

I.
GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendants deny generally the material allegations contained in the Petition, and demand strict proof thereof by a preponderance of the credible evidence.

II.
AFFIRMATIVE AND OTHER DEFENSES

Defendants assert the following defenses:

1. Plaintiff fails to state a claim upon which relief can be granted, and therefore, Plaintiff's claims should be dismissed.
2. Plaintiff's claims are barred, in whole or in part, because Plaintiff has failed to allege and prove all conditions precedent to recovery.
3. Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to allege facts sufficient to state a claim for any damages.
4. Plaintiff's claims are barred, in whole or in part, by unclean hands.
5. Plaintiff's claims are barred, in whole or in part, by the statute of frauds.
6. Plaintiff's claims are barred, in whole or in part, by Plaintiff's prior material breach of contract.
7. Plaintiff's claims are barred, in whole or in part, by reason of Defendants' compliance with applicable statutes and other provisions of law.
8. Plaintiff's claims are barred, in whole or in part, by reason of Defendants' compliance with applicable contracts and agreements.
9. Plaintiff's claims are barred, in whole or in part, because Defendants' acts and/or omissions were not the cause of Plaintiff's damages, if any.

10. Any loss or damage allegedly suffered by Plaintiff was caused, in whole or in part, by his own conduct, acts, and/or omissions.

11. Plaintiff's claims are barred, in whole or in part, by the economic loss doctrine.

12. Plaintiff's claims are barred, in whole or in part, because Plaintiff lacks standing to assert his claims.

13. Plaintiff's claims are barred, in whole or in part, by the doctrines of estoppel, quasi-estoppel, waiver, laches, and/or other equitable doctrines.

14. Plaintiff's attorney fees are not recoverable, reasonable, or necessary.

15. The actions of Defendants were taken in good faith, and Defendants did not knowingly, intentionally or maliciously violate any laws.

16. Plaintiff's claims for exemplary damages are barred and limited by the United States Constitution, the Texas Constitution, and the Texas Civil Practice and Remedies Code, including without limitation the limitations and constraints of Due Process found in the Fifth and Fourteenth Amendments to the United States Constitution and Article I, § 19 of the Texas Constitution.

17. Plaintiff's claims are barred, in whole or in part, by the doctrine of bona fide error.

18. Plaintiff's claims are barred, in whole or in part, because Plaintiff failed to mitigate his damages, if any.

19. Defendants reserve the right to plead such other and/or affirmative defenses which cannot be anticipated at this time, but which may become apparent and applicable during the pendency of this lawsuit, by reason of future discovery.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that, upon final hearing hereof, judgment be rendered that Plaintiff take nothing by this suit, and that Defendants be awarded their costs and expenses, as well as such other and further relief, at law and in equity, to which they may be justly entitled.

Respectfully submitted,

/s/ Vincent J. Hess

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**ATTORNEYS FOR DEFENDANTS TRUSTEE
AND PHH**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon counsel of record *via electronic notice and/or electronic mail and/or certified mail, return receipt requested* pursuant to the Texas Rules of Civil Procedure on this 11th day of August, 2021.

/s/ Vincent J. Hess

Counsel for Defendants Trustee and PHH