

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

HSBC BANK USA, N.A., AS TRUSTEE  
ON BEHALF OF ACE SECURITIES  
CORP. HOME EQUITY LOAN TRUST  
AND FOR THE REGISTERED HOLDERS  
OF ACE SECURITIES CORP. HOME  
EQUITY LOAN TRUST, SERIES 2005-  
HE6, ASSET BACKED PASS-THROUGH  
CERTIFICATES,

Plaintiff,

vs.

Case No. 8: 08CV01662

DONNA M. PINKSTON,

Defendant and Third-Party Plaintiff,

vs.

OCWEN LOAN SERVICING, LLC, ACE  
MORTGAGE FUNDING, LLC aka ACE  
MORTGAGE FUNDING, INC. and JASON  
VARELA, an individual,

Third-Party Defendants.

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**HSBC BANK USA, N.A., AS TRUSTEE'S ANSWER AND AFFIRMATIVE  
DEFENSES TO COUNTERCLAIMS**

COMES NOW Plaintiff, HSBC Bank, USA, N.A., as Trustee on behalf of Ace Securities Corp. Home Equity Loan Trust and for the registered holders of Ace Securities Corp. Home Equity Loan Trust, Series 2005-HE6, Asset Backed Pass-Through Certificates (hereinafter "HSBC Bank, as Trustee" or "Plaintiff"), through its undersigned attorney, and for its Answer and Affirmative Defenses to Defendant's Counterclaims, states as follows:

**ANSWER**

**GENERAL ALLEGATIONS**

35. HSBC Bank, as Trustee, denies each and every allegation except as specifically admitted herein.

36. Paragraph 36 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

**UNDERLYING FACTS**

37. Upon information and belief, paragraph 37 is admitted.

38. Upon information and belief, paragraph 38 is admitted.

39. Paragraph 39 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

40. Paragraph 40 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

41. Paragraph 41 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

42. Paragraph 42 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

43. Paragraph 43 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

44. Paragraph 44 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

45. Paragraph 45 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

46. Paragraph 46 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

47. Paragraph 47 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

48. Paragraph 48 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

49. Paragraph 49 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

50. Paragraph 50 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

51. Paragraph 51 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

52. Paragraph 52 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

53. Paragraph 53 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

54. Paragraph 54 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

55. Paragraph 55 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

56. Paragraph 56 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

57. Paragraph 57 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

58. Paragraph 58 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

59. Paragraph 59 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

60. Paragraph 60 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

61. Paragraph 61 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

62. Paragraph 62 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

63. Paragraph 63 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

64. Paragraph 64 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

65. Paragraph 65 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

66. Paragraph 66 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

67. Paragraph 67 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

68. Paragraph 68 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

69. Paragraph 69 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

70. Paragraph 70 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

71. Paragraph 71 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

72. Paragraph 72 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

73. Paragraph 73 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

74. Paragraph 74 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

75. Paragraph 75 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

76. Paragraph 76 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

77. Paragraph 77 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

78. Paragraph 78 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

79. Paragraph 79 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

80. Paragraph 80 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

81. Paragraph 81 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

82. Paragraph 82 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

83. Paragraph 83 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

84. Paragraph 84 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

85. Paragraph 85 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

86. Paragraph 86 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

87. Paragraph 87 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

88. Paragraph 88 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

89. Paragraph 89 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

90. Paragraph 90 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

91. Paragraph 91 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

92. Paragraph 92 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

93. Paragraph 93 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

94. Paragraph 94 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

95. Paragraph 95 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

96. Paragraph 96 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

97. Paragraph 97 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

98. Paragraph 98 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

99. Paragraph 99 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

100. Paragraph 100 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

101. Paragraph 101 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

102. Paragraph 102 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

103. Paragraph 103 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

104. Paragraph 104 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

105. Paragraph 105 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

106. Paragraph 106 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

107. Paragraph 107 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

108. Paragraph 108 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

109. Paragraph 109 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

110. Paragraph 110 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

111. Paragraph 111 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

112. Paragraph 112 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

113. Paragraph 113 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

114. Paragraph 114 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

115. Paragraph 115 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

116. Paragraph 116 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

117. Paragraph 117 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

118. Paragraph 118 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

119. Paragraph 119 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

120. Paragraph 120 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

121. Paragraph 121 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

122. Paragraph 122 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

123. Paragraph 123 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

124. Denied.

125. Denied.

126. Paragraph 126 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

127. HSBC Bank, as Trustee did not originate this loan and therefore does not have personal knowledge regarding the allegations of paragraph 127, and states that the documents speak for themselves. Notwithstanding, the appraisal is dated June 16, 2005. Any legal conclusions resulting therefrom are denied.

128. HSBC Bank, as Trustee did not originate this loan and therefore does not have personal knowledge regarding the allegations of paragraph 128, and states that the documents speak for themselves. Notwithstanding, the appraisal lists the property value as \$134,000. Any legal conclusions resulting therefrom are denied.

129. Paragraph 129 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

130. Paragraph 130 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

131. Paragraph 131 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

132. Paragraph 132 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

133. Paragraph 133 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

134. Paragraph 134 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

135. Paragraph 135 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

136. The allegations of paragraph 136 are denied as legal conclusions and denied as Plaintiff is without information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

137. Paragraph 137 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

138. Paragraph 138 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

139. Paragraph 139 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

140. Paragraph 140 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

141. Paragraph 141 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

142. Paragraph 142 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

143. Plaintiff admits that there are two loans. The remainder of the allegations in paragraph 143 are denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

144. Plaintiff admits that there are two loans, one of \$26,800 and one of \$107,200. The remainder of the allegations in paragraph 144 are denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

145. Paragraph 145 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

146. Paragraph 146 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

147. Paragraph 147 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

148. Paragraph 148 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

149. Paragraph 149 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

150. Paragraph 150 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

151. Paragraph 151 is admitted.

152. Plaintiff admits that Ocwen began servicing the loan on or about August 27, 2005. The remainder of the allegations in paragraph 152 are denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations. Plaintiff cannot affirm or deny the actions of NovaStar Mortgage, Inc.

153. Paragraph 153 is denied as a legal conclusion and denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

154. Paragraph 154 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

155. Paragraph 155 is admitted.

156. Paragraph 156 is admitted.

157. Plaintiff admits in response to paragraph 157 that on September 29, 2005, Ocwen sent Defendant a letter notifying her that Ocwen would be servicing the loan.

158. Denied.

159. Paragraph 159 is admitted, but any legal conclusions drawn therefrom are denied.

160. Paragraph 160 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

161. Paragraph 161 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

162. In response to paragraph 162, Plaintiff admits that Ocwen supplied the requested loan documents that were in its possession. Plaintiff denies the remainder of the allegations in paragraph 162 and any legal conclusions drawn therefrom.

163. Paragraph 163 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

164. Paragraph 164 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

165. Paragraph 165 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

166. Paragraph 166 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

167. Paragraph 167 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

168. Paragraph 168 and parts (i) through (vii) are denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

169. In response to paragraph 169, Plaintiff admits that it filed a complaint in mortgage foreclosure against Defendant on January 14, 2008.

170. Paragraph 170 is admitted.

171. In response to paragraph 171, Plaintiff admits that, through counsel, Ms. Pinkston sent notice to Plaintiff and to Ocwen Loan Servicing, LLC attempting to rescind the mortgage and loan transaction. Plaintiff denies the legal conclusion that such notice resulted in a rescission of the mortgage and loan transaction. Plaintiff is without sufficient knowledge or information after reasonable investigation to affirm or deny the allegations pertaining to NovaStar Mortgage, Inc. The remainder of the allegations in paragraph 171 are denied

172. Paragraph 172 is admitted in part: Ocwen received a letter from Defendant on June 16, 2008. Plaintiff denies the legal conclusions contained in paragraph 172.

173. Paragraph 173 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

174. Paragraph 174 is admitted in part: HSBC Bank, as Trustee received a letter from Defendant. Plaintiff denies any legal conclusions resulting therefrom.

175. In response to paragraph 175, Plaintiff admits Ocwen rejected Defendant's rescission request, but submits that the document speaks for itself. The remainder of the allegations and any legal conclusions drawn therefrom in paragraph 175 are denied.

176. Paragraph 176 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

177. Paragraph 177 is denied. Ocwen Loan Servicing, LLC, as servicer of this loan, responded to Defendant's letter dated June 12, 2008.

178. In response to paragraph 178, Plaintiff admits that Michael P. Roland of the Consumer Law Center, P.A., is counsel of record for Defendant. Plaintiff lacks sufficient knowledge or information to admit or deny the allegation that Defendant has agreed to pay a reasonable fee.

**COUNT I (FRAUD)**

179. HSBC Bank, as Trustee hereby re-alleges and asserts its responses to paragraphs 35-178 as if fully reproduced herein.

180. In response to paragraph 180, Plaintiff admits that it is the assignee of the mortgage obligation in question and claims an ownership interest in the property as a result.

181. Paragraph 181 is denied.

182. Plaintiff denies the allegations of paragraph 182 as legal conclusions, and denies paragraph 182 as Plaintiff is without knowledge sufficient after reasonable investigation to form a belief as to the truth of the allegations.

183. Plaintiff denies the allegations of paragraph 183 as legal conclusions, and denies paragraph 183 as Plaintiff is without knowledge sufficient after reasonable investigation to form a belief as to the truth of the allegations.

184. Plaintiff denies the allegations of paragraph 184 as legal conclusions, and denies paragraph 184 as Plaintiff is without knowledge sufficient after reasonable investigation to form a belief as to the truth of the allegations.

185. Plaintiff denies the allegations of paragraph 185 as legal conclusions, and denies paragraph 185 as Plaintiff is without knowledge sufficient after reasonable investigation to form a belief as to the truth of the allegations.

186. In response to paragraph 186, Plaintiff denies that Defendant has suffered any damages. Plaintiff denies Defendant's allegation regarding her reliance as a legal conclusion.

**COUNT II (TRUTH IN LENDING RESCISSION)**

187. HSBC Bank, as Trustee hereby re-alleges and asserts its responses to paragraphs 35 – 187 as if fully set forth herein.

188. In response to the allegations contained in paragraph 188, Plaintiff admits that Defendant has asserted counterclaims against it and third-party claims against other third-party defendants to rescind a consumer credit transaction, void any security interests in Defendant's home, recovery statutory damages, attorneys' fees, and costs by reason of Plaintiff's alleged violations of TILA and Regulation Z. Plaintiff denies that Defendant has any legal basis or legal right to recover for these claims. The remainder of the allegations of paragraph 188 are denied.

189. In response to paragraph 189, Plaintiff admits that it is the assignee of the note and mortgage from the original creditor.

190. In response to paragraph 190, Plaintiff admits that the transaction at issue was subject to a finance charge.

191. Plaintiff admits the allegations of paragraph 191 that it claims a security interest in Defendant's home, the subject property. Plaintiff denies the remainder of the allegations in paragraph 191.

192. Paragraph 192 is denied as Plaintiff is without knowledge and information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

193. In response to paragraph 193, Plaintiff admits that the loan would be subject to rescission if there was a valid TILA claim that could support rescission. Plaintiff denies that Defendant has any valid TILA claim that could support rescission. The remainder of the allegations in paragraph 193 are denied.

194. Plaintiff denies the truth of the factual allegations of paragraph 194 and denies the legal conclusions of paragraph 194.

195. Plaintiff denies the truth of the factual allegations of paragraph 195 and sections (i) through (iii) and denies the legal conclusions of paragraph 195.

196. Plaintiff denies the truth of the factual allegations of paragraph 196 and denies the legal conclusions of paragraph 196.

197. Plaintiff admits the allegation in paragraph 197 that Defendant's exhibit A is a copy of a letter addressed to NovaStar Mortgage, Inc., Plaintiff, and Ocwen, attempting to rescind the transaction at issue. Plaintiff denies the remainder of the allegations in paragraph 197.

198. Plaintiff admits that Plaintiff and Ocwen Loan Servicing, LLC received a letter from Defendant on June 16 or 17, 2008. Plaintiff is without sufficient knowledge after reasonable investigation to admit or deny the allegations regarding NovaStar's receipt of the letter, and therefore denies the same. Plaintiff denies any legal conclusions of paragraph 198 regarding the legal operation of Defendant's letter.

199. Plaintiff denies the truth of the factual allegations of paragraph 199 and denies the legal conclusions of paragraph 199.

200. In response to paragraph 200, Plaintiff admits that the notice contained the following statement: "Please provide us with a statement of the loan disbursements,

charges, payments made, and balance so that my client can make arrangements for tender of the balance owing upon your compliance with the Regulations.” Plaintiff denies that it failed to act in compliance with Regulation Z. The remainder of the allegations in paragraph 200 are denied.

201. Plaintiff admits the allegations of paragraph 201.

202. In response to paragraph 202, Plaintiff admits that it did not take any action to terminate any security interest created under the transaction. Plaintiff affirmatively denies, however, that any such action was “necessary,” “appropriate,” or “required” by 15 U.S.C. § 1635 (b) and Regulation Z, § 226.23(d)(2). Plaintiff denies the truth of the remainder of the allegations of paragraph 202, denies the legal conclusions of paragraph 202.

203. In response to paragraph 203, Plaintiff admits that it did not return any money or property to Defendant. Plaintiff affirmatively denies that any such action was required by 15 U.S.C. § 1635 (b) or Regulation Z, § 226.23(d)(2). Plaintiff further denies the legal conclusions of paragraph 203.

204. Plaintiff denies the truth of the factual allegations of paragraph 204 and sections (i) through (viii), and denies the legal conclusions of paragraph 204 and sections (i) through (viii).

**COUNT III (BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING)**

205. HSBC Bank, as Trustee hereby re-alleges and asserts its responses to paragraphs 35 through 204 as if fully set forth herein.

206. Paragraph 206 is denied.

207. Plaintiff denies the allegations of paragraph 207 as legal conclusions, and denies paragraph 207 as Plaintiff is without knowledge sufficient after reasonable investigation to form a belief as to the truth of the allegations.

208. Plaintiff denies the allegations of paragraph 208 as legal conclusions, and denies paragraph 208 as Plaintiff is without knowledge sufficient after reasonable investigation to form a belief as to the truth of the allegations.

209. Plaintiff denies the allegations of paragraph 209 as legal conclusions, and denies paragraph 209 as Plaintiff is without knowledge sufficient after reasonable investigation to form a belief as to the truth of the allegations.

210. Plaintiff denies the allegations of paragraph 210 and parts (i) through (v) as legal conclusions, and denies paragraph 210 and parts (i) through (v) as Plaintiff is without knowledge sufficient after reasonable investigation to form a belief as to the truth of the allegations.

211. Plaintiff denies the truth of the factual allegations of paragraph 211 and denies the legal conclusions of paragraph 211.

**COUNT IV (UNJUST ENRICHMENT)**

212. HSBC Bank, as Trustee, hereby re-alleges and asserts its responses to paragraphs 35 through 211 as if fully set forth herein.

213. Plaintiff denies the truth of the legal and factual allegations of paragraph 213.

214. Paragraph 214 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

215. Paragraph 215 is denied as Plaintiff is without knowledge or information sufficient after reasonable investigation to form a belief as to the truth of the allegations.

216. Plaintiff denies the truth of the legal and factual allegations of paragraph 216.

**AFFIRMATIVE DEFENSES**

1. HSBC Bank, as Trustee denies each and every allegation in Defendant's Answer, Counterclaims, Affirmative Defenses, and Third-Party Complaint not specifically admitted in this Answer.

2. Defendant's Counterclaims fail to state a claim on which relief can be granted.

3. Defendant's claims are, at least in part, barred by the applicable statutes of limitation and/or statutes of repose.

4. Defendant's damages, which are specifically denied, are not of the nature or extent alleged, and/or are the result of her own actions and omissions.

5. Defendant has failed to mitigate or minimize her damages, if any.

6. Defendant's claims are barred because all disclosures required under the Truth in Lending Act, 15 U.S.C. § 1601 et seq. and Regulation Z were made.

7. Defendant's claims are barred by the applicable doctrine(s) of laches, waiver, estoppel, and unclean hands.

8. HSBC Bank, as Trustee denies that all conditions precedent to a right of recovery have been satisfied.

9. As the assignee of the subject loan, HSBC Bank, as Trustee is not a “creditor” under the statute and has the defenses of an assignee described in 15 U.S.C. § 1640 (b) and (c) and § 1641 (a), (b), (d), (e), and (f).

10. HSBC Bank, as Trustee, is a holder in due course.

11. Defendant’s injuries or damages, if any, were the direct and proximate result of the acts, omissions, negligence, fault, or breach of persons and or parties other than HSBC Bank, as Trustee who caused or contributed to cause all or a portion of the claimed damages or liability, barring recovery against HSBC Bank, as Trustee, in whole or in part.

12. Defendant’s claims of liability or damages are barred in whole or in part by the doctrines of ratification, consent, and acquiescence.

13. Defendant failed to tender a timely rescission notice to a creditor at its designated place of business within three (3) business days of consummation of the subject loan as required by 15 U.S.C. § 1635 and 12 C.F.R. § 226.3.

14. By her conduct, Defendant has waived her rescission claim, and/or should be estopped from raising such a claim.

15. HSBC Bank, as Trustee is not liable for the conduct of third parties.

16. HSBC Bank, as Trustee reserves the right to amend its Answer and Affirmative Defenses to assert any and all affirmative defenses that may develop during the course of and after the completion of discovery.

**WHEREFORE**, HSBC Bank, as Trustee prays that Defendant take nothing by reason of her Motion to Dismiss or Counterclaims; that judgment be entered in HSBC Bank, as Trustee’s favor on all claims and counts; that Defendant’s Motion to Dismiss be

denied and Defendant's Counterclaims dismissed with prejudice; that HSBC Bank, as Trustee be awarded costs, including reasonable attorneys' fees; and for such other and further relief as this Court deems just and equitable.

Dated: August 28, 2008

Respectfully submitted,

S/ Elizabeth R. Wellborn  
Elizabeth R. Wellborn  
Florida Bar No. 155047  
Elizabeth R. Wellborn, PA  
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Deerfield Beach, FL 33442  
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*Attorneys for HSBC Bank, as Trustee on behalf of Ace Securities Corp. Home Equity Loan Trust and for the registered holders of Ace Securities Corp. Home Equity Loan Trust, Series 2005-HE6, asset backed pass-through certificates*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 28, 2008, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will notify the following electronically:

Michael P. Roland, Esq.  
Consumer Law Center, P.A.  
537 10th Street West  
Bradenton, Florida 34205  
*Attorneys for Defendant Donna M. Pinkston*

I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participants:

Unknown Tenant #1 in Possession  
Of Subject Property  
5907 Second Street West  
Bradenton, Florida 34207

Mortgage Electronic Registration Systems, Inc.  
c/o C.T. Corporation as R.A.  
1200 South Pine Island Road  
Plantation, Florida 33324

Ace Mortgage Funding, Inc.  
a/k/a Ace Mortgage Funding, Inc.  
c/o Corporation Service Co. as R.A.  
1201 Hays Street  
Tallahassee, Florida 32301

Mr. Jason Varela  
3680 NW 115<sup>th</sup> Avenue  
Ocala, Florida 34482

S/ Elizabeth R. Wellborn  
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