequences.

The Plaintiffs and Their Businesses

Plaintiff iProtect

14. Plaintiff iProtect is a Virginia-based public records data provider founded in 2024, with its principal place of business in Winchester, Virginia. iProtect is a WBENC certified,

woman-owned business with a nationally recognized reputation in the business screening service industry. iProtect currently employs ten W-2 employees, with two additional hires in progress, and engages approximately fifty independent contractors on a 1099 basis. The majority of iProtect's W-2 workforce works remotely, with employees located across multiple states including Florida and West Virginia.

15. iProtect is a wholesaler of public records data and a critical link in the business screening services supply chain. iProtect does not provide data directly to employers or consumers. Instead, it supplies criminal and public records data to CRAs, who compile that information into screening reports for employers, landlords, volunteer organizations, and other organizations that depend on accurate and current criminal history information for lawful screening purposes. Wholesalers like iProtect are indispensable to this process. CRAs—particularly smaller, regional firms—lack the localized expertise, court-level relationships, and data infrastructure required to access and retrieve public records on their own. Without wholesalers, those CRAs cannot function. By aggregating and supplying this data, iProtect and companies like it sustain the network of screening services that businesses and communities across the Commonwealth rely upon every day.

16. The information iProtect provides ultimately serves clients of the CRAs whose need for accurate business screening information is critical to hiring and placement decisions. iProtect does not contract directly with end-user clients; rather, it supplies data to CRAs, which in turn deliver background screening reports to their own clients. Those end user clients—including churches, youth sports organizations such as little leagues, long-term care facilities, and financial institutions—rely on the accuracy and completeness of that data to ensure that individuals working with children, the elderly, and other vulnerable populations do not pose a foreseeable risk of harm.

17. iProtect receives requests from CRAs including names of specific individuals and then conducts searches for each of those names, obtaining criminal history information directly from courts and public records. This includes accessing Virginia court records through the state judiciary website, using the Virginia date-of-birth confirmation system to confirm the individual's identity, and visiting courthouses in person to obtain records when necessary. The volume of searches conducted by iProtect varies significantly from week to week depending on client demand.

18. iProtect does not maintain a permanent database of criminal history records. iProtect conducts each search anew in response to a specific client request, and iProtect does not draw on previously collected data when fulfilling new requests. iProtect's policy is not to report expunged or sealed records; in most instances, such records are removed from public court access and therefore do not appear in iProtect's searches.

Plaintiff RoundStone

19. Plaintiff Roundstone is a small, family-owned wholesale county criminal records provider headquartered in Tampa, Florida. Roundstone employs six employees and is family owned and operated. Roundstone conducts business across sixteen states, including Virginia.

20. Roundstone operates as a wholesale county criminal records provider, sourcing real-time criminal record information directly from county courts on behalf of its CRA clients or other larger wholesale providers at the time each search is requested. Roundstone does not sell background reports directly to employers or consumers. Its clients are CRAs that incorporate Roundstone's court-sourced data into the consumer reports they deliver to end-user clients, including employers making hiring decisions, property managers screening prospective tenants, and organizations seeking to protect vulnerable populations. In this capacity, Roundstone serves

as a critical link in the business screening supply chain, providing the foundational court record data on which the broader business screening industry depends.

21. Roundstone does not maintain a database of criminal history information for the purpose of reselling or reusing records to fulfill future orders. Although Roundstone's software system retains historical search records to meet the requirements of state and federal law, those records are never used to fulfill current search requests.

22. Every search order is fulfilled by accessing the court's live record system at the time of the request, meaning that any record that has been properly sealed or expunged and reflected in the court's own system should not appear in Roundstone's search results. For each request it receives, Roundstone conducts an entirely new search based on public records, either through in-person or online court public access terminals or through communicating with a court clerk. If Roundstone notices any indication that a record it has pulled from a public court system may be sealed or expunged, it conducts further research to confirm the record's status. Roundstone does not report any documents that it discovers are sealed or expunged.

Plaintiff ScreenThem

23. Plaintiff ScreenThem is a small, accredited CRA with its principal place of business in Alexandria, Virginia. ScreenThem employs seven W-2 employees and primarily hires mothers returning to the workforce. ScreenThem is owned and operated by a woman and minority business owner, and it is one of only a small number of women- and minority-owned accredited business screening service companies in the country. It primarily serves clients in the D.C., Maryland, and Virginia region.

24. ScreenThem offers a comprehensive suite of business screening and verification services, including county, statewide, federal, and international criminal background checks, credit

reports for employment and tenant screening purposes, and drug and alcohol testing, among other services. It provides background screening and verification services to clients including businesses, property managers, and non-profit organizations, providing them with the information they need to make informed decisions regarding applicants.

25. ScreenThem obtains criminal history information directly from courts through a network of public court researchers, supplemented by a limited number of database vendors whose results ScreenThem independently verify by obtaining current court records through that same network of public court researchers. ScreenThem has access to the Virginia date-of-birth confirmation system and obtains records from jurisdictions across the United States, including the District of Columbia, Maryland, and Virginia. To create criminal history background reports, ScreenThem both works with wholesale court research providers to obtain up-to-date information directly from courts and also conducts research itself. *Id.*

26. ScreenThem does not report or handle expunged records and does not maintain a permanent database of criminal history records beyond what is required under state and federal law. Each background check is conducted anew in response to a specific end user client request, and previously collected data is never used in conducting new searches.

Plaintiff S2Verify

27. Plaintiff S2Verify is an accredited CRA headquartered in Atlanta, Georgia, which serves over 16,000 clients across the United States and internationally, ranging from small, family-owned businesses to a Fortune 10 company. S2Verify processes several thousand background screening requests per day and conducted approximately 1,300 Virginia searches in the most recent month alone, representing less than five percent of its total annual volume of approximately 17,000-to-19,000 Virginia records. Despite Virginia comprising a small fraction of its overall

business, S2Verify cannot simply exit the Virginia market; its top ten clients, many of which are Fortune 500 companies, all operate in Virginia, and Virginia screening is embedded within broader, multi-state service arrangements that cannot be disaggregated.

28. S2Verify does not maintain a proprietary database of records and only retains records necessary to comply with state and federal law. S2Verify purchases records from third-party vendors on a per-search basis, retains consumer reports on behalf of clients for a standard period of three years, and does not store, resell, or redistribute records beyond those client-specific retention obligations. S2Verify's primary Virginia vendor, RPA, has already paid the VSP's New Annual Fee and is passing that cost back to S2Verify on a per-search basis, meaning S2Verify is effectively absorbing the fee twice: once through its vendor's surcharge and again through its own $30,000.00 registration obligation. Regardless of client location, an applicant may have history from anywhere around the globe, including Virginia, and clients would not accept reports that exclude one or more locations an applicant has history in as doing so defeats the entire purpose of a background check. Due to this, S2Verify has paid the VSP's New Annual Fee.

Plaintiff PBSA

29. Plaintiff PBSA is an international non-profit trade association whose membership comprises over 750 member companies engaged in the provision of employment, tenant, and volunteer background screening and related services across virtually every industry worldwide. PBSA serves members of all sizes; however, approximately 75% of its members are small businesses with 25 or fewer employees. It provides educational resources to its members, legislative and regulatory information, offers individual certificate programs and organizational accreditation programs, and serves as an advocate on their behalf before courts, legislative, and regulatory bodies.

30. The consumer reports prepared by PBSA's members serve employers, property managers, government entities, and volunteer organizations globally, enabling those organizations to make informed decisions that protect the safety of the communities in which people work, reside, and visit. Among other goals, PBSA's members seek to promote the accurate, lawful, and timely reporting of consumer-related information for the purpose of empowering employment, housing, volunteering, and other opportunities to individuals. Consistent with those purposes and with disclosure to and/or written authorization of the individual, PBSA's members produce millions of consumer reports per month in compliance with federal and state law.

31. Many of PBSA's members conduct business within the Commonwealth. iProtect, ScreenThem, Roundstone, and S2Verify are all PBSA members. The majority of PBSA's members do business in Virginia, to some extent.

32. PBSA often acts as an advocate on behalf of its members, representing their interests before legislative bodies, courts, and other tribunals.

The BSS Program and the $30,000 Fee

33. On July 1, 2026, Virginia's new "Clean Slate" law took effect, authorizing the sealing of numerous criminal offense records either automatically or by petition. *See* Va. Code §§ 19.2-392.6, -392.10, -392.12. As part of this regime, the General Assembly imposed new compliance obligations on "business screening services" companies "engaged in the business of collecting, assembling, evaluating, or disseminating Virginia criminal history records or traffic history records on individuals." *Id.* § 19.2-392.16(A). To implement these obligations, the VSP created a webpage entitled the "Business Screening Services Seal Order Notification Program," also known as the "BSS Program." It is a state-mandated initiative requiring business screening services to register with the VSP, receive electronic notifications of sealing orders, and delete any

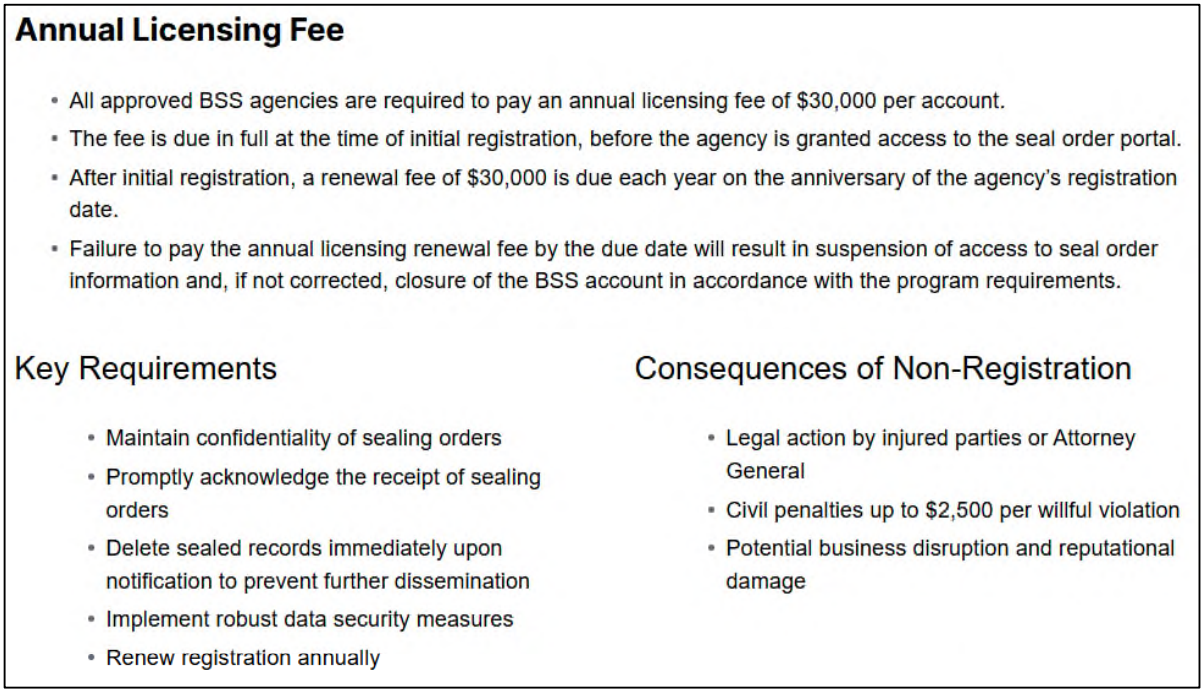
sealed records in their possession. *Id.* § 19.2-392.16(B)-(C). The BSS Program is established by and operates under Code § 19.2-392.16 (the "enabling statute").

34. Registration with the BSS Program is mandatory. The enabling statute commands that "[a] business screening service shall register with the Department of State Police to electronically receive notifications of orders of sealing provided to the Department of State Police." *Id.* § 19.2-392.16(C) (emphasis added). Payment of the $30,000 fee is due in full at the time of initial registration as a condition of gaining access to the sealing order portal. Failure to pay the annual renewal fee by the applicable due date results in suspension of portal access, and, if not corrected, closure of the BSS account. Beyond these programmatic consequences, any business screening service company that fails to register is subject to the statute's substantial penalty provisions—including potential suits by injured parties, enforcement action by the Attorney General, and significant business disruption and reputational harm. Violations further subject business screening service companies to liability of $1,000 or actual damages per affected individual and civil penalties of up to $2,500 per violation. *Id.* § 19.2-392.16(H). Faced with these consequences, business screening services have no practical choice but to comply.

35. The enabling statute authorizes the VSP to charge a licensing fee to business screening services, but, notably, it limits the permissible scope of that fee—***expressly***. The statute provides that "[t]he Department of State Police may charge an annual licensing fee to the business screening service for accessing such information, ***with such fee to be used to cover the cost of providing such records.***" *Id.* (emphasis added). The statutory language is unambiguous: any fee charged must be commensurate with the VSP's actual costs of providing sealing order notifications, i.e., the "such records" language in the statutory provision. The enabling statute, however, does ***not*** authorize the VSP to impose a revenue-generating measure, to recoup unrelated administrative

expenses, or to set a fee untethered from its actual costs. Any fee in excess of that limitation is an unauthorized and *ultra vires* exercise of regulatory authority.

36. The VSP did not comply with that limitation. Without engaging in any formal rulemaking process, notice-and-comment period, or other administrative proceeding, the VSP unilaterally imposed a flat $30,000.00 annual fee on all registered business screening services—including companies, like Plaintiffs iProtect, Roundstone, ScreenThem, and S2Verify, that have no operational need to obtain or download the now sealed records and would never receive them in the ordinary course of their business. The VSP promulgated no regulation, published no cost analysis, offered no methodology, and provided no guidance document to justify the VSP's New Annual Fee amount. Instead, the VSP simply announced the $30,000 figure on its BSS Program website—without elaboration, without supporting documentation, and without any apparent basis in the VSP's actual costs of administering the Program (https://vsp.virginia.gov/business-screening-services/) (last visited Aug. 7, 2026):



Annual Licensing Fee

- All approved BSS agencies are required to pay an annual licensing fee of $30,000 per account.
- The fee is due in full at the time of initial registration, before the agency is granted access to the seal order portal.
- After initial registration, a renewal fee of $30,000 is due each year on the anniversary of the agency's registration date.
- Failure to pay the annual licensing renewal fee by the due date will result in suspension of access to seal order information and, if not corrected, closure of the BSS account in accordance with the program requirements.

Key Requirements

- Maintain confidentiality of sealing orders
- Promptly acknowledge the receipt of sealing orders
- Delete sealed records immediately upon notification to prevent further dissemination
- Implement robust data security measures
- Renew registration annually

Consequences of Non-Registration

- Legal action by injured parties or Attorney General
- Civil penalties up to $2,500 per willful violation
- Potential business disruption and reputational damage

37. The VSP has not publicly disclosed how it arrived at the $30,000 figure, what costs it purports to recover, or how a uniform flat fee bears any relationship to the actual cost of providing criminal and traffic history records to any individual business screening service. As discussed in further detail below, the VSP has also failed to comply with its statutory mandate to produce this information under the Virginia Freedom of Information Act ("VFOIA") statute, which provides five working days to produce information. On July 17, 2026, counsel for Plaintiffs properly served requests for information about how the $30,000 fee was calculated. The original deadline to respond was July 24, 2026, and the VSP took a statutorily permitted extension to August 4, 2026. The VSP subsequently unilaterally decided it would take virtually all of August to gather the materials but would produce them on a rolling basis, beginning on August 4, 2026, and it did not even meet the agreed deadline. To date, that production remains incomplete.

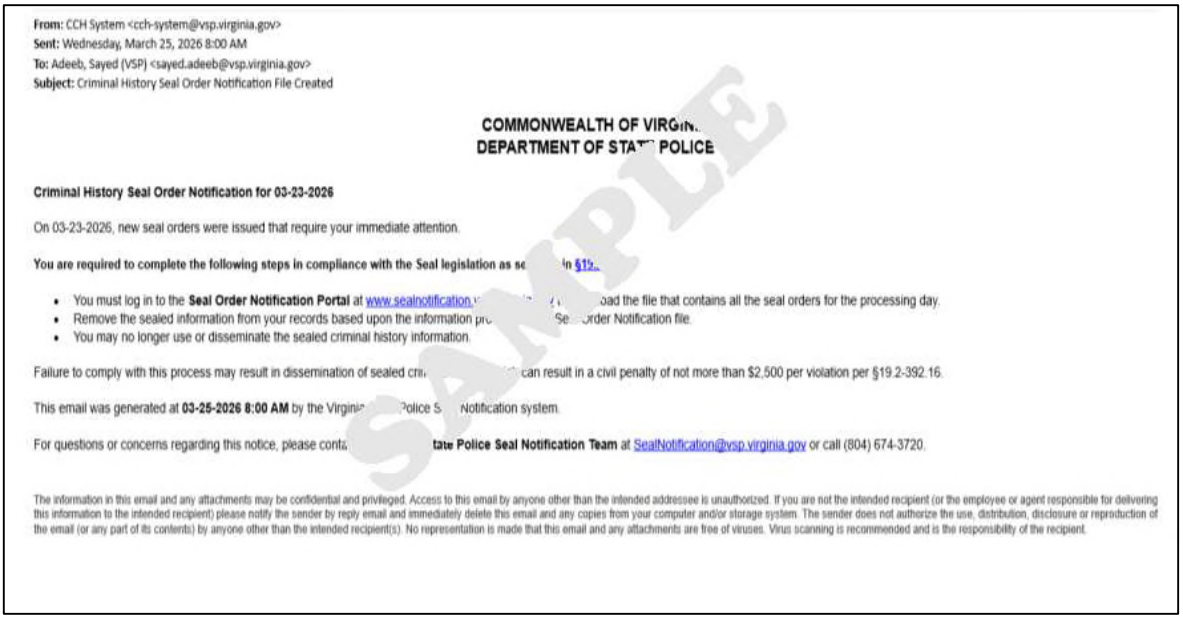
38. Accordingly, the VSP has concealed whatever basis for its determination that the VSP New Annual Fee ought to be $30,000.00 exists. A reasonable inference from that concealment is that its basis was either arbitrary or did not conform to the enabling statute.

39. In any event, every business screening service must pay the same fee regardless of the volume of records accessed, the number of searches conducted, whether the business maintains a database requiring updates, or any other cost-related factor.

40. The VSP New Annual Fee bears no rational relationship to the cost of the system it purportedly funds. The VSP has implemented the BSS registration program through an online portal system, the "Business Screening Services Seal Order Notification Program," which provides registered business screening services access to a portal through which they may download sealing order notifications and delete any corresponding records. VSP, Business Screening Services Seal

Order Notification Program, https://vsp.virginia.gov/business-screening-services/ (last visited Aug. 7, 2026).

41. Once business screening services pay the $30,000 annual licensing fee, they may then register on the portal. Once registered, businesses may access the portal to receive and process the sealing and expungement notifications as contemplated by Code § 19.2-392.16 (CCH-Seal-BSS-Notifications-Services-ICD-v1.1.docx) (last visited Aug. 7, 2026):



From: CCH System <cch-system@vsp.virginia.gov>
Sent: Wednesday, March 25, 2026 8:00 AM
To: Adeeb, Sayed (VSP) <sayed.adeeb@vsp.virginia.gov>
Subject: Criminal History Seal Order Notification File Created

COMMONWEALTH OF VIRGIN.
DEPARTMENT OF STA POLICE

Criminal History Seal Order Notification for 03-23-2026

On 03-23-2026, new seal orders were issued that require your immediate attention.

You are required to complete the following steps in compliance with the Seal legislation as se in §19.

- You must log in to the **Seal Order Notification Portal** at www.sealnotification. oad the file that contains all the seal orders for the processing day.
- Remove the sealed information from your records based upon the information pr Se rder Notification file.
- You may no longer use or disseminate the sealed criminal history information.

Failure to comply with this process may result in dissemination of sealed cri can result in a civil penalty of not more than $2,500 per violation per §19.2-392.16.

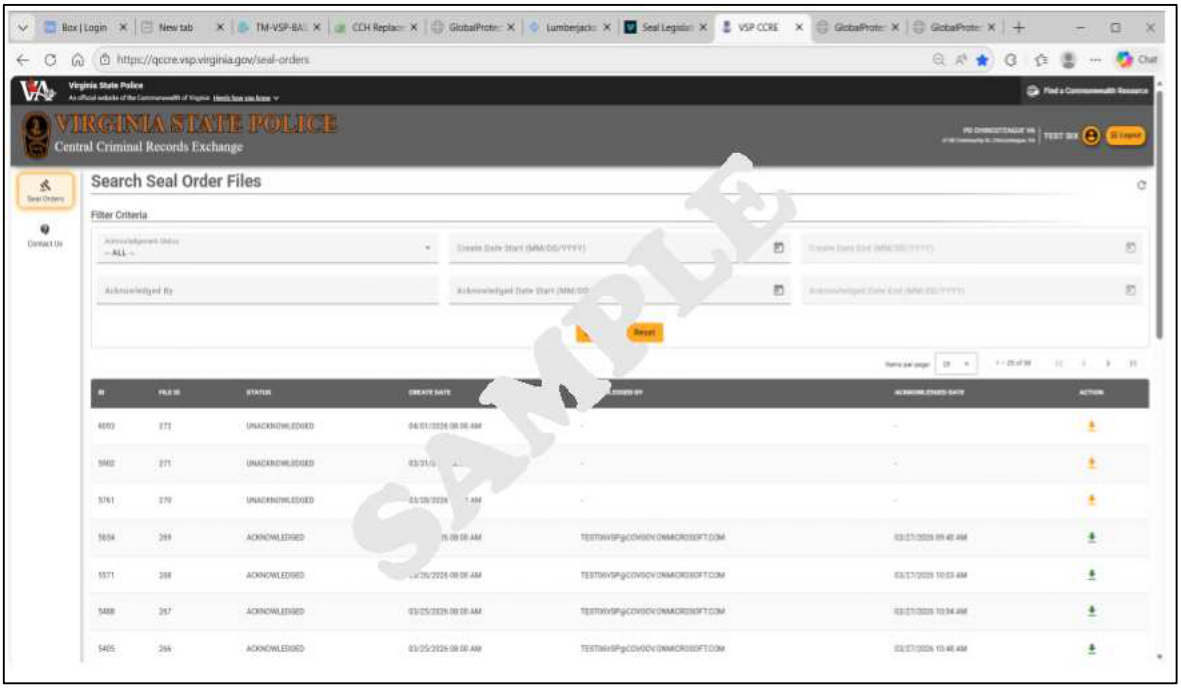
This email was generated at **03-25-2026 8:00 AM** by the Virgini Police S Notification system.

For questions or concerns regarding this notice, please conta **tate Police Seal Notification Team** at SealNotification@vsp.virginia.gov or call (804) 674-3720.

SAMPLE

The information in this email and any attachments may be confidential and privileged. Access to this email by anyone other than the intended addressee is unauthorized. If you are not the intended recipient (or the employee or agent responsible for delivering this information to the intended recipient) please notify the sender by reply email and immediately delete this email and any copies from your computer and/or storage system. The sender does not authorize the use, distribution, disclosure or reproduction of the email (or any part of its contents) by anyone other than the intended recipient(s). No representation is made that this email and any attachments are free of viruses. Virus scanning is recommended and is the responsibility of the recipient.

42. The portal's functionality is narrow and limited in scope: it exists solely to facilitate the download of Seal Order Notification files and to record each registrant's acknowledgment of receipt of that information. The system the VSP has constructed—and for which it charges $30,000.00 per registrant per year—is, in its entirety, a document download and acknowledgment portal. It does not perform any function beyond transmitting a notification file and confirming that the recipient has received it and will take appropriate action to seal the relevant information in their own system:



43. As of the date of this filing, thirty-one businesses have registered through the portal. At current registration levels, the $30,000.00 annual fee generates approximately $930,000.00 per year in revenue for the operation of a document download portal serving twenty-seven users. The VSP has provided no public explanation of how it calculated the $30,000.00 figure, what costs it is intended to recover, or how those costs were apportioned among registrants.

44. The VSP's own internal communications reveal that this was by design. Senior Assistant Attorney General Andrew Parker, in a comment on a draft of the Business Screening Service User Agreement, did not defend the fee as a reasonable cost-recovery measure. He actively encouraged building in room to raise it further, stating that "as the years go by and VSP's costs go up, you likely will want to be able to increase the fee to a higher amount." Ex. 1 at 3. Those "costs," the very basis for VSP's New Annual Fee, remain entirely unexplained to the businesses compelled to pay it. The VSP cannot justify what it has never bothered to define. It is noteworthy that he was not saying that the costs of the program would rise and a cost-defined fee would rise to match the

rise in cost. He was simply saying that the VSP should cover its general costs by increasing the fee.

45. Further, the VSP's own internal deliberations confirm that the $30,000 figure was not the product of any reasoned cost analysis—it was reverse-engineered from what the VSP hoped the market would bear. When VSP personnel were determining whether to charge a flat fee as opposed to a per-record search fee, they did not conduct an internal cost study or seek independent validation. Instead, they circulated webpages from Indiana and New York, reflecting what other states charge, and upon learning that some states charge "$95 a pop" per record search, concluded that "maybe our 30k estimate isn't too insane afterall." Ex. 2 at 1–2. That is not cost justification. The VSP set a $30,000 fee not because its costs demanded it, but because it believed it could get away with it.

46. The absence of any grounded basis for the VSP's New Annual Fee indicates that the agency did not design it to recover the VSP's actual administrative costs for electronically distributing already existing expungement orders, but instead, are leaving it to function as a *de facto* barrier to market participation—one that prices smaller regional providers out of the Virginia market while simultaneously imposing a burden on the large national companies that can absorb the cost without disruption to their operations.

VFOIA Requests to the VSP

47. On July 17, 2026, counsel for Plaintiffs submitted a request to VSP under the VFOIA, Code § 2.2-3700. This request sought all communication and documents underlying the VSP's decision to implement the VSP's New Annual Fee and the rationale for the amount. The VSP exercised its privilege under Code § 2.2-3704(B)(4) to extend its time to respond to the request, rendering the response due on August 4, 2026. Despite this deadline, VSP failed to

respond fully to the request by that date. Instead, the VSP only made a partial production of responsive documents on August 4, 2026, August 6, 2026, and August 7, 2026, and asked for an agreed extension of the deadline until August 7, 2026. Counsel for Plaintiffs agreed to the extension but, despite this extension, VSP indicated that it was not able to complete the full production by August 7, 2026. Thus, Plaintiffs were unable to receive the benefit of a full production prior to filing this Complaint.

48. The August 4, 2026 production primarily consists of PowerPoint presentations, communications, and research documents that addressed the new sealing scheme and the VSP's New Annual Fee as well as drafts of public facing documents. Some of the documents within the production shed light on the VSP's rationale for its New Annual Fee. For example, a research document contained a breakdown of the types and amount of similar fees charged by other states and the federal government, all of which are significantly less than $30,000.00. Ex. 3. An internal chat between VSP employees discussing that breakdown stated, "maybe our 30k estimate isn't too insane afterall [sic]" and appeared to use the numbers from other states to arrive at a "2 cents per seal-order notification" amount. Ex. 2 at 2–3. This 2 cents per seal-order amount is memorialized in an official VSP PowerPoint which states that the VSP's New Annual Fee is "less than 2 cents (1.8 cents) per seal-order notification ($1.7 million [sic] records at $30,000)." Ex. 4 at 10.

49. Other VSP communications give conflicting reports about how many business screening services it expects to register. In a January 16, 2025, email, a VSP employee states that it "do[esn't] know how many agencies will enroll in the program and how many users will be designated under each of those agencies." Ex. 5 at 1. A month later, in a February 20, 2025, email, another VSP employee estimated that 250 business screening services would register "based on google searches." Ex. 6 at 1.

50. Though one of the email communications that VSP produced discusses a cost estimate of "approximately $4M," the numbers the estimate is based on "are rough estimates and use large assumptions." Ex. 7 at 6. Further, a comment from VSP's counsel on a draft Business Screening Service User Agreement indicates that the fee will likely increase in future years. Ex. 1 at 3. ("As the years go by and VSP's costs go up, you likely will want to be able to increase the fee to a higher amount . . . .") Since the VSP never identified the program's costs, these future fee increases are just as untethered to the program's costs as the current fees—rather, they serve to pay for other VSP programs.

51. The VSP's production remains incomplete as of the date of this filing, even though it has failed to comply with its statutory mandate to produce all documents by August 4, 2026. The precise reasons for this failure to comply with the statutory mandate remain unknown and undisclosed.

The Harm to Plaintiffs

52. The VSP's annual $30,000.00 licensing fee threatens—and has already caused—severe and disproportionate harm to all Plaintiffs. All Plaintiffs in this case are small operators for whom an annual fee of this magnitude—applied uniformly regardless of search volume, revenue, or operational scale—represents a disproportionate financial burden. Unlike a per-search or per-transaction structure that would scale with actual usage and bear a rational relationship to the cost of providing records, this flat fee falls hardest on the smallest market participants, those that may process only a few hundred searches per week at low-per-search price points, rely exclusively on courthouse-verified records that are never reused, and therefore would never generate the volume or type of activity that the registration requirement and its accompanying $30,000 annual fee were ostensibly designed to address. If left in place, the VSP's New Annual Fee will drive Plaintiffs

Roundstone and ScreenThem out of the Virginia market entirely, reducing competition and ultimately harming the end user clients who depend on affordable and accessible business screening services.

53. The $30,000.00 fee does not merely impose financial hardship on individual businesses. Rather, it systematically dismantles competition in the Virginia criminal records market. The businesses that have registered as business screening services to date include well-capitalized national companies for whom a $30,000.00 annual fee represents an unreasonable fee based on other models offering the same service and no consideration of volume and small to mid-sized companies complying out of fear this first year so they can continue providing services to clients in an uninterrupted manner while they determine if there is a sustainable long-term strategy. The vast majority of small service providers, including many Plaintiffs, by contrast, are effectively priced out of the market entirely—not because they are less qualified, less accurate, or less capable of serving Virginia consumers and businesses, but because they lack the financial resources to absorb a flat fee that bears no relationship to their actual usage or the VSP's costs incurred in providing records. The predictable and foreseeable result is the consolidation of Virginia criminal record reporting in the hands of a small number of national players, insulated from regional competition by a regulatory barrier of the VSP's own creation. This consolidation harms not only Plaintiffs, but the CRAs, employers, landlords, and end-user clients who depend on regional providers for competitive pricing, accurate and localized coverage, and responsive service.

54. For iProtect, the annual fee imposes a substantial and disproportionate financial burden on its operations. The business screening service industry is characterized by acute price sensitivity and robust competition, where clients routinely transfer their business to alternative providers in response to price differentials as modest as fifty cents per search. iProtect has no

viable means of absorbing the fee without passing the cost on to its clients through higher prices—a measure that would itself threaten iProtect's customer retention and market share. Compounding this risk, the cyclical and unpredictable nature of business screening demand means that any marginal revenue generated through price adjustments would likely be insufficient to fully offset the annual obligation in lower-volume periods.

55. Withdrawal from the Virginia market is equally unsustainable, as Virginia operations constitute a material component of iProtect's business. iProtect is therefore confronted with an untenable choice: absorb an annual fee that threatens its financial stability, raise prices in a manner likely to result in the loss of clients to lower-cost competitors, or exit a market on which it materially depends. It must choose one of these options—and soon, but each choice will inflict a direct and cognizable harm arising from the imposition of the VSP's New Annual Fee.

56. As for Roundstone, the VSP's New Annual Fee does not merely impose a financial burden on Roundstone, it threatens to eliminate Roundstone from the Virginia market entirely and, in doing so, distorts the competitive landscape of the business screening services industry as a whole. Roundstone's total revenue from its Virginia operations is insufficient to cover the $30,000.00 annual fee. Roundstone has no financial cushion to absorb a cost of this magnitude; for a small, family-owned business operating on modest margins, this fee poses an existential threat. In the interim, Roundstone has suspended acceptance of new Virginia business and removed Virginia from its active service offerings in anticipation of enforcement of the VSP's New Annual Fee. Roundstone continues to fulfill existing client obligations in Virginia but has declined all new Virginia work, constituting direct and ongoing operational harm caused by the VSP's New Annual Fee. If ultimately required to pay the fee, Roundstone will be forced to exit the Virginia market entirely.

57. Roundstone's predicament is not unique. On the contrary, it amounts to nothing more than the predictable consequence of imposing a flat fee industry-wide, where that industry is populated by businesses of vastly different sizes and revenue profiles. For small, regional providers like Roundstone, this fee isn't a challenge, it's insurmountable. It follows that Virginia criminal record reporting will consolidate among a handful of national players, not because they provide superior services, but simply because they can afford to pay a fee that their regional competitors cannot. By treating these fundamentally dissimilar businesses identically, the VSP has, without legislative authorization, effectively restructured the market in favor of large providers and created inherently unfair disparate impacts on smaller providers.

58. This consolidation harms far more than the smaller providers forced to exit the market. Roundstone's exit would reduce the options available to CRAs for reliable, county-level criminal record data, limiting competition and potentially degrading the quality and completeness of consumer reports delivered to end user clients. The CRAs and end user clients who depend on regional providers for competitive pricing, localized expertise, and timely turnaround will find their options materially diminished. The cost savings and service quality that regional providers offer— particularly to smaller clients—cannot be replicated by large national firms operating on scale.

59. Turning to Plaintiff ScreenThem, VSP's New Annual Fee poses a direct and serious threat to the continued viability of ScreenThem. ScreenThem is a small business operating on limited margins, without the financial reserves or search volume necessary to absorb a fee of this magnitude. ScreenThem has remained competitive in this market by building its reputation on excellent customer service and fair pricing, which has generated a steady stream of client referrals. Unlike its larger competitors, ScreenThem does not benefit from the volume discounts that large

national providers receive from their vendors, a structural disadvantage that has required ScreenThem to operate with particular efficiency and discipline to maintain viable profit margins.

60. ScreenThem has demonstrated resilience in the face of significant external economic pressures over the years, successfully navigating the 2009 recession, the COVID-19 pandemic, reductions in federal spending, and the recent rollback of programs designed to ensure that corporations and government entities provide opportunities for minority-owned, women-owned, and other socially and economically disadvantaged businesses. Each of these challenges tested ScreenThem's financial stability; each time, ScreenThem persevered.

61. The VSP's New Annual Fee threatens to undo that resilience. For a business of ScreenThem's size, a $30,000.00 annual fee is not a manageable regulatory cost but rather a death knell. Even a one-time fee of this magnitude would impose serious financial strain; requiring it annually would force ScreenThem to take on additional debt, significantly raise its prices to clients, absorb a reduction in profits that a business operating on thin margins cannot sustain, and inevitably lead to the loss of customers. In a market where clients routinely seek lower-cost alternatives in response to even modest price increases, the practical effect of this fee is to price ScreenThem out of the Virginia market and, ultimately, to force out of business entirely a small, community-based business that has survived every prior challenge.

62. The New Annual Fee likewise imposes substantial operational burdens on S2Verify that transcends the financial cost alone. Each time S2Verify receives a sealing order notification, it must manually trace the record to its original source, review all stored consumer reports containing that record, remove the sealed information, and notify the affected consumer -- a process requiring the sustained attention of senior compliance personnel and resulting in duplicative work across multiple systems.

63. Compounding this burden, S2Verify is effectively subjected to triple costs: it must independently verify that sealed or expunged records have been removed from its systems even where its vendors have already screened and deleted those records, because S2Verify bears its own distinct compliance obligation that cannot be delegated; it absorbs vendor price increases passed down as a direct consequence of the fee; and it pays the New Annual Fee itself on top of both.

64. The cumulative effect of these layered costs has compelled S2Verify to increase rates, overhaul internal systems, and field a mounting volume of customer inquiries generated by the record deletion process itself. These operational pressures bear consequences: among S2Verify's clients is one of the largest Catholic Archdioceses in the country, for whom S2Verify performs background screening at or near cost—and for whom a price increase may mean forgoing background checks on individuals working with children and vulnerable populations altogether. S2Verify is squarely in the middle of the business screening services market—large enough to absorb the immediate cost of the fee, but not without material harm to its operations, pricing structure, and competitive position.

65. To recover these costs, S2Verify will be forced to raise prices to its clients—a step that carries significant competitive risk in an industry where even modest price increases prompt clients to seek lower-cost alternatives. These price hikes, which could as much as double the cost of background screenings in Virginia, will likely cause it to lose customers.

66. Many of PBSA's members will suffer the same harms as those that will impact iProtect, Roundstone, and ScreenThem, described above.

67. At minimum, PBSA's members will be forced to raise prices and suffer customer losses. Further, many of PBSA's smaller members that do business in Virginia are not able to bear

the cost of the fee. They will be forced to either withdraw from the Virginia market or shut down entirely.

68. The consequences that these forced exits from the Virginia market will extend beyond the business screening services that are forced to close. CRAs that rely on these PBSA members for accurate, real-time county-level criminal record data will lose trusted regional providers, reducing their options for reliable Virginia coverage and forcing them toward a shrinking pool of national vendors. PBSA counts as members many of those CRAs for whom the resulting consolidation will diminish competition among providers in their supply chains. That diminishing competition will have downstream effects on the quality, completeness, and cost of consumer reports delivered to end-users who depend on accurate business screening to make consequential decisions. Further, PBSA's mid-size and larger members will be forced to raise prices, suffer diminished competition in their supply chains, and navigate compliance hurdles that will cause direct harm to their businesses through loss of customers. This will not only lead to less competition within the Virginia marketplace, reducing reliable options for businesses in Virginia and businesses opting out of pursuing expansion in Virginia and even Virginia candidates because the cost to onboard becomes unfavorable as compared to every other state. Ultimately, the $30,000.00 fee both harms individual business screening services and simultaneously degrades the integrity of the business screening market in Virginia for everyone who relies on it.

69. Finally, PBSA would be directly harmed by business screenings services that are forced to close because of the fee, as their closure would materially reduce the number of PBSA's members after those entities who cannot afford to operate in light of the VSP's New Annual Fee close shop. In order to meet its members' needs, PBSA will be required to expend significant time and resources providing information and educational materials to members on the new scheme.

70. On August 7, 2026, Plaintiffs provided notice under Rule 3:26 to the VSP of its intent to file a Motion for a Temporary Restraining Order and Preliminary Injunction.

COUNT I: VIOLATION OF THE CONSTITUTION OF VIRGINIA THROUGH IMPOSITION OF AN UNLAWFUL TAX

71. The allegations contained in paragraphs 1-70 are incorporated by reference.

72. If a licensing fee is enacted under the Commonwealth's police power, then "it must be exercised as a means of regulation only and cannot be used as a source of revenue." *Cnty. Bd. of Sup'rs of Fairfax Cnty. v. Am. Trailer Co.*, 193 Va. 72, 76 (1951). Conversely, if the fee is used as a revenue measure, then it is not a regulatory license but, instead, is a tax. *Id.*

73. To determine whether an enactment is a regulatory fee or a tax, courts look to whether there is a "reasonable relation" between the fee and the cost to the government or whether "revenue is the primary purpose" of the fee. *City of Charlottesville v. Marks' Shows*, 179 Va. 321, 329 (1942). If the former, the enactment is a regulatory fee. If the latter, it is a tax.

74. Article I, Section 6 of the Constitution of Virginia, read together with Article IV, Sections 1, 11, and 14(5) and Article VII, Sections 2 and 7 of the Constitution of Virginia, prohibits unelected governmental bodies from imposing a tax upon citizens of the Commonwealth.

75. The VSP has imposed an unlawful tax by requiring business screening services to pay the VSP's New Annual Fee of $30,000.00. That fee is not reasonably related to the VSP's costs to provide notifications of sealing orders, as expressly required by the enabling statute. It therefore constitutes a tax. And as a tax, its promulgation violates Articles I, IV, and VII of the Constitution of Virginia because it was not enacted by duly elected representatives of the citizens of the Commonwealth.

76. For these reasons, Plaintiffs are entitled to injunctive and declaratory relief against the VSP to declare that they may not promulgate the VSP's New Annual Fee and to restrain them from attempting to require payment of, collect, or maintain receipt of the VSP's New Annual Fee.

COUNT II: LACK OF AUTHORITY FOR BUSINESS SCREENING SERVICES FEE

77. The allegations contained in paragraphs 1-70 are incorporated by reference.

78. The Virginia Administrative Process Act provides parties with a means to challenge unlawful agency regulations in a Virginia court. Code § 2.2-4026.

79. Courts generally "afford great deference to administrative agencies in their interpretation of their own regulations." *Moore v. Brown*, 63 Va. App. 375, 380 (2014).

80. That deference, however, is not absolute. "When the legislature delegates [rulemaking] authority to an administrative agency," the resulting action or regulation must not exceed the scope of that delegated authority or conflict with it. *Avalon Assisted Living Facilities v. Zager*, 39 Va. App. 484, 508 (2002).

81. Agency deference does not apply where the question before a court is solely one of statutory interpretation—that is, whether an agency's regulation or action complies with its enabling statute. *Jackson v. Marshall*, 19 Va. App. 628, 634 (1995). In such cases, courts are obligated to independently construe the enabling statute and assess whether the agency's action conforms to the legislative directive; they may not simply "rubber-stamp an agency determination." *Jackson v. Marshall*, 19 Va. App. 628, 634 (1995). Where an agency acts outside its delegated authority by failing to construe its regulations reasonably and in a manner consistent with that directive, deference dissipates and the regulation must be set aside. *Id.*

82. Here, the VSP administers the BSS program under Code § 19.2-392.16 (the "enabling statute"), which requires businesses that handle Virginia criminal and traffic history

records to register with the VSP and comply with specific regulations governing the management of that information. The enabling statute expressly limits the VSP's fee-setting authority. Section 19.2-392.16(C) provides that "[t]he Department of State Police may charge an annual licensing fee to the business screening service for accessing such information, *with such fee to be used to cover the cost of providing such records*." Code § 19.2-392.16(c) (emphasis added). The statutory language is unambiguous: it does not permit a fee other than to cover the VSP's actual cost of providing sealing order notifications to registered business screening services. The enabling statute does not authorize the VSP to impose a revenue-generating measure, to recoup unrelated administrative expenses, or to set a fee untethered from its actual costs.

83. Notwithstanding this statutory limitation, the VSP imposed a flat annual licensing fee of $30,000.00 on all business screening services—without promulgating any formal regulation, issuing any guidance document, or producing any rulemaking materials explaining or supporting the basis for that figure.

84. The VSP has never disclosed the methodology, cost analysis, or factual basis underlying the $30,000.00 figure. No documentation exists—in any publicly available rulemaking record or agency guidance—demonstrating that this amount corresponds to the actual cost of providing criminal and traffic history records to business screening services. The $30,000.00 fee was not established through notice-and-comment rulemaking or any other formal administrative process; it was simply posted on the VSP's website without explanation or support.

85. The $30,000.00 fee bears no direct relationship to the statutory purpose for which it was authorized—namely, "to cover the cost of providing such records." Code § 19.2-392.16(c). Applied uniformly to every business screening service without regard to the volume of records accessed, the number of records processed, or any other cost-related factor, the fee cannot plausibly

be characterized as a cost-recovery measure. It is, in substance, an arbitrary flat fee unsupported by any disclosed methodology, cost analysis, or rulemaking record. The arbitrary fee therefore exceeds the scope of the authority delegated to the VSP under Code § 19.2-392.16, is inconsistent with the legislative directive, and must be set aside.

86. For these reasons, Plaintiffs are entitled to injunctive and declaratory relief against the VSP to declare that they may not promulgate the VSP's New Annual Fee and to restrain them from attempting to require payment of, collect, or maintain receipt of the VSP's New Annual Fee.

COUNT III: VIOLATION OF THE DUE PROCESS CLAUSE OF THE CONSTITUTION OF VIRGINIA

87. The allegations contained in paragraphs 1-70 are incorporated by reference.

88. Article I, Section 11 of the Constitution of Virginia requires "[t]hat no person shall be deprived of his life, liberty, or property without due process of law."

89. Courts apply the rational basis test to substantive due process claims challenging a regulation. A regulation violates due process if it is not reasonably related to a legitimate government purpose or is arbitrary or discriminatory. *Pulliam v. Coastal Emergency Servs. of Richmond, Inc.*, 257 Va. 1, 21 (1999); *Etheridge v. Med. Ctr. Hosps.*, 237 Va. 87, 97 (1989).

90. Under Code § 19.2-392.16(C), the purpose of the business screening services fee is to cover the VSP's costs for providing notifications of sealed records to business screening services.

91. The VSP's $30,000.00 yearly fee is not reasonably related to the purpose of covering the VSP's costs because the fee, on its face, far exceeds the cost for VSP to provide sealing notifications to business screening services through an online portal.

92. The $30,000.00 yearly fee also fails the rational basis test because of its arbitrary nature. All business screening services, regardless of their size or their need for sealing notifications to comply with regulatory responsibilities, must pay $30,000.00. Not only does this

fee bear no relationship to the statute's purpose of ensuring deletion of sealed records, it also improperly restricts competition by foreclosing smaller business screening services from operating in the Commonwealth.

93. For these reasons, Plaintiffs are entitled to injunctive and declaratory relief against the VSP.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order:

a. Declaring that the VSP's $30,000.00 business screening service licensing fee is unlawful under Virginia law and the Constitution of Virginia.

b. Preliminarily and permanently enjoining the VSP from enforcing the $30,000.00 business screening service licensing fee;

c. Awarding Plaintiffs their costs and fees expended in connection with this action; and

d. Granting Plaintiffs any and all such other and further relief that this Court deems proper and just.

Dated: August 7, 2026

Respectfully submitted,

PROFESSIONAL BACKGROUND SCREENING ASSOCIATION; IPROTECT SCREENING LLC; ROUNDSTONE, INC.; SCREENTHEM BACKGROUND INVESTIGATIONS, INC.; and S2VERIFY, LLC

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