

PLAINTIFF (Name): DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRU	CASE NUMBER:
DEFENDANT (Name): SARINA ANN NELSON	10NUD00320

3. AFFIRMATIVE DEFENSES (cont'd)

j. Facts supporting affirmative defenses checked above (*identify each item separately by its letter from page one*):

3i. Defendant asserts that Plaintiff, Deutsche Bank National Trust Company, has not shown that it has duly perfected title on the property in question and therefore has no standing to file an unlawful detainer action on the property.

(1) All the facts are stated in Attachment 3j. (2) Facts are continued in Attachment 3j.

4. OTHER STATEMENTS

a. Defendant vacated the premises on (date):
 b. The fair rental value of the premises alleged in the complaint is excessive (*explain*):

c. Other (*specify*):

Defendant relied on promises made to her by Indymac, that her loan would be modified before any foreclosure proceedings would take place.

5. DEFENDANT REQUESTS

a. that plaintiff take nothing requested in the complaint.
 b. costs incurred in this proceeding.
 c. reasonable attorney fees.
 d. that plaintiff be ordered to (1) make repairs and correct the conditions that constitute a breach of the warranty to provide habitable premises and (2) reduce the monthly rent to a reasonable rental value until the conditions are corrected.
 e. Other (*specify*):

That Plaintiff be ordered to show duly perfected title to the property, and the original of the alleged Note on the property before proceeding with any further litigation.

6. Number of pages attached (*specify*): 8

UNLAWFUL DETAINER ASSISTANT (Business and Professions Code sections 6400- 6415)

7. (*Must be completed in all cases*) An **unlawful detainer assistant** did not did for compensation give advice or assistance with this form. (*If defendant has received any help or advice for pay from an unlawful detainer assistant, state:*

a. Assistant's name: b. Telephone No.:
 c. Street address, city, and ZIP:
 d. County of registration: e. Registration No.: f. Expires on (date):

Sarina Ann Nelson

(TYPE OR PRINT NAME)

▶ Sarina Ann Nelson
 (SIGNATURE OF DEFENDANT OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT OR ATTORNEY)

(Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless his or her attorney signs.)

VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the defendant in this proceeding and have read this answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Date: 12-28-10

Sarina Ann Nelson

(TYPE OR PRINT NAME)

▶ Sarina Ann Nelson
 (SIGNATURE OF DEFENDANT)

2 ATTACHMENT 3j

3 AFFIRMATIVE DEFENSES

4 FIRST AFFIRMATIVE DEFENSE

5 (Complaint unintelligible and Uncertain)

6 FOR AND AS A FIRST AFFIRMATIVE DEFENSE to all causes of action in the
7 complaint, these answering defendants allege that the complaint is unintelligible and uncertain.
8

9 SECOND AFFIRMATIVE DEFENSE

10 (Failure to State Facts Sufficient to Constitute a Cause of Action)

11 FOR AND AS A SECOND AFFIRMATIVE DEFENSE to all causes of action alleged in
12 the complaint, these answering defendants allege that the complaint does not state facts sufficient
13 to constitute a cause of action against these answering defendants.
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15 THIRD AFFIRMATIVE DEFENSE

16 (Waiver)

17 FOR AND AS A THIRD AFFIRMATIVE DEFENSE to all causes of action alleged in
18 the complaint, these answering defendants allege that by reason of the acts and omissions of the
19 plaintiff, plaintiff has waived any entitlement to any recovery, for an breach of any alleged
20 contract or any duty, or for any other cause.
21

22 FOURTH AFFIRMATIVE DEFENSE

23 (Estoppel)

24 FOR AND AS A FOURTH AFFIRMATIVE DEFENSE to all causes of action alleged in
25 the complaint, these answering defendants allege that by reason of the acts and omissions of the
26 plaintiff, plaintiff is estopped from entitlement to any recovery, if any.
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FIFTH AFFIRMATIVE DEFENSE

(Release and Discharge)

FOR AND AS A FIFTH AFFIRMATIVE DEFENSE to all causes of action alleged in the complaint, these answering defendants allege that by reason of the acts and omissions of the plaintiff, plaintiff has released and discharged defendants from any obligation.

SIXTH AFFIRMATIVE DEFENSE

(Invalid And/or Defective Contract(s))

FOR AND AS AN SIXTH AFFIRMATIVE DEFENSE to all causes of action alleged in the complaint, these answering defendants allege that certain of the alleged contracts and alleged written agreements to which plaintiff refers in his complaint are invalid and/or defective.

SEVENTH AFFIRMATIVE DEFENSE

(Statute of Frauds)

FOR AND AS A SEVENTH AFFIRMATIVE DEFENSE to all causes of action alleged in the complaint, these answering defendants allege that plaintiff is barred from any recovery by the Statute of Frauds.

EIGHTH AFFIRMATIVE DEFENSE

(Unclean Hands)

FOR AND AS A EIGHTH AFFIRMATIVE DEFENSE to all causes of action alleged in the complaint, these answering defendants allege that plaintiff is barred from any recovery by unclean hands.

NINTH AFFIRMATIVE DEFENSE

(Abandonment of Property)

1 FOR AND AS AN NINTH AFFIRMATIVE DEFENSE to all causes of action alleged in
2 the complaint, these answering defendants allege that plaintiff is barred from any recovery by the
3 doctrine of abandoned property. The mortgage does not exist but for the Note. Separating the
4 Note from the mortgage resulted in an abandonment of the mortgage, simultaneously
5 extinguishing the document and the Deed of Trust.

6
7 **TENTH AFFIRMATIVE DEFENSE**

8 **(Failure to State a Claim for Award of Attorney's Fees)**

9 FOR AND AS A TENTH AFFIRMATIVE DEFENSE to all causes of action alleged in
10 the complaint, these answering defendants allege that plaintiff has failed to state a claim upon
11 which attorney's fees can be awarded.

12
13 **ELEVENTH AFFIRMATIVE DEFENSE**

14 **(Lack of Notice)**

15 FOR AND AS A ELEVENTH AFFIRMATIVE DEFENSE to all causes of action alleged
16 in the complaint, these answering defendants allege that plaintiff is barred from any recovery,
17 because of plaintiff's lack of notice to defendants.

18
19 **TWELFTH AFFIRMATIVE DEFENSE**

20 **(Violations of State and Local Laws)**

21 FOR AND AS A TWELFTH AFFIRMATIVE DEFENSE to all causes of action alleged
22 in the complaint, these answering defendants allege that plaintiff is barred from any recovery,
23 based on Plaintiff's violation of the State Laws of California.

24
25 **THIRTEENTH AFFIRMATIVE DEFENSE**

26 **(Fraud)**

1 FOR AND AS A THIRTEENTH AFFIRMATIVE DEFENSE to all causes of action
2 alleged in the complaint, these answering defendants allege that plaintiff is barred from any
3 recovery, based on fraud by plaintiff and/or its agent.

4 **FOURTEENTH AFFIRMATIVE DEFENSE**

5 **(Agreement Not Fully Integrated)**

6 FOR AND AS A FOURTEENTH AFFIRMATIVE DEFENSE to all causes of action
7 alleged in the complaint, these answering defendants, based on information and belief, allege that
8 if there presently exists or ever existed, any or all of the alleged rights, claims, or obligations
9 which plaintiff seeks by way of its complaint, said claims or obligations are unenforceable
10 because the written agreement is not fully integrated.
11

12 **FIFTEENTH AFFIRMATIVE DEFENSE**

13 **(Reservation of Right to Assert or Delete Affirmative Defenses)**

14 FOR AND AS A FIFTEENTH AFFIRMATIVE DEFENSE to all causes of action
15 alleged in the complaint, these answering defendants state that they have not knowingly or
16 intentionally waived any applicable affirmative defenses and reserve the right to assert and rely
17 on such other applicable affirmative defenses as may come available or apparent during the
18 discovery proceedings and further reserve the right to amend this answer and defenses
19 accordingly and to delete defenses which, during the course of discovery and other proceedings
20 in this case, are determined to be not applicable.
21

22 **SIXTEENTH AFFIRMATIVE DEFENSE**

23 **(No Breach of Contract)**

1 FOR AND AS A SIXTEENTH AFFIRMATIVE DEFENSE to all causes of action
2 alleged in the complaint, these answering defendants state that they did not breach any valid
3 contract with plaintiff.

4 **SEVENTEETH AFFIRMATIVE DEFENSE**

5 **(Willful Misconduct)**

6 Plaintiff states in its complaint, on page 2, line 8, No.5, that "On March 26, 2010, Plaintiff
7 acquired the property at a duly conducted foreclosure sale." In fact there were no bids on the
8 property at the public auction conducted on that date.
9

10 **EIGHTEENTH AFFIRMATIVE DEFENSE**

11 **(One who seeks equity must do equity)**

12 **NINETEENTH AFFIRMATIVE DEFENSE**

13 **(Mistake of Fact)**

14 **TWENTIETH AFFIRMATIVE DEFENSE**

15 **(Mistake of Law)**

16 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

17 **(Fiduciary Relations, Undue Influence)**

18 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

19 **(Illusory Promise)**

20 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

21 **(Unconscionability)**

22 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

23 **(Promissory Estoppel)**

24 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

1 **(Lack of Standing / Real Parties in Interest)**

2 Plaintiff provided documents as proof that the Deed of Trust to the property in question
3 had been assigned to Plaintiff. Those documents refer to a "Note" on the property; however,
4 Plaintiff has failed to produce the alleged Note. Prior to obtaining the Note, it was sold to another
5 party or parties and Plaintiff cannot or will not specify to whom that Note was sold. The Note
6 was lost or destroyed by those other parties and was not returned to Plaintiff or its predecessors
7 in interest.

8
9 Plaintiff has no standing for an Unlawful Detainer action as the Note is a negotiable instrument
10 and the bearer/holder of the Note is the only entity entitled to enforce the Note via the actions of
11 Foreclosure and/or Unlawful Detainer.

12
13 The mortgage and Deed of Trust were consideration for the Note. Without the Note, there is no
14 consideration for the mortgage and Deed of Trust, and those instruments fail. The Plaintiff has
15 no right to title to the property in question with no Note, no mortgage, and no Deed of Trust.
16 Lacking duly perfected title to the property, Plaintiff has no standing to enforce an Unlawful
17 Detainer action.

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19 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

20 **(Doctrine of Destruction or cancellation of a written document)**

21 The complaint and each of its causes of action are barred because of the doctrine of destruction
22 or cancellation of a written contract, as provided in Civil Code Sections 1699 and 1700.

23
24 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

25 **(Breach of Contract)**

1 The complaint and each of its causes of action are barred by the Plaintiff's and/or Plaintiff's
2 assignors' and predecessors' breach of contract. The note carried with it to all holders all
3 defenses available to the Defendant.

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5 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

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7 **(Lack of Consideration)**

8 The complaint and each of its causes of action are barred by the doctrine of lack of consideration.

9 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

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11 **(Waiver of Conditions)**

12 The complaint and each of its causes of action are barred by Plaintiff's and/or Plaintiff's
13 assignors and predecessors waiver of conditions.

14 **THIRTIETH AFFIRMATIVE DEFENSE**

15 **(Failure to Provide Accounting)**

16 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

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18 **(TILA violations)**

19 The complaint and each of its causes of action are barred by the doctrine of cancellation of
20 contract and rescission under TILA.

21 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

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23 **(Conditions Precedent)**

24 The complaint and each of its causes of action are barred by the failure of Plaintiff to comply
25 with all conditions precedent.

26 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

27
28 **(Right of Reinstatement and Cure)**

1 The complaint and each of its causes of action are barred by the doctrine of the right of
2 reinstatement and cure.

3 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

4 **(Invalid Verification of Complaint)**

5 The complaint and each of its causes of action are barred because the verification of the
6 complaint was executed by Plaintiff's attorney, who did not have personal knowledge of the
7 facts (e.g., the property was not acquired at a duly conducted sale, as alleged in the complaint).
8

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF GLENN

I am a resident of the county of Glenn. I am over the age of eighteen years and not a party to the within entitled action; my business address is 238 Stony Creek Drive, Orland, CA 95963.

On December 28, 2010, I served a copy of the following documents described as:
ANSWER – Unlawful Detainer on the interested parties in this action as follows:

^{OLSEN}
Routh Crabtree, Edward Weber, and Shahed Shahandeh
505 N. Tustin Ave, Ste.#243
Santa Ana, CA 92705

BY MAIL: By placing a true copy thereof enclosed in a sealed envelope(s) addressed as above, and placing each for collection and mailing on that date following ordinary business practices. I am "readily familiar" with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service in Orland, CA, in a sealed envelope with the postage fully prepaid.

BY OVERNIGHT DELIVERY: I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed as above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

BY FACSIMILE: Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed above. The telephone number of the sending facsimile machine was (530) 865-2427. The sending facsimile machine issued a transmission report confirming that the transmission was complete and without error. A copy of that report is attached.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 28.,2010, at Orland, California


Arturo B. Rodriguez