

CAUSE NO. 2023-76474

**IN RE: ORDER FOR FORECLOSURE
CONCERNING
4259 DRAKE STREET
HOUSTON, TX 77005**

IN THE DISTRICT COURT OF

v.

UNDER TEX. R. CIV. PROC. 736

PETITIONER:

**DEUTSCHE BANK NATIONAL TRUST
COMPANY AS TRUSTEE FOR
SOUNDVIEW HOME LOAN TRUST
2005-2 ASSET-BACKED
CERTIFICATES, SERIES 2005-2**

HARRIS COUNTY, TEXAS

RESPONDENT:

BARBARA SORBELLO

190TH JUDICIAL DISTRICT

RESPONDENT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES

TO THE HONORABLE JUDGE BEAU A. MILLER:

Barbara Sorbello hereby files her Original Answer and Affirmative Defenses and respectfully shows this Court the following:

GENERAL DENIAL

1. Subject to such stipulations and affirmative defenses as may hereafter be made, Respondent asserts a general denial as is authorized by Rule 92 of the Texas Rules of Civil Procedure. Respondent respectfully requests that Deutsche Bank National Trust Company be required to prove the charges and allegations against Respondent by a preponderance of the evidence as is required by the Constitution and laws of the State of Texas.

AFFIRMATIVE DEFENSES

2. Respondent denies every allegation in the Application not expressly admitted herein and avers that Plaintiff is not entitled to any relief sought in the Application.

3. Respondent denies that all conditions precedent to a right of recovery have been satisfied or alleged.

4. Plaintiff's claims are barred at this time by RESPA as Respondent submitted her Mortgage Assistance Application on September 19, 2023 and is under loss mitigation review. A true and correct copy of the related Mortgage Assistance Application as well as the fax confirmation page is attached hereto as Exhibits "1" and "2" respectively and incorporated herein for all purposes.

5. Plaintiff's claims are barred at this time or any alleged failure to perform by Respondent is excused because of one or more material obligations of the subject note and deed of trust have not been satisfied by Plaintiff.

6. Plaintiff's damages, if any, were proximately caused by the act, omissions or breaches of other persons and/or entities and the acts, omissions or breaches were intervening and superseding causes of Plaintiff's alleged damages.

7. Plaintiff failed to mitigate its alleged damages.

8. Plaintiff's claims are precluded in whole or in part by the statute of limitations.

9. Respondent is entitled to the defense of offset to the extent that Respondent made payments on her Home Equity Loan.

PRAYER FOR RELIEF

WHEREFORE, Respondent respectfully requests and prays for judgment of this Court that Plaintiff take nothing by way of its claims and that Respondent have judgment for costs, fees, and for such other and further relief to which she is justly entitled.

Respectfully submitted,

VILT LAW, P.C.

By: /s/ Robert C. Vilt
ROBERT C. VILT
Texas Bar Number 00788586
Email: clay@viltlaw.com
5177 Richmond Avenue, Suite 1142
Houston, Texas 77056
Telephone: 713.840.7570
Facsimile: 713.877.1827
ATTORNEYS FOR RESPONDENT

CERTIFICATE OF SERVICE

I certify that the above foregoing document was served upon all counsel and/or parties of record in accordance with the Texas Rules of Civil Procedure via electronic and/or hand delivery on the 16th day of November, 2023.

Mary Akapo
ROBERTSON, ANSCHUTZ, SCHNEID,
CRANE & PARTNERS, PLLC
5601 Executive Drive, Suite 400
Irving, Texas 75038

/s/ Robert C. Vilt
ROBERT C. VILT

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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.

Nicolas Vilt on behalf of Robert Vilt

Bar No. 788586

nicolas@viltlaw.com

Envelope ID: 81716498

Filing Code Description: Answer/ Response / Waiver

Filing Description: Respondent's Original Answer and Affirmative Defenses

Status as of 11/16/2023 12:56 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Robert C. Vilt		clay@viltlaw.com	11/16/2023 12:49:29 PM	SENT
Nicolas Vilt		nicolas@viltlaw.com	11/16/2023 12:49:29 PM	SENT
Mary Akapo		marakapo@raslg.com	11/16/2023 12:49:29 PM	SENT

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EXHIBIT 1

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Loan number: [REDACTED]

Mortgage Assistance Application

For a list of HUD-approved housing counseling agencies that can provide foreclosure prevention information, contact one of the following federal government agencies:

- The U.S. Department of Housing and Urban Development (HUD) at (800) 569-4287 or www.hud.gov/counseling
- The Consumer Financial Protection Bureau (CFPB) at (855) 411-2372 or www.consumerfinance.gov/mortgagehelp

If you need assistance with translation or other language assistance, HUD-approved housing counseling agencies may be able to assist you. These services are provided without charge.

Borrower's name: Barbara Sorbello

Social Security Number (last 4 digits): [REDACTED]

E-mail address: [REDACTED]

Primary phone number: [REDACTED] Cell Home Work Other

Alternate phone number: _____ Cell Home Work Other

Co-borrower's name: _____

Social Security Number (last 4 digits): _____

E-mail address: _____

Primary phone number: _____ Cell Home Work Other

Alternate phone number: _____ Cell Home Work Other

Preferred contact method (choose all that apply): Cell phone Home phone Work phone Email Text—checking this box indicates your consent for text messaging

Is either borrower on active duty with the military (including the National Guard and Reserves), the dependent of a borrower on active duty, or the surviving spouse of a member of the military who was on active duty at the time of death? Yes No

Property Address: 4259 Drake Street, Houston, TX 77006

Mailing address (if different from property address): _____

• The property is currently: A primary residence A second home An investment property

• The property is (select all that apply): Owner occupied Renter occupied Vacant

• I want to: Keep the property Sell the property Transfer ownership of the property to my servicer Undecided

Is the property listed for sale? Yes No – If yes, provide the listing agent's name and phone number—or indicate "for sale by owner" if applicable: _____

Is the property subject to condominium or homeowners' association (HOA) fees? Yes No – If yes, indicate monthly dues: \$ _____

The hardship causing mortgage payment challenges began on approximately (date) 02-01-2020 and is believed to be:

- Short-term (up to 6 months)
- Long-term or permanent (greater than 6 months)
- Resolved as of (date) 10/01/2022

TYPE OF HARDSHIP (CHECK ALL THAT APPLY)	REQUIRED HARDSHIP DOCUMENTATION
<input type="checkbox"/> Unemployment	▪ Not required
<input checked="" type="checkbox"/> Reduction in income: a hardship that has caused a decrease in your income due to circumstances outside your control (e.g., elimination of overtime, reduction in regular working hours, a reduction in base pay)	▪ Not required
<input type="checkbox"/> Increase in housing-related expenses: a hardship that has caused an increase in your housing expenses due to circumstances outside your control (e.g., uninsured losses, increased property taxes, HOA special assessment)	▪ Not required
<input checked="" type="checkbox"/> Disaster (natural or man-made) impacting the property or borrower's place of employment	▪ Not required <u>COVID-19</u>
<input checked="" type="checkbox"/> Long-term or permanent disability, or serious illness of a borrower/co-borrower or dependent family member	▪ Written statement from the borrower, or other documentation verifying disability or illness Note: Detailed medical information is not required, and information from a medical provider is not required
<input type="checkbox"/> Divorce or legal separation	▪ Final divorce decree or final separation agreement OR ▪ Recorded quitclaim deed
<input type="checkbox"/> Separation of borrowers unrelated by marriage, civil union, or similar domestic partnership under applicable law	▪ Recorded quitclaim deed OR ▪ Legally binding agreement evidencing that the non-occupying borrower or co-borrower has relinquished all rights to the property
<input type="checkbox"/> Death of borrower or death of either the primary or secondary wage earner	▪ Death certificate OR ▪ Obituary or newspaper article reporting the death
<input type="checkbox"/> Distant employment transfer/relocation	▪ For active duty service members: Permanent Change of Station (PCS) orders or letter showing transfer. ▪ For employment transfers/new employment: Copy of signed offer letter or notice from employer showing transfer to a new location or written explanation if employer documentation not applicable, AND ▪ Documentation that reflects the amount of any relocation assistance provided (not required for those with PCS orders)
<input type="checkbox"/> Other – hardship that is not covered above: _____ _____ _____	▪ Written explanation describing the details of the hardship and any relevant documentation

Please enter all borrower income amounts in middle column.

MONTHLY TOTAL BORROWER INCOME TYPE & AMOUNT		REQUIRED INCOME DOCUMENTATION
Gross (pre-tax) wages, salaries and overtime pay, commissions, tips, and bonuses	\$	<ul style="list-style-type: none"> Most recent pay stub and documentation of year-to-date earnings if not on pay stub OR Two most recent bank statements showing income deposit amounts
Self-employment income	\$	<ul style="list-style-type: none"> Two most recent bank statements showing self-employed income deposit amounts OR Most recent signed and dated quarterly or year-to-date profit/loss statement OR Most recent complete and signed business tax return OR Most recent complete and signed individual federal income tax return
Unemployment benefit income	\$	<ul style="list-style-type: none"> No documentation required
Taxable Social Security, pension, disability, death benefits, adoption assistance, housing allowance, and other public assistance		<ul style="list-style-type: none"> Two most recent bank statements showing deposit amounts OR Award letters or other documentation showing the amount and frequency of the benefits
Non-taxable Social Security or disability income	\$	<ul style="list-style-type: none"> Two most recent bank statements showing deposit amounts OR Award letters or other documentation showing the amount and frequency of the benefits
Rental income (rents received, less expenses other than mortgage expense)		<ul style="list-style-type: none"> Two most recent bank statements demonstrating receipt of rent OR Two most recent deposited rent checks
Investment or insurance income	\$	<ul style="list-style-type: none"> Two most recent investment statements OR Two most recent bank statements supporting receipt of the income
Other sources of income not listed above (Note: Only include alimony, child support, or separate maintenance income if you choose to have it considered for repaying this loan)		<ul style="list-style-type: none"> Two most recent bank statements showing receipt of income OR Other documentation showing the amount and frequency of the income

Exclude retirement funds such as a 401(k) or Individual Retirement Account (IRA), and college savings accounts such as a 529 plan.

Checking account(s) and cash on hand	\$
Savings, money market funds, and Certificates of Deposit (CDs)	\$
Stocks and bonds (non-retirement accounts)	\$
Other:	\$

1. I certify and acknowledge that all of the information in this Mortgage Assistance Application is truthful, and the hardship I identified contributed to my need for mortgage relief. Knowingly submitting false information may violate Federal and other applicable law.
2. I agree to provide my servicer with all required documents, including any additional supporting documentation as requested, and will respond in a timely manner to all servicer or authorized third party* communications.
3. I acknowledge and agree that my servicer is not obligated to offer me assistance based solely on the representations in this document or other documentation submitted in connection with my request.
4. I consent to the servicer or authorized third party* obtaining a current credit report for the borrower and co-borrower.
5. I consent to the disclosure by my servicer, authorized third party,* or any investor/guarantor of my mortgage loan(s), of any personal information collected during the mortgage assistance process and of any information about any relief I receive, to any third party that deals with my first lien or subordinate lien (if applicable) mortgage loan(s), including Fannie Mae, Freddie Mac, or any investor, insurer, guarantor, or servicer of my mortgage loan(s) or any companies that provide support services to them, for purposes permitted by applicable law. Personal information may include, but is not limited to: (a) my name, address, telephone number, (b) my Social Security number, (c) my credit score, (d) my income, and (e) my payment history and information about my account balances and activity.
6. I agree that the terms of this borrower certification and agreement will apply to any modification trial period plan, repayment plan, or forbearance plan that I may be offered based on this application. If I receive an offer for a modification trial period plan or repayment plan, I agree that my first timely payment under the plan will serve as acceptance of the plan.
7. I consent to being contacted concerning this application for mortgage assistance at any telephone number, including mobile telephone number, or email address I have provided to the lender, servicer, or authorized third party.*

* An authorized third party may include, but is not limited to, a housing counseling agency, Housing Finance Agency (HFA) or other similar entity that is assisting me in obtaining a foreclosure prevention alternative.

Borrower signature: Babaa Sobellu Date: 9-10-23

Co-Borrower signature: _____ Date: _____

We will use the information you provided to help us identify the assistance you may be eligible to receive.

EXHIBIT 2

Unofficial Copy Office of Marilyn Burgess District Clerk



Nicolas Vilt <nicolas@viltlaw.com>

Fax successfully sent to +1 214-488-1993 | BSorbello

1 message

VFax New <noreply@fax.goto.com>
To: nicolas@viltlaw.com

Tue, Sep 19, 2023 at 2:46 PM



Success!



Fax sent

Your fax to +1 214-488-1993 was successfully transmitted at 14:46 CDT.

Time

Tuesday, September 19, 2023 at 14:46 CDT

From

nicolas@viltlaw.com
Nicolas Vilt
[+1 713-840-7570](tel:+17138407570)

To

[+1 214-488-1993](tel:+12144881993)
2144881993@viltassociatespc.fax.goto.com

Subject

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Pages

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