

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ACE SECURITIES CORP. HOME EQUITY
LOAN TRUST, SERIES 2006-HE4, by HSBC
Bank USA, National Association, as Trustee,

Plaintiff,

-against-

DB STRUCTURED PRODUCTS, INC.,

Defendant.

Index No. _____

SUMMONS WITH NOTICE

Plaintiff designates New York County as
the place of trial.

The basis for venue is CPLR § 503(a) &
(c) as Plaintiff's principal New York
office is in New York County and
Defendant is a domestic or foreign
corporation authorized to transact
business in New York and its principal
New York offices are in New York
County.

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED and required to
serve upon Plaintiff's attorneys, at the address stated below, a notice of appearance or a demand
for a complaint, within twenty (20) days after the service of this Summons, exclusive of the day
of service, or within thirty (30) days after the service is complete if this Summons is not
personally delivered to you within the State of New York. In case of your failure to appear or
answer, judgment will be taken against you by default for the relief demanded herein.

This Court has jurisdiction over this proceeding pursuant to CPLR §§ 301 and 302
because the Defendant has its principal place of business in New York (60 Wall Street, New
York, New York 10005). Additionally, ACE Securities Corp. Home Equity Loan Trust, Series
2006-HE4 (the "Trust") was formed under New York law pursuant to a pooling and servicing
agreement, which contains a New York choice of law provision.

Venue is proper in this Court pursuant to CPLR § 503(a) and (c) because the Defendant is a domestic or foreign corporation authorized to transact business in the State of New York, with principal offices in New York County. The Trustee's principal executive office is 452 Fifth Avenue, New York, New York 10018.

NOTICE:

1. In this action, Plaintiff, in its capacity as Trustee, seeks redress from DB Structured Products, Inc., ("DBSP") for its breaches of, and refusals to perform, its contractual obligations under a Mortgage Loan Purchase Agreement dated September 28, 2006 (the "MLPA," attached as Exhibit A) and a Pooling and Servicing Agreement dated as of September 1, 2006 (the "PSA," attached as Exhibit B).

2. In or about 2006, DBSP purchased and securitized over 3,700 residential mortgage loans (the "Mortgage Loans") with the intent and understanding that such loans would serve as the basis for payment on securities sold to investors. DBSP accomplished this securitization in part by selling the Mortgage Loans pursuant to the MLPA to ACE Securities Corp. ("ACE"), which pursuant to the PSA sold and deposited the loans into the Trust. The Trust then issued securities backed by the Mortgage Loans. These securities, also known as "Certificates," were issued on September 28, 2006 and sold to investors (the "Certificateholders").

3. The Trustee is the permitted assignee of the MLPA and DBSP's obligations thereunder. The MLPA expressly provides that the Purchaser (as defined therein) of the Mortgage Loans "will assign all of its right, title and interest in and to the Mortgage Loans and the Cap Agreements together with its rights under this Agreement, to the Trustee for the benefit of the Certificateholders." It further provides that such assignment can be made "without the

consent of the Seller” (who in any event consented), and that “the assignee shall succeed to the rights and obligations hereunder of the Purchaser.” Further, the PSA provides that the Depositor (ACE, which is also the Purchaser under the MLPA) assigned all of its right, title and interest in the Mortgage Loans to the Trustee, along with all of the Depositor’s “rights and interest under the” MLPA.

4. As with all mortgage loan securitizations, the marketability, value, credit ratings and credit quality of the Certificates were (and are) dependent in significant part upon the credit quality of the Mortgage Loans in the Trust, the underwriting of those loans, the quality of the information provided with respect thereto, and the accuracy of the representations and warranties that were made with respect to the Mortgage Loans. The MLPA (including in Section 6 thereof) sets forth a series of enforceable representations, warranties and covenants concerning those matters, including without limitation that (i) in connection with each Mortgage Loan, no error, omission, misrepresentation, negligence, fraud or similar occurrence has taken place on the part of any person, including without limitation the mortgagor or any other party involved in the origination of the loan, (ii) there was no material default, breach, violation event or event of acceleration existing under the mortgage or the mortgage note, and (iii) the loans had been underwritten pursuant to applicable loan origination underwriting guidelines.

5. Defendant has breached these and other representations, warranties and covenants in the MLPA and the PSA.

6. Prior to the commencement of this action, a forensic review of loan files for a substantial number of the Mortgage Loans in the Trust was undertaken and a payment analysis of certain Mortgage Loans was conducted. This review reflects that at least 912 of the Mortgage Loans did not comply with the applicable representations, warranties and covenants. This breach

rate indicates that the numbers of Mortgage Loans that did not conform to the applicable representations and warranties may be pervasive and systemic across the loan portfolio that DBSP caused to be transferred to the Trust. The breaches of representations and warranties materially and adversely affected the value of the Mortgage Loans and the interests therein of the Trust and the Certificateholders.

7. In letters to DBSP prior to the commencement of this action, the Trustee provided notice to DBSP of the aforesaid breaches, identifying by loan number each breaching Mortgage Loan, setting forth for each such breaching loan the specific representations and warranties it breached and, although not required, providing evidence of the breach. Under the MLPA and the PSA, DBSP was required either to cure the breaches or to repurchase the breaching loans at the contractually specified purchase price (an amount based on the loans' unpaid principal balances, together with interest and other applicable sums).

8. Specifically, by letter to DBSP dated May 17, 2012, the Trustee identified by loan number 139 Mortgage Loans, with an original aggregate principal balance of approximately \$28,461,978, that breached representations and warranties, specified the representations and warranties that were breached and, although not required, provided further information regarding the breaches. The breaches were material and adverse within the meaning of the MLPA and the PSA. The contractually specified cure and repurchase periods with respect to these 139 Mortgage Loans expired on July 16, 2012 and August 15, 2012 respectively. DBSP failed to cure the breaches or repurchase the breaching Mortgage Loans within the contractually prescribed period. DBSP's failure and refusal to repurchase the breaching Mortgage Loans constitutes a breach of its contractual repurchase obligations.

9. By letter to DBSP dated June 12, 2012, the Trustee identified by loan number 203 Mortgage Loans, with an aggregate original principal balance of approximately \$41,717,959, that breached representations and warranties, specified the representations and warranties that were breached and, although not required, provided evidence of the breaches. The breaches were material and adverse within the meaning of the MLPA and the PSA. The contractually specified cure and repurchase periods with respect to these 203 Mortgage Loans expired on August 11, 2012 and September 10, 2012 respectively. DBSP failed to cure the breaches or repurchase the breaching Mortgage Loans within the contractually prescribed period. DBSP's failure and refusal to repurchase the breaching Mortgage Loans constitutes a breach of its contractual repurchase obligations.

10. By letter to DBSP dated June 13, 2012, the Trustee identified by loan number 665 Mortgage Loans, with an aggregate original principal balance of approximately \$132,873,126, that breached the applicable representations and warranties, specified the representations and warranties that were breached and, although not required, provided evidence of the breaches. The breaches were material and adverse within the meaning of the MLPA and the PSA. The contractually specified cure and repurchase periods with respect to these 665 Mortgage Loans expired on August 12, 2012 and September 11, 2012 respectively. DBSP failed to cure the breaches or repurchase the breaching Mortgage Loans within the contractually prescribed period. DBSP's failure and refusal to repurchase the breaching Mortgage Loans constitutes a breach of its contractual repurchase obligations.

11. The defects giving rise to the breaches include, without limitation, the following:

- (a) Misstatement of Debts. Mortgage Loan documentation misstated borrowers' existing debt obligations, despite clear indications at the time that the borrowers had more debts than were listed.

- (b) Misstatement of Owner-Occupancy Status. Mortgage Loan documentation listed as “owner-occupied” properties that were not in fact occupied by the owner.
- (c) Misstatement of Debt-to-Income Ratios. “Debt-to-income” ratio (or “DTI” ratio) compares the borrower’s monthly debt obligations to the borrower’s monthly income. For many Mortgage Loans, the actual DTI ratios were far higher than those represented, meaning that borrowers had much higher debt relative to their incomes than was represented.
- (d) Misstatement of Income and Employment. Many mortgage loan files misstated the borrowers’ income or listed incomes that were not accurate or reasonable given the borrowers’ stated occupations.
- (e) Underwriting Guideline Breaches. Many of the mortgage loan files relating to the Mortgage Loans reflect that the Mortgage Loans did not comply with the originators’ mortgage loan origination guidelines.
- (f) Borrower Delinquencies. Many of the mortgage loan files relating to the Mortgage Loans reflect that there were borrower delinquencies despite representations that there were not.

12. The breaches materially and adversely affected the value of the Mortgage Loans and/or the interests of the Trust or the Certificateholders therein, or were contractually deemed automatically to do so.

13. Section 2.03(a) of the PSA (which is cross-referenced in Section 7(a) of the MLPA) provides in pertinent part that “within sixty (60) days from the date the Sponsor [DBSP] was notified of [a] defect or breach” with respect to a Mortgage Loan, DBSP is required to “cure such defect or breach in all material respects” or the Trustee is entitled to enforce DBSP’s obligations under the MLPA “to repurchase such Mortgage Loan ... within ninety (90) days after the date on which the Sponsor was notified” of such breach. Section 7(a) of the MLPA, headed “Repurchase Obligation for Defective Documentation and for Breach of Representation and Warranty,” is substantially to the same effect. Moreover, pursuant to Section 2.03(a) of the PSA, certain of DBSP’s breaches of its representations and warranties “shall be automatically deemed

to affect materially and adversely the interests of the Certificateholders.” These include breaches described above.

14. As stated above, the 60-day period for DBSP to cure the breaches of which it has been provided notice, or which it otherwise discovered, has now elapsed, with DBSP failing to cure a single breach. Likewise, the 90-day period for DBSP to repurchase the Mortgage Loans containing such breaches has also elapsed, without DBSP effecting such repurchases. DBSP is therefore in breach of and has repudiated and abandoned its obligations.

15. The PSA and MLPA are valid, binding and enforceable contracts.

16. The Trust, acting through the Trustee, now brings this action to enforce DBSP’s obligations under the PSA and the MLPA. The Trustee, in its own capacity and as assignee, may enforce DBSP’s representations and warranties in the MLPA against DBSP. The Trust and the Trustee have performed all of the conditions, covenants, and promises required in accordance with the PSA and the MLPA in order to enforce the repurchase obligations of DBSP in the PSA and MLPA.

17. Section 12 of the MLPA provides that “[a]ll rights and remedies of the Purchaser [and therefore the Trustee as its permitted assignee] under this Agreement are distinct from, and cumulative with, any other rights or remedies under this Agreement or afforded by law or equity and all such rights and remedies may be exercised concurrently, independently or successively.”

18. The Trust’s remedies include, but are not limited to, DBSP’s repurchase obligations as alleged above.

19. The Trust and Certificateholders have been damaged by Defendant’s breaches. The nature of those breaches – including violations of representations, warranties and covenants concerning the applicable Mortgage Loans and Defendant’s separate breaches of its

cure/repurchase obligations – is such that Plaintiff is not limited to its repurchase remedy but is also, or in the alternative, entitled to compensatory damages.

20. DBSP should be required to specifically perform its obligations under the PSA and the MLPA, including the repurchase of all Mortgage Loans that do not comply with representations and warranties that (i) materially and adversely affect the interests of the Certificateholders in any Mortgage Loan or that (ii) are automatically deemed under the PSA and MLPA to do so. DBSP's obligation to repurchase includes both the Mortgage Loans specifically identified by the Trustee and also all other Mortgage Loans with material and adverse breaches. Additionally, or in the alternative, DBSP should be required to pay damages for the losses caused to the Trust and its Certificateholders by DBSP's breaches of its representations, warranties and covenants.

21. Further, DBSP is contractually required to reimburse the Trustee for its expenses in enforcing DBSP's obligations under the MLPA and the PSA. Section 4(d) of the MLPA provides in pertinent part that "[a]ny expense reasonably incurred by or on behalf of the Purchaser or the Trustee in connection with enforcing any obligations of the Seller [DBSP] under this Agreement will be promptly reimbursed by the Seller." The PSA contains language to the same effect.

22. The relief sought by Plaintiff includes the following:

(a) An order requiring DBSP to specifically perform its contractual obligations to repurchase all Mortgage Loans that are not in conformance with the representations and warranties set forth in the PSA and the MLPA in accordance with such agreements.

(b) Additionally, or in the alternative, a declaration that DBSP is required to comply with its contractual obligations to repurchase the Mortgage Loans already identified as breaching DBSP's representations and warranties, as well as any such Mortgage Loans identified in the future, in accordance with the PSA and the MLPA.

(c) Additionally, or in the alternative, an award of compensatory damages in an amount to be proven at trial for DBSP's breaches of its representations, warranties and covenants and its refusal to perform and repudiation of its contractual obligations.

(d) Additionally, an award of damages in an amount to be proven at trial to compensate and reimburse the Trustee for expenses, including but not limited to attorneys' fees, incurred in enforcing its remedies for DBSP's breaches.

(e) Such other and further relief as the Court may deem just and proper.

YOU ARE HEREBY NOTIFIED that on your failure to appear or answer, a default judgment will be entered against you (a) in the amount of at least \$182,724,000, representing the aggregate original principal balance (\$183,516,723) of the 912 Mortgage Loans previously identified to you as breaching your representations and warranties (with accrued interest thereon), less amounts collected on those Mortgage Loans; (b) for the Trustee's expenses in enforcing its remedies, including the costs of this action, attorneys' fees and other expenses to be established to the satisfaction of the Court; (c) contractually specified interest and fees with respect to the applicable Mortgage Loans, as well as pre-judgment interest at the rate prescribed by law for all amounts; and (d) for a declaration that you are in breach of your repurchase obligations under the MLPA and the PSA and that such obligations continue into the future as to any Mortgage Loans discovered to be in breach of your obligations.

DATED: New York, New York
September 27, 2012

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