

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

D'ALAN E. BAUGH	:	
and WILLIAM AND SHARON JOHNSON	:	
and MICHAEL AND JANE WALSH	:	
	:	
Plaintiffs,	:	Civ. Action No.
	:	17-cv-01735-SAG
v.	:	
	:	
THE FEDERAL SAVINGS BANK	:	
	:	
Defendant.	:	

**DEFENDANT’S ANSWER AND AFFIRMATIVE DEFENSES TO AMENDED
COMPLAINT**

Defendant, The Federal Savings Bank (“TFSB”), by and through its undersigned counsel hereby answers Plaintiffs’ Amended Class Action Complaint and Demand for Jury Trial (“Complaint”) and states as follows:

INTRODUCTION

1. Defendant denies the legal conclusions, allegations, and general statements set forth in this Paragraph.
2. Denied.
3. Denied.

PARTIES

4. Defendant admits only that Plaintiffs purport to bring this action pursuant to Fed. R. Civ. P. 23.
5. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

6. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

7. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

8. Admitted.

JURISDICTION AND VENUE

9. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required.

10. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required.

11. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required.

FACTUAL ALLEGATIONS FOR INDIVIDUAL AND CLASS RELIEF

12. This Paragraph characterizes a statute that speaks for itself and the allegations are therefore denied.

13. This Paragraph characterizes a statute that speaks for itself and the allegations are therefore denied.

14. This Paragraph characterizes a statute that speaks for itself and the allegations are therefore denied.

15. This Paragraph characterizes a statute that speaks for itself and the allegations are therefore denied.

16. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

17. Denied.

18. Defendant denies that it was engaged in any kickback scheme with Genuine Title and is without information or knowledge sufficient to form a belief about the truth of the remaining allegations in this Paragraph, and therefore denies the allegations.

19. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

20. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

21. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

22. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

23. This Paragraph characterizes a written document that speaks for itself and the allegations are therefore denied.

24. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

25. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

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43. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

44. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

45. Denied.

46. It is admitted only that Defendant employed Chris Infantino.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

51. It is admitted only that TFSB and Genuine Title entered into a lawful Title Services Agreement. By way of further response, this Paragraph characterizes a written document that speaks for itself and the allegations are therefore denied.

52. Denied.

53. Denied.

54. Denied.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

61. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

62. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, factual averments contained in the Paragraph are denied.

63. Denied.

FACTS FOR INDIVIDUAL CLASS REPRESENTATIVES

64. Admitted.

65. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

66. Admitted.

67. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

68. Admitted.

69. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

70. Denied.

71. Denied.

72. Denied.

73. Defendant denies the allegations contained in the Paragraph as the term “fully participated” is vague and unclear.

74. Defendant denies the allegations contained in the Paragraph as the term “fully participated” is vague and unclear.

75. Defendant denies the allegations contained in the Paragraph as the term “fully participated” is vague and unclear.

76. Plaintiffs’ allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, this Paragraph characterizes a regulation that speaks for itself and the allegations are therefore denied.

77. Plaintiffs’ allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, Defendant denies that it engaged in any “pattern of practice” to conceal “fraud.”

78. Denied. Defendant specifically denies that any GFE provided to Plaintiffs or any other borrower contained inaccurate information. Defendant is also without information or knowledge sufficient to form a belief about Plaintiffs’ state of mind before the closing of the loan “or at any time thereafter.”

79. Plaintiffs’ allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, this Paragraph characterizes a statute that speaks for itself and the allegations are therefore denied.

80. Denied.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

85. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, the allegations contained in this Paragraph are denied.

CLASS ACTION ALLEGATIONS

86. Defendant repeats and incorporates by reference all prior paragraphs as if fully stated herein.

87. Defendant admits only that Plaintiffs purport to bring this action pursuant to Fed. R. Civ. P. 23 and that they purport to represent a class of themselves and other individuals. Defendant denies Plaintiffs' class claim has any merit, denies the class definition has merit, and denies that Plaintiffs can maintain such an action in this Court. Accordingly, Defendant denies the factual allegations contained in this Paragraph.

88. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. Further, Defendant denies that a class is certifiable because it lacks the requirements of Fed. R. Civ. P. 23, including commonality of law and facts.

89. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. Further, Defendant denies that a class is certifiable because it lacks the requirements of Fed. R. Civ. P. 23.

90. Denied.

91. Denied.

92. Denied.

93. Denied.

94. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. Further, Defendant denies the characterization of a statute that speaks for itself and denies that a class is certifiable because it lacks the requirements of Fed. R. Civ. P. 23.

95. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. Further, Defendant denies the characterization of a statute that speaks for itself and denies that a class is certifiable because it lacks the requirements of Fed. R. Civ. P. 23.

96. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. Further, Defendant denies the characterization of a statute that speaks for itself and denies that a class is certifiable because it lacks the requirements of Fed. R. Civ. P. 23.

97. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. Further, Defendant denies the characterization of a statute that speaks for itself and denies that a class is certifiable because it lacks the requirements of Fed. R. Civ. P. 23.

98. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. Further, Defendant denies the characterization of a statute that speaks for itself and denies that a class is certifiable because it lacks the requirements of Fed. R. Civ. P. 23.

99. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. Further, Defendant denies the characterization of a statute that speaks for itself and denies that a class is certifiable because it lacks the requirements of Fed. R. Civ. P. 23.

100. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

101. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. Further, Defendant denies the characterization of a statute that speaks for itself and denies that a class is certifiable because it lacks the requirements of Fed. R. Civ. P. 23.

COUNT I
Violation of the Real Estate Settlement Procedures Act (RESPA),
12 U.S.C. § 2607(a) and (b)

102. Defendant repeats and incorporates by reference all prior paragraphs as if fully stated herein.

103. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, this Paragraph characterizes a statute that speaks for itself and the allegations are therefore denied.

104. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations in this Paragraph, and therefore denies the allegations.

105. It is admitted that Defendant is subject to compliance with certain provisions of RESPA.

106. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, the allegations contained in this Paragraph are denied.

107. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, the allegations contained in this Paragraph are denied.

108. Denied.

109. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, this Paragraph characterizes a statute that speaks for itself and the allegations are therefore denied.

110. Plaintiffs' allegations in this Paragraph are legal conclusions to which no response is required. To the extent that a response is required, this Paragraph characterizes a statute that speaks for itself and the allegations are therefore denied.

111. Denied.

112. Denied.

113. Defendant is without information or knowledge sufficient to form a belief about the truth of the allegations regarding Genuine Title's conduct, and therefore denies the allegations. The remaining averments contained within this Paragraph are denied.

WHEREFORE, Defendant demands as follows:

1. That the Complaint be dismissed with prejudice;
2. Alternatively, that the Court enter judgment for Defendant on all Counts of the Complaint;
3. That Defendant be awarded all of its costs incurred in this litigation, including reasonable attorneys' fees; and
4. That Defendant be awarded all other relief to which it may be entitled.

AFFIRMATIVE DEFENSES

Without admitting any allegations in the Complaint, Defendant asserts the following affirmative defenses, each of which is pled in the alternative. Defendant specifically reserves the right to add further defenses that become applicable during the course of discovery in this case.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state any claim upon which relief can be granted to Plaintiffs or the purported class they seek to represent.

SECOND AFFIRMATIVE DEFENSE

The claims of Plaintiffs or the purported class they seek to represent fail to the extent they are barred or limited by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs were not harmed by any Defendant's alleged conduct as Plaintiffs paid market prices for all services they received.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs and the members of the proposed class lack standing to sue under RESPA because they have not suffered any injury in fact as a result of the challenged conduct.

FIFTH AFFIRMATIVE DEFENSE

At all pertinent times, Defendant acted in good faith and without malice or intent to injure Plaintiffs.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' damages, if any, were not caused by Defendant, but by another person or entity for whom or for which Defendant is not responsible.

SEVENTH AFFIRMATIVE DEFENSE

To the extent Plaintiff's claims are based on the doctrine of respondeat superior, such claims are barred as any alleged activities or omissions occurred outside the scope of employment and those activities were not approved, ratified, or controlled by Defendant.

EIGHTH AFFIRMATIVE DEFENSE

Defendant's actions or omissions were at all times justified because any payment complained of was furnished for services actually performed, as set forth pursuant to 12 U.S.C. § 2607(c).

NINTH AFFIRMATIVE DEFENSE

All conduct and activities of Defendant alleged in the Complaint complied with and conformed to all applicable laws, statutes, government regulations, and industry standards based upon the state of knowledge existing at the times alleged in the Complaint.

TENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims do not meet the requirements, in whole or in part, of Fed. R. Civ. P. 23 and thus cannot be maintained as a class action.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, under the doctrines of laches.

Respectfully submitted,

Dated: December 23, 2020

/s/ Ari Karen

Ari Karen

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Attorneys for Defendant, The Federal Savings Bank

CERTIFICATE OF SERVICE

I, Ari Karen, certify that on December 23, 2020, the foregoing document was served on all parties or their counsel of record through this Court's CM/ECF system, as all Parties in this action are registered users.

/s/ Ari Karen
Ari Karen

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