

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

Case No.: 12-12020 MG
Chapter 11

RESIDENTIAL CAPITAL, LLC, et al.

Jointly Administered

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GEORGE VAN WAGNER,

Plaintiff,

AP 12-01913 mg

-v-

RESIDENTIAL FUNDING COMPANY, LLC, et al.

ANSWER

NATIONAL CITY MORTGAGE, GOLDENT &
AMOS PLLC, TIM AMOS GMAC MORTGAGE,
PETER T. DEMASTERS; FLAHERTY,
SESABAUGH, BONASSO PLLC, SUSAN
ROMAIN, PNC BANK NATIONAL
ASSOCIATION, SENECA TRUSTEES, INC.,
JASON MANNING, TROUTMAN SANDERS LLP

Defendants.

-----X

Defendants, **PETER T. DeMASTERS, FLAHERTY, SESABAUGH, BONASSO
PLLC and SUSAN ROMAIN**, by and through undersigned counsel, hereby answer the
Complaint of Plaintiff, as follows:

JURISDICTION

1. Deny each and every allegation contained in the first unnumbered
paragraph of this section of the Complaint but beg leave to refer all questions of law to
the court at the trial of this action.



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PARTIES INVOLVED

2. Deny each and every allegation contained in the first unnumbered paragraph of this section of the Complaint insofar as the allegations contained in this paragraph of Plaintiff's Complaint refer in any way to these answering defendants.

PROPERTY IN QUESTION

3. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the first unnumbered paragraph of this section of the Complaint.

WRONGFUL AND NEGLIGENT ACTIONS BY DEFENDANTS

4. Deny each and every allegation contained in the first unnumbered paragraph of this section of the Complaint insofar as the allegations contained in this paragraph of Plaintiff's Complaint refer in any way to these answering defendants.

STATEMENT OF FACTS

5. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the first unnumbered paragraph of this section of the Complaint.

6. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the second unnumbered paragraph of this section of the Complaint.

7. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the third unnumbered paragraph of this section of the Complaint.

8. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the fourth unnumbered paragraph of this section of the Complaint.

9. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the fifth unnumbered paragraph of this section of the Complaint.

10. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the sixth unnumbered paragraph of this section of the Complaint.

11. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the seventh unnumbered paragraph of this section of the Complaint.

12. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the eighth unnumbered paragraph of this section of the Complaint.

13. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the ninth unnumbered paragraph of this section of the Complaint.

14. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the tenth unnumbered paragraph of this section of the Complaint.

15. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the eleventh unnumbered paragraph of this section of the Complaint.

ARGUMENT

16. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the first unnumbered paragraph of this section of the Complaint.

The Real Estate Settlement Procedures Act of 1974

17. Deny each and every allegation contained in the first paragraph of this section of the Complaint but beg leave to refer all questions of law to the court at the trial of this action.

PART 3500-REAL ESTATE SETTLEMENT PROCEDURES ACT 3500.21

18. Deny each and every allegation contained in the first paragraph of this section of the Complaint but beg leave to refer all questions of law to the court at the trial of this action.

WEST VIRGINIA CODE §46a-2-106.

Notice of consumer's right to cure default; cure; acceleration

19. Deny each and every allegation contained in the first paragraph of this section of the Complaint but beg leave to refer all questions of law to the court at the trial of this action.

COMPANIES HISTORY OF FRAUDULENT PRACTICES

20. Deny each and every allegation contained in the first unnumbered paragraph of this section of the Complaint insofar as the allegations contained in this paragraph of Plaintiff's Complaint refer in any way to these answering defendants.

21. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the second unnumbered paragraph of this section of the Complaint.

22. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the third unnumbered paragraph of this section of the Complaint.

23. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the fourth unnumbered paragraph of this section of the Complaint.

CONCLUSION

24. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the first unnumbered paragraph of this section of the Complaint.

25. Deny each and every allegation contained in the second unnumbered paragraph of this section of the Complaint insofar as the allegations contained in this paragraph of Plaintiff's Complaint refer in any way to these answering defendants.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

26. Plaintiff's Complaint fails to state a claim upon which relief can be granted in law or equity against these answering defendants, and the Complaint must therefore be dismissed.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

27. The court lacks in personam jurisdiction over the answering defendants.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

28. That the answering defendants were not properly served in accordance with the provisions of the Federal Rules of Civil Procedure and/or the Federal Rules of Bankruptcy Procedure and the court, therefore, lacks jurisdiction over the person of said defendants.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

29. That process was insufficient under the Federal Rules of Civil Procedure and/or the Federal Rules of Bankruptcy Procedure as against these answering defendants and the court therefore lacks jurisdiction over the person of said defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

30. Plaintiff's claims are barred in whole or in part by the applicable statutes of limitations.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

31. These answering defendants did not owe any duties to plaintiff and did not breach any duties allegedly owed to plaintiff.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

32. The court lacks subject matter jurisdiction over this action and therefore the Complaint must be dismissed.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

33. Plaintiff is not a proper party to an adversarial proceeding in the subject bankruptcy action under the Federal Rules of Bankruptcy Procedure and/or applicable law and therefore the court lacks subject matter jurisdiction over this action and plaintiff's Complaint should be dismissed.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

34. Plaintiff lacks standing to bring this action and therefore plaintiff's Complaint must be dismissed.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

35. This is a frivolous action as defined in Rule 11 of the Federal Rules of Civil Procedure, and defendants are entitled to dismissal of this action and recovery of costs, sanctions, and attorneys fees to the full extent provided by the aforementioned statute.

WHEREFORE, WHEREFORE, these answering defendants demand judgment dismissing the Complaint, together with the attorney's fees, costs and disbursements of this action.

Dated: New York, New York
November 16, 2012

Yours, etc.

A handwritten signature in black ink, appearing to read 'David Abrams', is written over a horizontal line.

DAVID ABRAMS, ESQ.

Attorneys for Defendants

**PETER T. DeMASTERS, FLAHERTY,
SESABAUGH, BONASSO PLLC and
SUSAN ROMAIN**

5 Hanover Square, 4th Floor
New York, NY 10004
(212) 931-8300

TO:

GEORGE VAN WAGNER
P.O. BOX 867
Martinsburg, WV 25402
Plaintiff Pro Se

Residential Funding Company, LLC
Morrison & Foester LLP
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6108 Mid Atlantic Drive
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GMAC Mortgage
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Waterloo, IA 50704

Troutman Sanders LLP
Jason Manning, Counsel of record for GMAC
222 Central Park Avenue, Suite 2000
Virginia Beach, VA 23462

STATE OF NEW YORK)
)SS.:
COUNTY OF NEW YORK)

LYUDMILA TIMOSHENKO being duly sworn, deposes and says that she is not a party to this action, is over the age of 18 years, and resides in Middlesex County, New Jersey. That on this 16th day of November, 2012 she served the within **ANSWER** upon:

GEORGE VAN WAGNER
P.O. BOX 867
Martinsburg, WV 25402
Plaintiff Pro Se

National City Mortgage
PO Box 1820
Dayton, Ohio 45401-1820

Residential Funding Company, LLC
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GMAC Mortgage
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Waterloo, IA 50704

Troutman Sanders LLP
Jason Manning, Counsel of record for
GMAC
222 Central Park Avenue, Suite 2000
Virginia Beach, VA 23462

by depositing a true copy of same securely enclosed in a post-paid wrapper in an official depository under the exclusive care and custody of the United States Postal Office within the State of New York, by Regular Mail.



LYUDMILA TIMOSHENKO

Sworn to before me this
16th day of November, 2012



NOTARY PUBLIC

JENNIE J. CHOY
Notary Public, State of New York
No. 02CH6222197
Qualified in New York County
Commission Expires May 17, 2014