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6
7 UNITED STATES BANKRUPTCY COURT
8 SOUTHERN DISTRICT OF CALIFORNIA
9

)	CHAPTER 13
GORDY A. SPIRES,	)	CASE NO. 08-13091-LT 13
Debtor/Plaintiff	)	ADV. CASE NO. 09-90133-LT
vs.	)	ANSWER TO FIRST AMENDED
	)	ADVERSARY COMPLAINT:
G8 CAPITAL FUND VII, LLC.;	)	(1) FOR DECLARATORY RELIEF
MORTGAGE ELECTRONIC	)	REFORMATION OF TITLE DUE TO
REGISTRATION SYSTEMS, INC.	)	IMPROPER RECORDING OF QUIT
"MERS" and DOES 1-50, inclusive.	)	CLAIM DEED; (2) INJUNCTIVE RELIEF;
	)	(3) DEMAND FOR ACCOUNTING;
Defendant.	)	(4) RESCISSION; (5) FRAUD;
	)	(6) NEGLIGENT INFLECTION OF
	)	EMOTIONAL DISTRESS; (7) BREACH
	)	OF FIDUCIARY DUTY; (8) BREACH OF
	)	COVENANT OF GOOD AND FAIR
	)	DEALING; (9) UNLAWFUL, UNFAIR
	)	AND FRAUDULENT BUSINESS
	)	PRACTICE (BUS. PROFESSIONAL
	)	CODE 17200); PUNITIVE DAMAGES.

23
24 COMES NOW Defendant G8 Capital Fund VII, LLC and answers the First Amended
25 Adversarial Complaint for (1) Declaratory Relief Reformation of Title due to Improper recording
26 of Quit Claim Deed; (2) Injunctive Relief; (3) Demand of Accounting; (4) Rescission; (5) Fraud;
27 (6) Negligent Infliction of Emotional Distress; (7) Breach of Fiduciary Duty; (8) Breach of
28 Covenant of Good and Fair Dealing; (9) Unlawful, Unfair and Fraudulent Business Practice

1 (Bus. Professional Code 17200): Punitive Damages of Gordy A. Spires as follows:

2 1. Answering paragraphs 1, 2, 3, 4, 5 and 6 of the First Amended Complaint, this
3 answering Defendant has no information and belief upon which to base an admission or denial of
4 each and every of allegations contained therein, and base thereon, denies each and every, all and
5 singular, generally and specifically of the claims therein.

6 2. Answering paragraphs 7 of the First Amended Complaint, this answering Defendant
7 incorporates by reference paragraph 1 of this answer.

8 3. Answering paragraphs 8, 9, 10, 11, 12 and 13 of the First Amended Complaint, this
9 answering Defendant has no information and belief upon which to base an admission or denial of
10 each and every of allegations contained therein, and base thereon, denies each and every, all and
11 singular, generally and specifically of the claims therein.

12 4. Answering paragraphs 14 of the First Amended Complaint, this answering Defendant
13 incorporates by reference paragraph 2 and 3 of this answer.

14 5. Answering paragraphs 15, 16, 17 and 18 of the Complaint, this answering Defendant
15 denies each and every, all and singular, generally and specifically of the allegations contained
16 therein.

17 6. Answering paragraph 19 of the First Amended Complaint Defendant incorporates by
18 referenced it's answer to paragraphs 2, 3 and 4 of the First Amended Complaint.

19 7. Answering paragraphs 20 and 21 of the First Amended Complaint, this answering
20 Defendant does not have sufficient information upon which to base and admission or denial of
21 the allegations contained therein and base thereon, denies each and every, all and singular,
22 generally and specifically of the allegations contained therein.

23 8. Answering paragraph 22 of the First Amended Complaint this answering Defendant
24 incorporates by reference it's answer paragraphs 2, 3, 4 and 6 of the Complaint.

25 9. Answering paragraphs 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 and 37 this
26 answering Defendant denies each and every, all and singular, generally and specifically of the
27 allegations contained therein.

1 10. Answering paragraph 38 of the First Amended Complaint this answering Defendant
2 incorporates by reference it's response to paragraphs 2, 3, 4, 6 and 8 of the of this Amended
3 Complaint.

4 11. Answering paragraphs 39 and 40 of the First Amended Complaint, this answering
5 Defendant denies each and every, all and singular, generally and specifically of the allegations
6 contained therein.

7 12. Answering paragraphs 41 of the First Amended Complaint, this answering Defendant
8 incorporates by reference its response to paragraphs 2, 3, 4, 6, 8 and 10 of their Answer to the
9 Complaint.

10 13. Answering paragraphs 42 and 43 of the First Amended Complaint, this answering
11 Defendant denies each and every, all and singular, generally and specifically of the allegations
12 contained therein.

13 14. Answering paragraph 44 of the First Amended Complaint, incorporates by reference
14 its response to paragraphs 2, 3, 4, 6, 8, 10 and 12 of his Answer to the Complaint.

15 15. Answering paragraphs 45, 46, 47 and 48 of the First Amended Complaint, this
16 answering Defendant denies each and every, all and singular, generally and specifically of the
17 allegations contained therein.

18 **AFFIRMATIVE DEFENSES**

19 FIRST AFFIRMATIVE DEFENSE

20 (Failure to State a Cause of Action)

21 1. For a first, separate and distinct affirmative defense, these answering
22 defendants allege that the complaint, and each cause of action contained therein, fails to state a
23 cause of action against these answering defendants.

24
25 SECOND AFFIRMATIVE DEFENSE

26 (Statute of Limitations)

27 2. For a second, separate and affirmative defense, defendants allege that plaintiff's
28 Complaint, and each cause of action contained therein, is barred as to these defendants, in that

1 same has not been timely filed in violation of all applicable Statute of Limitations imposed by the
2 Code of Civil Procedure and all other applicable Codes.

3
4 THIRD AFFIRMATIVE DEFENSE

5 (Waiver)

6 3. For a third, separate and affirmative defense, these answering defendants allege
7 that complainant is barred from recovery by waiver of the alleged wrongful acts of defendants.

8
9 FOURTH AFFIRMATIVE DEFENSE

10 (Unclean Hands)

11 4. For a fourth, separate and affirmative defense, these answering defendants
12 allege that complainant is barred from recovery by the doctrine of unclean hands.

13 FIFTH AFFIRMATIVE DEFENSE

14 (Consent)

15 5. For a fifth, separate and affirmative defense, these answering defendants allege
16 that each and every act done by them was with the knowledge and consent of complainant.

17 SIXTH AFFIRMATIVE DEFENSE

18 6. For a sixth, separate and affirmative defense, these answering defendants
19 allege that if the complainant suffered or sustained any injuries or damages, it was proximately
20 caused by the negligence of complainant.

21 SEVENTH AFFIRMATIVE DEFENSE

22 7. For a seventh, separate and affirmative defense, these answering defendants
23 allege that any and all events and happenings, injuries, losses, damages, and expenditures
24 referred to in the complaint, were directly and proximately caused and contributed to by the
25 carelessness and negligence of complainant, and the extent of damages sustained by the
26 complainant, if any, should be reduced in proportion to the amount of negligence of the
27 complainant.

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EIGHTH AFFIRMATIVE DEFENSE

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2 8. For an eighth, separate and affirmative defense, these answering defendants
3 allege that any and all events, happenings, injuries, losses, damages and expenditures referred to
4 in the complaint, were directly and proximately caused and contributed to by the carelessness and
5 negligence of persons or parties other than these defendants, and complainant is barred from
6 recovery from these defendants for those portions of the complainant's damages which were
7 caused by others.

8 NINTH AFFIRMATIVE DEFENSE

9 9. For a ninth, separate and affirmative defense, these answering defendants
10 allege that complainant has delayed an unreasonable period of time bringing and prosecuting this
11 action, which delay has been prejudicial to the defendants, and therefore complainant is barred
12 from bringing this action based on the Doctrine of Laches.

13
14 TENTH AFFIRMATIVE DEFENSE

15 10. For an eleventh, separate and affirmative defense, these answering defendants
16 allege that if complainant suffered any, or all, the damages complained of in all, or any part, of
17 said complaint, the same were contributed to and concurred by the negligence and carelessness of
18 the complainant in this: That at or about the time and place alleged in the said complaint, the
19 complainant negligently failed to use due care and caution to avoid or prevent the alleged
20 incidents; that the complainant negligently failed to use ordinary care in that all these acts, and
21 each of them, directly and proximately and solely caused and brought about and/or concurred and
22 contributed to any injuries or damages and that they are in an absolute bar to recovery or in a
23 substantial percentage thereby diminishing plaintiffs' right to recovery, if any.

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WHEREFORE, Defendant prays as follows:

1. That Defendant take nothing by was of the First Amended Complaint;
2. For attorneys fees;
3. For such other and further relief as may be appropriate under the circumstances.

DATE: 7-10-2009


STEPHEN L. BURTON, ATTORNEY FOR
G8 CAPITAL FUND VII, LLC.

DECLARATION OF SERVICE BY MAIL

(U.S. BANKRUPTCY COURT, SOUTHERN DISTRICT, LOCAL RULE 4001-5)

Stephen L. Burton, the undersigned, hereby declares:

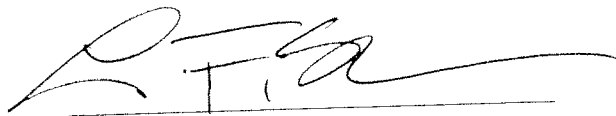
Declarant is a citizen of the United States and is employed by the Law Offices of Stephen L. Burton, 15260 Ventura Boulevard, Suite 640, Sherman Oaks, California 91403. Declarant is over the age of 18 and not a party to the within action.

On July 10, 2009 I served the within **ANSWER TO FIRST AMENDED ADVERSARIAL COMPLAINT FOR (1) DECLARATORY RELIEF REFORMATION OF TITLE DUE TO IMPROPER RECORDING OF QUIT CLAIM DEED; (2) INJUNCTIVE RELIEF; (3) DEMAND OF ACCOUNTING; (4) RESCISSION; (5) FRAUD; (6) NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS; (7) BREACH OF FIDUCIARY DUTY; (8) BREACH OF COVENANT OF GOOD AND FAIR DEALING; (9) UNLAWFUL, UNFAIR AND FRAUDULENT BUSINESS PRACTICE (BUS. PROFESSIONAL CODE 17200): PUNITIVE DAMAGES** upon the parties interested in said action by mailing, with postage thereon fully prepaid, a true copy thereof to said party at his or their known address, to wit:

See attached list.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this July 10, 2009 at Sherman Oaks, California.



Liliana Fisher

SERVICE LIST

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Debtor

Gordy A. Spires
4743 Crater Rim Rd.
Carlsbad, CA 92010

Attorney for the Debtor

Joseph J. Rego
Law Offices of Joseph Rego
4019 Park Bl.
San Diego, CA 92103

Chapter 13 Trustee

Thomas H. Billingslea
530 B. Street #1500
San Diego, CA 92101