CAUSE NO. 2023-52953

| BODKA CREEK CAPITAL, LLC | § | IN THE DISTRICT COURT OF |
|----------------------------------|---|--------------------------|
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | |
| | § | |
| BAY OAKS (BT3), LLC, MARINA CLUB | § | HARRIS COUNTY, TEXAS |
| (BT3), LLC, AND PROVIDENCE AT | § | . O |
| BAYTOWN (BT3), LLC, | § | |
| | § | |
| Defendants. | § | |
| | § | |
| | § | 127th JUDICIAL DISTRICT |

DEFENDANTS' ORIGINAL ANSWER

Defendants Bay Oaks (BT3), LLC, Marina Club (BT3), LLC, and Providence at Baytown (BT3), LLC, (collectively, "Defendants") file this Original Answer to Plaintiff Bodka Creek Capital, LLC's ("Plaintiff") Original Petition and would respectfully show as follows:

I. GENERAL DENIAL

Pursuant to Texas Rule of Civil Procedure 92, Defendants generally deny each and every allegation and claim set forth in Plaintiff's Original Petition and demand strict proof thereof by a preponderance of the credible evidence, as required by the Constitution and laws of the State of Texas.

II. AFFIRMATIVE DEFENSES

Defendants plead the following affirmative defenses and in support thereof alleges:

- 1. Plaintiff's claims fail in whole or in part because of Plaintiff's material breach of the Purchase and Sale Agreement.
- 2. Plaintiff's demand for specific performance of the Purchase and Sale Agreement fails because Plaintiff terminated the contract.
- 3. Plaintiff's demand for specific performance of the Purchase and Sale Agreement fails under the doctrine of unclean hands and/or *in pari delicto*.

III. RIGHT TO AMEND

Defendants reserve the right to amend this Original Answer and to add additional defenses and affirmative defenses in accordance with the Texas Rules of Civil Procedure.

IV. PRAYER

Defendants pray that upon final trial and hearing in this case, Plaintiff (ares nothing by reason of this suit, Defendants recover their costs of court and expenses, and for all other relief to which they are entitled.

Respectfully submitted,

BAKER BOTTS L.P.

By: /s/ Tina O. Nguyen

Tina Q. Nguyen

Texas State Bar No. 24078670

910 Louisiana St.

Houston, Texas 77002

Telephone: 713.229.1732

Facsimile: 713.229.7732

tina.nguyen@bakerbotts.com

Nischay K. Bhan

Texas State Bar No. 24105468

30 Rockefeller Plaza

New York, New York 10112-4498

Telephone: 713.229.1806

Facsimile: 713.229.7806

nischay.bhan@bakerbotts.com

ATTORNEYS FOR DEFENDANTS

105955748 2

CERTIFICATE OF SERVICE

I certify that on the 8^{th} day of September, 2023, a copy of the above and foregoing was served on all counsel of record by electronic service.



105955748 3

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Laura Natelson on behalf of Tina Nguyen Bar No. 24078670 laura.natelson@bakerbotts.com

Envelope ID: 79355715

Filing Code Description: Answer/ Response / Waiver

Filing Description: Defendants' Original Answer

Status as of 9/8/2023 2:06 PM CST

Case Contacts

| Name | BarNumber | Email | TimestampSubmitted | Status |
|--------------------|-----------|----------------------------------|---------------------|--------|
| Ashish Mahendru | | amahendru@thelitigationgroup.com | 9/8/2023 1:25:31 PM | SENT |
| Tina Q.Nguyen | | tina.nguyen@bakerbotts.com | 9/8/2023 1:25:31 PM | SENT |
| Nischay Bhan | | nischay.bhan@bakerbotts.com | 9/8/2023 1:25:31 PM | SENT |
| Darren AndrewBraun | | dbraun@thelitigationgroup.com | 9/8/2023 1:25:31 PM | SENT |
| Danielle Butler | | dbutler@thelitigationgroup.com | 9/8/2023 1:25:31 PM | SENT |