

CAUSE NO. 2023-88045

URBAN ROW HOLDINGS, LLC,

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IN THE DISTRICT COURT

Plaintiff,

v.

U.S. BANK TRUST NATIONAL
ASSOCIATION, AS TRUSTEE OF
GROVE FUNDING I TRUST, AVT TITLE
SERVICES, LLC, and RF MORTGAGE
SERVICES CORPORATION,

269TH JUDICIAL DISTRICT

Defendants.

HARRIS COUNTY, TEXAS

ORIGINAL ANSWER OF DEFENDANT
U.S. BANK TRUST NATIONAL ASSOCIATION, AS TRUSTEE

Defendant U.S. Bank Trust National Association, as Trustee of Grove Funding I Trust (“Defendant”) files this its *Original Answer* and shows the Court as follows:

I. GENERAL DENIAL

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every allegation contained in *Plaintiff’s Verified Original Petition and Request for Injunctive Relief* (“Petition”), and any amendments or supplements thereto, and demands strict proof thereof.

II. AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative defenses:

1. Some or all of Plaintiff’s claims and causes of action are barred, in whole or in part, because one or more of the obligations of the note and deed of trust have not been satisfied.

2. Some or all of Plaintiff’s claims and causes of action are barred, in whole or in part, by the equitable doctrine of waiver.

3. Some or all of Plaintiff’s claims and causes of action are barred, in whole or in part,

by the doctrine of release.

4. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the Parol Evidence Rule.

5. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the Statute of Frauds.

6. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the waiver provisions contained in the note and deed of trust.

7. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the doctrine of accord and satisfaction.

8. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the failure of a condition precedent.

9. While Defendant denies that Plaintiff suffered any injury, any injury sustained by Plaintiff is the result of the acts or omissions of third parties, over which Defendant exercised no control.

10. Plaintiff's damages, if any, were proximately caused by the acts, omissions, or breaches of other persons and entities, including Plaintiff, and said acts, omissions, or breaches were intervening and superseding causes of Plaintiff's damages, if any. Defendant asserts its right to comparative responsibility as provided in Chapter 33 of the Texas Civil Practice and Remedies Code and requests that the fact finder apportion responsibility as provided in Chapter 33.

11. Plaintiff's claims are barred, in whole or in part, by its prior material breach of the loan agreement.

12. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the "one satisfaction" doctrine.

13. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the "economic loss" doctrine.

14. Any allegedly wrongful acts or omissions of Defendant, if and to the extent such acts and omissions occurred, were legally excused or justified.

15. Defendant would show its conduct or activity conformed at all times to any and all applicable state and federal statutes, codes, and regulations.

16. Some or all of Plaintiff's claims are barred, in whole or in part, by the doctrines of judicial estoppel, collateral estoppel, quasi estoppel, contractual estoppel, equitable estoppel and res judicata.

17. Plaintiff failed to mitigate and/or minimize its purported damages.

18. Defendant claims all offsets and credits available under Chapter 33 of the Texas Civil Practice and Remedies Code.

19. Plaintiff's claims must fail due to the failure to tender amount(s) admittedly owed.

20. Plaintiff lacks clean hands to bring an action in equity.

21. Some or all of Plaintiff's claims are barred by the doctrine of laches.

22. Any and all claims alleged in Plaintiff's Petition are barred, in whole or in part, to the extent it seeks an improper punitive or multiple damages award for an alleged single wrong because such an award would violate Defendant's rights guaranteed by the United States Constitution, including, without limitation, the Due Process and Equal Protection provisions of the Fourteenth Amendment and the Double Jeopardy Clause of the Fifth Amendment of the United States Constitution, and Defendant's right to the Due Course of Law under the Texas Constitution.

23. Plaintiff is not entitled to punitive or multiple damages, and any and all excessive amounts of such damages sought herein violate Chapter 41 of the Texas Civil Practice and

Remedies Code, the Texas Constitution and the United States Constitution, all of which set limits on the award of punitive damages. Defendant hereby invokes the caps on damages as provided in Chapter 41 of the Texas Civil Practice and Remedies Code, the Texas Constitution and the United States Constitution.

24. Plaintiff has failed to state a claim upon which relief may be granted.

WHEREFORE, PREMISES CONSIDERED, U.S. Bank Trust National Association, as Trustee of HOF Grantor Trust 4 (“Defendant”) prays that Plaintiff take nothing on its claims; Defendant recover its attorneys’ fees and costs; Defendant be dismissed from this case, and the Court award such other and further relief to which Defendant may be justly entitled at law or in equity.

Respectfully submitted,

By: /s/ Mark D. Cronenwett

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**ATTORNEYS FOR DEFENDANT U.S.
BANK TRUST NATIONAL
ASSOCIATION, AS TRUSTEE OF
GROVE FUNDING I TRUST**

CERTIFICATE OF SERVICE

The undersigned certifies that on January 3, 2024, a true and correct copy of the foregoing document was delivered via electronic notification to the counsel of record listed below:

Bruce W. Akerly
Akerly Law PLLC
2785 Rockbrook Drive, Suite 201
Lewisville, Texas 75067
bakerly@akerlylaw.com
Attorney for Plaintiff

/s/ Mark D. Cronenwett
MARK D. CRONENWETT

Unofficial Copy Office of Marilyn Burgess District Clerk

Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing 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.

Janay Breckenridge on behalf of Mark Cronenwett
Bar No. 787303
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Envelope ID: 83030948
Filing Code Description: Answer/ Response / Waiver
Filing Description: US Bank Answer (State)
Status as of 1/3/2024 1:03 PM CST

Case Contacts

| Name | BarNumber | Email | TimestampSubmitted | Status |
|--------------------|-----------|-------------------------------|----------------------|--------|
| Bruce W.Akerly | | bakerly@akerlylaw.com | 1/3/2024 12:11:35 PM | SENT |
| Litigation Filings | | litigationfilings@mwzmlaw.com | 1/3/2024 12:11:35 PM | SENT |
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| susan taplin | | staplin@mwzmlaw.com | 1/3/2024 12:11:35 PM | SENT |

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