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8 Attorneys for Defendants
Countrywide Home Loans, Inc. (erroneously sued as “Countrywide Home
9 Loans”); Countrywide Financial Corporation; Bank of America, N.A., as
successor by April 27, 2009 de jure merger with Countrywide Bank, FSB
10 (formerly known as Countrywide Bank, N.A.); Bank of America Corporation;
LandSafe, Inc.; and LandSafe Appraisal Services, Inc. (now known as
11 “CoreLogic Valuation Solutions, Inc.”) (erroneously sued as “Landsafe
Appraisal Inc.”)
12

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

15 BARBARA WALDRUP, individually, and
on behalf of other members of the general
16 public similarly situated,

17 Plaintiffs,

18 v.

19 COUNTRYWIDE FINANCIAL
CORPORATION, a Delaware corporation,
20 COUNTRYWIDE HOME LOANS, a New
York corporation; COUNTRYWIDE
21 BANK, N.A., a national association,
BANK OF AMERICA CORPORATION,
22 a Delaware corporation, LANDSAFE
INC., a Delaware corporation;
23 LANDSAFE APPRAISAL INC., a
California corporation,
24

25 Defendants.

Case No. CV13-08833 CAS (CWx)
(Lead Case)

(Consolidated with Case No. 2:16-cv-
4166-CAS-AGR)

**DEFENDANTS’ AMENDED
ANSWER TO PLAINTIFF’S
THIRD AMENDED COMPLAINT**

26
27
28

1 Defendants Countrywide Financial Corporation (“CFC”), Countrywide Home
2 Loans, Inc. (erroneously sued as “Countrywide Home Loans”) (“CHL”), Bank of
3 America, N.A., as successor by April 27, 2009 de jure merger with Countrywide
4 Bank, FSB (formerly known as Countrywide Bank, N.A.) (“BANA”), Bank of
5 America Corporation (“BAC”), LandSafe, Inc. (“LSI”), and LandSafe Appraisal
6 Services, Inc. (now known as “CoreLogic Valuation Solutions, Inc.”) (erroneously
7 sued as “Landsafe Appraisal Inc.”) (“LSA”) provide an amended answer to the Third
8 Amended Complaint (“TAC”) of Plaintiff Barbara Waldrup (“Plaintiff”) as follows:

9 **INTRODUCTION**

10 1. In response to paragraph 1 of the TAC, Defendants deny, generally and
11 specifically, each and every allegation contained therein.

12 2. In response to paragraph 2 of the TAC, Defendants are without
13 sufficient information or knowledge to form a belief as to the truth of the allegations
14 contained in this paragraph, and on that basis deny, generally and specifically, each
15 and every allegation contained therein.

16 3. In response to paragraph 3 of the TAC, Defendants deny, generally and
17 specifically, each and every allegation contained therein.

18 4. In response to paragraph 4 of the TAC, Defendants state the statute
19 speaks for itself. Defendants deny, generally and specifically, each and every
20 remaining allegation contained therein.

21 5. In response to paragraph 5 of the TAC, Defendants state the statutes
22 speak for themselves. Defendants deny, generally and specifically, each and every
23 remaining allegation contained therein.

24 6. In response to paragraph 6 of the TAC, Defendants deny, generally and
25 specifically, each and every allegation contained therein.

26 7. In response to paragraph 7 of the TAC, Defendants admit that in
27 connection with loan underwriting, CHL required an appraisal to be performed, and
28 for the majority of the putative class period, CHL generally required LSA to review

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1 or provide the appraisal product. Defendants admit that LSA and CHL were
2 subsidiaries of CFC at the time of Plaintiff's 2004 and 2007 transactions at issue.
3 Defendants deny, generally and specifically, each and every remaining allegation
4 contained therein.

5 8. In response to paragraph 8 of the TAC, Defendants deny, generally and
6 specifically, each and every allegation contained therein.

7 9. In response to paragraph 9 of the TAC, Defendants deny, generally and
8 specifically, each and every allegation contained therein.

9 10. In response to paragraph 10 of the TAC, Defendants deny, generally
10 and specifically, each and every allegation contained therein.

11 11. In response to paragraph 11 of the TAC, Defendants deny, generally
12 and specifically, each and every allegation contained therein.

13 **JURISDICTION AND VENUE**

14 12. In response to paragraph 12 of the TAC, Defendants are without
15 sufficient information or knowledge to form a belief as to the truth of the allegations
16 contained in this paragraph, and on that basis deny, generally and specifically, each
17 and every allegation contained therein.

18 13. In response to paragraph 13 of the TAC, Defendants state the statutes
19 speak for themselves. Defendants further state that this paragraph does not call for
20 admission or denial.

21 14. In response to paragraph 14 of the TAC, Defendants admit that
22 Defendants CHL and LSA have transacted business with regard to properties located
23 within the Central District of California. Other than specifically admitted herein,
24 Defendants deny, generally and specifically, each and every remaining allegation in
25 this paragraph.

26 **PARTIES**

27 15. In response to paragraph 15 of the TAC, Defendants are without
28 sufficient information or knowledge to form a belief as to the truth of the allegations

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1 contained in this paragraph, and on that basis deny, generally and specifically, each
2 and every allegation contained therein.

3 16. In response to paragraph 16 of the TAC, Defendants admit that CFC is a
4 Delaware corporation, was the parent corporation for CHL, and was a publicly
5 traded company at the time of Plaintiff's transactions in 2004 and 2007. Other than
6 specifically admitted herein, Defendants deny, generally and specifically, each and
7 every remaining allegation in this paragraph.

8 17. In response to paragraph 17 of the TAC, Defendants admit that CHL is
9 a New York corporation. Defendants further admit that CHL is a wholly-owned
10 subsidiary of CFC. Other than specifically admitted herein, Defendants deny,
11 generally and specifically, each and every remaining allegation in this paragraph.

12 18. In response to paragraph 18 of the TAC, Defendants admit that Full
13 Spectrum Lending, Inc. ("FSL") merged into CHL in December 2004. Other than
14 specifically admitted herein, Defendants deny, generally and specifically, each and
15 every remaining allegation in this paragraph.

16 19. In response to paragraph 19 of the TAC, Defendants admit that
17 Countrywide Bank, FSB (formerly known as Countrywide Bank, N.A.) was merged
18 into BANA by April 27, 2009 de jure merger and no longer exists as a separate
19 entity. Other than specifically admitted herein, Defendants deny, generally and
20 specifically, each and every remaining allegation in this paragraph.

21 20. In response to paragraph 20 of the TAC, Defendants deny, generally
22 and specifically, each and every allegation in this paragraph.

23 21. In response to paragraph 21 of the TAC, Defendants admit that BAC is
24 a Delaware Corporation, is a financial holding company, and has its principal place
25 of business at 100 N. Tyron Street, Charlotte, North Carolina. Other than specifically
26 admitted herein, Defendants deny, generally and specifically, each and every
27 remaining allegation in this paragraph.

28 22. In response to paragraph 22 of the TAC, Defendants admit that on July

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1 1, 2008, CFC merged with and into Red Oak Merger Corporation (a direct subsidiary
2 of BAC), and wherein Red Oak Merger Corporation changed its name to CFC, and
3 thus, CFC and all of its subsidiaries became indirect subsidiaries of BAC. Other than
4 specifically admitted herein, Defendants deny, generally and specifically, each and
5 every remaining allegation in this paragraph.

6 23. In response to paragraph 23 of the TAC, Defendants admit that at
7 certain times during the putative class period from January 1, 2003 to December 31,
8 2008 certain of the Defendant entities were part of an affiliated family of companies.
9 Other than specifically admitted herein, Defendants deny, generally and specifically,
10 each and every remaining allegation in this paragraph.

11 24. In response to paragraph 24 of the TAC, Defendants admit that the
12 Federal Reserve issued on June 5, 2008 an “Order Approving the Acquisition of a
13 Savings Association and Other Nonbanking Activities.” Defendants contend that
14 document speaks for itself. Other than specifically admitted herein, Defendants deny,
15 generally and specifically, each and every remaining allegation in this paragraph.

16 25. In response to paragraph 25 of the TAC, Defendants admit that the
17 Bank of America Home Loans brand was announced in April 2009. Other than
18 specifically admitted herein, Defendants deny, generally and specifically, each and
19 every remaining allegation in this paragraph.

20 26. In response to paragraph 26 of the TAC, Defendants admit that the
21 Bank of America Home Loans brand was announced in April 2009. Defendants
22 contend that any press releases issued will speak for themselves. Other than
23 specifically admitted herein, Defendants deny, generally and specifically, each and
24 every remaining allegation in this paragraph.

25 27. In response to paragraph 27 of the TAC, Defendants admit that certain
26 press releases or other public announcements may have been made. Such press
27 releases or public statements will speak for themselves. Other than specifically
28 admitted herein, Defendants deny, generally and specifically, each and every

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1 remaining allegation in this paragraph.

2 28. In response to paragraph 28 of the TAC, Defendants admit that certain
3 press releases or other public announcements may have been made. Such press
4 releases or public statements will speak for themselves. Other than specifically
5 admitted herein, Defendants deny, generally and specifically, each and every
6 remaining allegation in this paragraph.

7 29. In response to paragraph 29 of the TAC, Defendants admit that certain
8 press releases or other public announcements may have been made. Such press
9 releases or public statements will speak for themselves. Other than specifically
10 admitted herein, Defendants deny, generally and specifically, each and every
11 remaining allegation in this paragraph.

12 30. In response to paragraph 30 of the TAC, Defendants admit certain
13 public statements may have been made in periodic regulatory filings. Such public
14 statements will speak for themselves. Other than specifically admitted herein,
15 Defendants deny, generally and specifically, each and every remaining allegation in
16 this paragraph.

17 31. In response to paragraph 31 of the TAC, Defendants admit that certain
18 press releases or other public announcements may have been made. Such press
19 releases or public statements will speak for themselves. Other than specifically
20 admitted herein, Defendants deny, generally and specifically, each and every
21 remaining allegation in this paragraph.

22 32. In response to paragraph 32 of the TAC, Defendants deny, generally
23 and specifically, each and every allegation in this paragraph.

24 33. In response to paragraph 33 of the TAC, Defendants admit that at all
25 relevant times in the TAC, LSI was a Delaware corporation headquartered at 6400
26 Legacy Drive, Plano, Texas 75024. Other than specifically admitted herein,
27 Defendants deny, generally and specifically, each and every remaining allegation in
28 this paragraph.

1 34. In response to paragraph 34 of the TAC, Defendants admit that at all
2 relevant times in the TAC, LSA was a California corporation and wholly-owned
3 subsidiary of LSI. Other than specifically admitted herein, Defendants deny,
4 generally and specifically, each and every remaining allegation in this paragraph.

5 35. In response to paragraph 35 of the TAC, Defendants deny, generally
6 and specifically, each and every allegation in this paragraph.

7 **FACTUAL BACKGROUND**

8 **A. Real Estate Appraisal Standards**

9 36. In response to paragraph 36 of the TAC, Defendants state that this
10 paragraph does not call for an admission or denial and may call for a legal
11 conclusion. To the extent that an admission or denial is required, Defendants deny
12 each and every allegation contained herein.

13 37. In response to paragraph 37 of the TAC, Defendants state that this
14 paragraph does not call for an admission or denial and may call for a legal
15 conclusion. To the extent that an admission or denial is required, Defendants deny
16 each and every allegation contained herein.

17 38. In response to paragraph 38 of the TAC, Defendants state the statutes
18 speak for themselves. Defendants state that this paragraph does not call for an
19 admission or denial and may call for a legal conclusion. To the extent that an
20 admission or denial is required, Defendants deny each and every allegation contained
21 herein.

22 39. In response to paragraph 39 of the TAC, Defendants state the statutes
23 speak for themselves. Defendants state that this paragraph does not call for an
24 admission or denial and may call for a legal conclusion. To the extent that an
25 admission or denial is required, Defendants deny each and every allegation contained
26 herein.

27 40. In response to paragraph 40 of the TAC, Defendants state the statutes
28 speak for themselves. Defendants state that this paragraph does not call for an

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1 admission or denial and may call for a legal conclusion. To the extent that an
2 admission or denial is required, Defendants deny each and every allegation contained
3 herein.

4 41. In response to paragraph 41 of the TAC, Defendants state the statutes
5 speak for themselves. Defendants state that this paragraph does not call for an
6 admission or denial and may call for a legal conclusion. To the extent that an
7 admission or denial is required, Defendants deny each and every allegation contained
8 herein.

9 42. In response to paragraph 42 of the TAC, Defendants state the statutes
10 speak for themselves. Defendants state that this paragraph does not call for an
11 admission or denial and may call for a legal conclusion. To the extent that an
12 admission or denial is required, Defendants deny each and every allegation contained
13 herein.

14 43. In response to paragraph 43 of the TAC, Defendants state the statutes
15 speak for themselves. Defendants state that this paragraph does not call for an
16 admission or denial and may call for a legal conclusion. To the extent that an
17 admission or denial is required, Defendants deny each and every allegation contained
18 herein.

19 44. In response to paragraph 44 of the TAC, Defendants state the statutes
20 speak for themselves. Defendants state that this paragraph does not call for an
21 admission or denial and may call for a legal conclusion. To the extent that an
22 admission or denial is required, Defendants deny each and every allegation contained
23 herein.

24 **B. Countrywide's Fraudulent Appraisal Scheme**

25 45. In response to paragraph 45 of the TAC, Defendants are without
26 sufficient information or knowledge to form a belief as to the truth of the allegations
27 contained in this paragraph, and on that basis deny, generally and specifically, each
28 and every allegation contained therein.

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1 46. In response to paragraph 46 of the TAC, Defendants admit that CHL
2 originated mortgages through various mortgage production business divisions. Other
3 than specifically admitted herein, Defendants deny, generally and specifically, each
4 and every remaining allegation in this paragraph.

5 47. In response to paragraph 47 of the TAC, Defendants deny, generally
6 and specifically, the allegation that “Countrywide began loosening its underwriting
7 efforts to rapidly close and sell loans to the secondary market. To that end,
8 Countrywide viewed the appraisal process as a speed bump in the road to closing a
9 loan.” Defendants are without sufficient information or knowledge to form a belief
10 as to the truth of the remaining allegations contained in this paragraph, and on that
11 basis deny, generally and specifically, each and every allegation contained therein.

12 48. In response to paragraph 48 of the TAC, Defendants deny, generally
13 and specifically, each and every allegation in this paragraph.

14 49. In response to paragraph 49 of the TAC, Defendants admit that Kyle
15 Lagow was the relator who filed a *qui tam* complaint. Defendants state that the *qui*
16 *tam* complaint speaks for itself. Other than specifically admitted herein, Defendants
17 deny, generally and specifically, each and every remaining allegation in this
18 paragraph.

19 50. In response to paragraph 50 of the TAC, Defendants state that the
20 whistleblower complaint speaks for itself. Defendants are without sufficient
21 information or knowledge to form a belief as to the truth of the allegations contained
22 in this paragraph, and on that basis deny, generally and specifically, each and every
23 allegation contained therein.

24 51. In response to paragraph 51 of the TAC, Defendants state that the
25 whistleblower complaint speaks for itself. Defendants are without sufficient
26 information or knowledge to form a belief as to the truth of the allegations contained
27 in this paragraph, and on that basis deny, generally and specifically, each and every
28 allegation contained therein.

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1 52. In response to paragraph 52 of the TAC, Defendants state that the
2 whistleblower complaint speaks for itself. Defendants are without sufficient
3 information or knowledge to form a belief as to the truth of the allegations contained
4 in this paragraph, and on that basis deny, generally and specifically, each and every
5 allegation contained therein.

6 53. In response to paragraph 53 of the TAC, Defendants state that the
7 whistleblower complaint speaks for itself. Defendants are without sufficient
8 information or knowledge to form a belief as to the truth of the allegations contained
9 in this paragraph, and on that basis deny, generally and specifically, each and every
10 allegation contained therein.

11 54. In response to paragraph 54 of the TAC, Defendants state that the
12 whistleblower complaint speaks for itself. Defendants are without sufficient
13 information or knowledge to form a belief as to the truth of the allegations contained
14 in this paragraph, and on that basis deny, generally and specifically, each and every
15 allegation contained therein.

16 55. In response to paragraph 55 of the TAC, Defendants state that the
17 whistleblower complaint speaks for itself. Defendants are without sufficient
18 information or knowledge to form a belief as to the truth of the allegations contained
19 in this paragraph, and on that basis deny, generally and specifically, each and every
20 allegation contained therein.

21 56. In response to paragraph 56 of the TAC, Defendants state that the
22 whistleblower complaint speaks for itself. Defendants are without sufficient
23 information or knowledge to form a belief as to the truth of the allegations contained
24 in this paragraph, and on that basis deny, generally and specifically, each and every
25 allegation contained therein.

26 57. In response to paragraph 57 of the TAC, Defendants are without
27 sufficient information or knowledge to form a belief as to the truth of the allegations
28 contained in this paragraph, and on that basis deny, generally and specifically, each

1 and every allegation contained therein.

2 **C. Defendants Defraud Plaintiff Twice**

3 58. In response to paragraph 58 of the TAC, Defendants admit that Plaintiff
4 applied for and obtained CHL loans in the amounts of \$76,000 and \$19,000 in July
5 and August 2004. Defendants are without sufficient information or knowledge to
6 form a belief as to the truth of the remaining allegations contained in this paragraph,
7 and on that basis deny, generally and specifically, each and every allegation
8 contained therein.

9 59. In response to paragraph 59 of the TAC, Defendants are without
10 sufficient information or knowledge to form a belief as to the truth of the allegations
11 contained in this paragraph, and on that basis deny, generally and specifically, each
12 and every allegation contained therein.

13 60. In response to paragraph 60 of the TAC, Defendants admit that CHL
14 prepared certain loan closing and disclosure documents in connection with Plaintiff's
15 2004 loan, including good faith estimates and HUD-1 settlement statements.
16 Defendants state that those documents as well as any USPAP statutes and regulations
17 speak for themselves. Defendants deny, generally and specifically, the remaining
18 allegations contained therein.

19 61. In response to paragraph 61 of the TAC, Defendants admit that CHL
20 prepared certain loan closing and disclosure documents in connection with Plaintiff's
21 2004 loan, including good faith estimates and HUD-1 settlement statements among
22 others. Defendants state that those documents speak for themselves. Defendants
23 deny, generally and specifically, the remaining allegations contained therein.

24 62. In response to paragraph 62 of the TAC, Defendants admit that CHL
25 prepared certain loan closing and disclosure documents in connection with Plaintiff's
26 2004 loan, including good faith estimates and HUD-1 settlement statements among
27 others. Defendants state that those documents speak for themselves. Defendants
28 deny, generally and specifically, the remaining allegations contained therein.

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1 63. In response to paragraph 63 of the TAC, Defendants admit that Barry
2 Johnson of William & Stuart Appraisal prepared an appraisal field report relating to
3 Plaintiff's property. Defendants state that the document speak for itself. Defendants
4 deny, generally and specifically, the remaining allegations contained therein.

5 64. In response to paragraph 64 of the TAC, Defendants admit that CHL
6 provided Plaintiff with a copy of the 2004 property appraisal report. Defendants
7 deny, generally and specifically, the remaining allegations contained therein.

8 65. In response to paragraph 65 of the TAC, Defendants deny, generally
9 and specifically, each and every allegation contained therein.

10 66. In response to paragraph 66 of the TAC, Defendants admit that an
11 appraisal fee was collected for the 2004 property appraisal. Defendants deny,
12 generally and specifically, the remaining allegations contained therein.

13 67. In response to paragraph 67 of the TAC, deny, generally and
14 specifically, each and every allegation contained therein.

15 68. In response to paragraph 68 of the TAC, Defendants admit that Plaintiff
16 applied for a CHL loan in June 2007. Defendants are without sufficient information
17 or knowledge to form a belief as to the truth of the remaining allegations contained
18 in this paragraph, and on that basis deny, generally and specifically, each and every
19 allegation contained therein.

20 69. In response to paragraph 69 of the TAC, Defendants are without
21 sufficient information or knowledge to form a belief as to the truth of the allegations
22 contained in this paragraph, and on that basis deny, generally and specifically, each
23 and every allegation contained therein.

24 70. In response to paragraph 70 of the TAC, Defendants admit that CHL
25 prepared certain loan application and disclosure documents in connection with
26 Plaintiff's 2007 loan application. Defendants state that those documents speak for
27 themselves. Defendants deny, generally and specifically, the remaining allegations
28 contained therein.

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1 71. In response to paragraph 71 of the TAC, Defendants admit that David
2 Dotson of LSA conducted appraisal work relating to Plaintiff's property and that a
3 LSA appraisal field report was issued. Defendants deny, generally and specifically,
4 the remaining allegations contained therein, including the allegation that the
5 appraisal contained false representations.

6 72. In response to paragraph 72 of the TAC, Defendants are without
7 sufficient information or knowledge to form a belief as to the truth of the allegations
8 contained in this paragraph, and on that basis deny, generally and specifically, each
9 and every allegation contained therein.

10 73. In response to paragraph 73 of the TAC, Defendants admit that CHL
11 prepared certain loan application and disclosure documents in connection with
12 Plaintiff's 2007 loan application. Defendants state that those documents speak for
13 themselves. Defendants deny, generally and specifically, the remaining allegations
14 contained therein.

15 74. In response to paragraph 74 of the TAC, Defendants deny, generally
16 and specifically, each and every allegation in this paragraph.

17 75. In response to paragraph 75 of the TAC, Defendants admit that an
18 appraisal fee was collected for the 2007 LSA property appraisal. Defendants deny,
19 generally and specifically, the remaining allegations contained therein.

20 76. In response to paragraph 76 of the TAC, deny, generally and
21 specifically, the remaining allegations contained therein.

22 77. In response to paragraph 77 of the TAC, Defendants deny, generally
23 and specifically, each and every allegation in this paragraph.

24 78. In response to paragraph 78 of the TAC, Defendants deny, generally
25 and specifically, each and every allegation in this paragraph.

26 **TOLLING OF THE STATUTE OF LIMITATIONS**

27 79. In response to paragraph 79 of the TAC, Defendants deny, generally
28 and specifically, each and every allegation in this paragraph.

1 80. In response to paragraph 80 of the TAC, Defendants deny, generally
2 and specifically, each and every allegation in this paragraph.

3 81. In response to paragraph 81 of the TAC, Defendants deny, generally
4 and specifically, each and every allegation in this paragraph.

5 **CLASS ACTION ALLEGATIONS**

6 82. In response to paragraph 82 of the TAC, Defendants admit that Plaintiff
7 seeks to certify a putative class. Defendants deny that such a putative class may be
8 certified, that Plaintiff may represent the proposed class, and that Plaintiff or any of
9 the putative class members are entitled to any relief from Defendants pursuant to the
10 TAC. Defendants deny, generally and specifically, each and every allegation in this
11 paragraph.

12 83. In response to paragraph 83 of the TAC, Defendants admit that Plaintiff
13 seeks to certify a putative class. Defendants deny that such a putative class may be
14 certified, that Plaintiff may represent the proposed class, and that Plaintiff or any of
15 the putative class members are entitled to any relief from Defendants pursuant to the
16 TAC. Defendants deny, generally and specifically, each and every allegation in this
17 paragraph.

18 84. In response to paragraph 84 of the TAC, Defendants deny, generally
19 and specifically, each and every allegation in this paragraph.

20 85. In response to paragraph 85 of the TAC, Defendants deny, generally
21 and specifically, each and every allegation in this paragraph.

22 86. In response to paragraph 86 of the TAC, Defendants deny, generally
23 and specifically, each and every allegation in this paragraph.

24 87. In response to paragraph 87 of the TAC, Defendants deny, generally
25 and specifically, each and every allegation in this paragraph.

26 88. In response to paragraph 88 of the TAC, Defendants deny, generally
27 and specifically, each and every allegation in this paragraph.

28 89. In response to paragraph 89 of the TAC, Defendants deny, generally

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1 and specifically, each and every allegation in this paragraph.

2 90. In response to paragraph 90 of the TAC, Defendants deny, generally
3 and specifically, each and every allegation in this paragraph.

4 91. In response to paragraph 91 of the TAC, Defendants deny, generally
5 and specifically, each and every allegation in this paragraph.

6 92. In response to paragraph 92 of the TAC, Defendants deny, generally
7 and specifically, each and every allegation in this paragraph.

8 93. In response to paragraph 93 of the TAC, Defendants deny, generally
9 and specifically, each and every allegation in this paragraph.

10 94. In response to paragraph 94 of the TAC, Defendants deny, generally
11 and specifically, each and every allegation in this paragraph.

12 95. In response to paragraph 95 of the TAC, Defendants deny, generally
13 and specifically, each and every allegation in this paragraph.

14 **FIRST CLAIM FOR RELIEF**

15 **Violation of Unfair Competition Law**

16 **(California Business and Professions Code § 17200 *et seq.*)**

17 96. In response to paragraph 96 of the TAC, Defendants incorporate all
18 statements in response to the preceding paragraphs as if set forth herein.

19 97. In response to paragraph 97 of the TAC, Defendants admit that Plaintiff
20 seeks to certify a putative class. Defendants deny that such a putative class may be
21 certified, that Plaintiff may represent the proposed class, and that Plaintiff or any of
22 the putative class members are entitled to any relief from Defendants pursuant to the
23 TAC. Defendants deny, generally and specifically, each and every allegation in this
24 paragraph.

25 98. In response to paragraph 98 of the TAC, Defendants state the statute
26 speaks for itself. Defendants deny, generally and specifically, each and every
27 remaining allegation in this paragraph.

28 99. In response to paragraph 99 of the TAC, Defendants deny, generally

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1 and specifically, each and every allegation in this paragraph.

2 100. In response to paragraph 100 of the TAC, Defendants deny, generally
3 and specifically, each and every allegation in this paragraph.

4 101. In response to paragraph 101 of the TAC, Defendants deny, generally
5 and specifically, each and every allegation in this paragraph.

6 102. In response to paragraph 102 of the TAC, Defendants deny, generally
7 and specifically, each and every allegation in this paragraph.

8 103. In response to paragraph 103 of the TAC, Defendants deny, generally
9 and specifically, each and every allegation in this paragraph.

10 104. In response to paragraph 104 of the TAC, Defendants deny, generally
11 and specifically, each and every allegation in this paragraph.

12 105. In response to paragraph 105 of the TAC, Defendants deny, generally
13 and specifically, each and every allegation in this paragraph.

14 106. In response to paragraph 106 of the TAC, Defendants deny, generally
15 and specifically, each and every allegation in this paragraph.

16 107. In response to paragraph 107 of the TAC, Defendants deny, generally
17 and specifically, each and every allegation in this paragraph.

18 108. In response to paragraph 108 of the TAC, Defendants deny, generally
19 and specifically, each and every allegation in this paragraph.

20 109. In response to paragraph 109 of the TAC, Defendants deny, generally
21 and specifically, each and every allegation in this paragraph.

22 **SECOND CLAIM FOR RELIEF**

23 **Violations of Racketeer Influenced and Corrupt Organizations Act**

24 **(18 U.S.C. § 1962(c))**

25 110. In response to paragraph 110 of the TAC, Defendants incorporate all
26 statements in response to the preceding paragraphs as if set forth herein.

27 111. In response to paragraph 111 of the TAC, Defendants admit that
28 Plaintiff seeks to certify a putative class. Defendants deny that such a putative class

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1 may be certified, that Plaintiff may represent the proposed class, and that Plaintiff or
2 any of the putative class members are entitled to any relief from Defendants pursuant
3 to the TAC. Defendants deny, generally and specifically, each and every allegation
4 in this paragraph.

5 **THE RICO ENTERPRISE**

6 112. In response to paragraph 112 of the TAC, Defendants state the statute
7 speaks for itself. Defendants further state that the allegations are legal conclusions
8 for which no response is necessary. To the extent a response is required, Defendants
9 lack adequate information to admit or deny the allegations, and on that basis deny
10 them.

11 113. In response to paragraph 113 of the TAC, Defendants deny, generally
12 and specifically, each and every allegation in this paragraph.

13 114. In response to paragraph 114 of the TAC, Defendants deny, generally
14 and specifically, each and every allegation in this paragraph.

15 115. In response to paragraph 115 of the TAC, Defendants deny, generally
16 and specifically, each and every allegation in this paragraph.

17 116. In response to paragraph 116 of the TAC, Defendants deny, generally
18 and specifically, each and every allegation in this paragraph.

19 **THE PREDICATE ACTS**

20 117. In response to paragraph 117 of the TAC, Defendants deny, generally
21 and specifically, each and every allegation in this paragraph.

22 118. In response to paragraph 118 of the TAC, Defendants deny, generally
23 and specifically, each and every allegation in this paragraph.

24 119. In response to paragraph 119 of the TAC, Defendants state the statute
25 speaks for itself.

26 120. In response to paragraph 120 of the TAC, Defendants deny, generally
27 and specifically, each and every allegation in this paragraph.

28 121. In response to paragraph 121 of the TAC, Defendants deny, generally

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1 and specifically, each and every allegation in this paragraph.

2 122. In response to paragraph 122 of the TAC, Defendants deny, generally
3 and specifically, each and every allegation in this paragraph.

4 123. In response to paragraph 123 of the TAC, Defendants deny, generally
5 and specifically, each and every allegation in this paragraph.

6 124. In response to paragraph 124 of the TAC, Defendants deny, generally
7 and specifically, each and every allegation in this paragraph.

8 125. In response to paragraph 125 of the TAC, Defendants deny, generally
9 and specifically, each and every allegation in this paragraph.

10 126. In response to paragraph 126 of the TAC, Defendants deny, generally
11 and specifically, each and every allegation in this paragraph.

12 127. In response to paragraph 127 of the TAC, Defendants deny, generally
13 and specifically, each and every allegation in this paragraph.

14 128. In response to paragraph 128 of the TAC, Defendants deny, generally
15 and specifically, each and every allegation in this paragraph.

16 129. In response to paragraph 129 of the TAC, Defendants deny, generally
17 and specifically, each and every allegation in this paragraph.

18 130. In response to paragraph 130 of the TAC, Defendants deny, generally
19 and specifically, each and every allegation in this paragraph.

20 131. In response to paragraph 131 of the TAC, Defendants deny, generally
21 and specifically, each and every allegation in this paragraph.

22 **THIRD CLAIM FOR RELIEF**

23 **Violation of the Racketeer Influenced and Corrupt Organizations Act,**

24 **Conspiracy to Violate Title 18 United States Code section 1962(c)**

25 **(18 U.S.C. § 1962(d))**

26 132. In response to paragraph 132 of the TAC, Defendants incorporate all
27 statements in response to the preceding paragraphs as if set forth herein.

28 133. In response to paragraph 133 of the TAC, Defendants admit that

1 Plaintiff seeks to certify a putative class. Defendants deny that such a putative class
2 may be certified, that Plaintiff may represent the proposed class, and that Plaintiff or
3 any of the putative class members are entitled to any relief from Defendants pursuant
4 to the TAC. Defendants deny, generally and specifically, each and every allegation
5 in this paragraph.

6 134. In response to paragraph 134 of the TAC, Defendants deny, generally
7 and specifically, each and every allegation in this paragraph.

8 135. In response to paragraph 135 of the TAC, Defendants deny, generally
9 and specifically, each and every allegation in this paragraph.

10 136. In response to paragraph 136 of the TAC, Defendants deny, generally
11 and specifically, each and every allegation in this paragraph.

12 **FOURTH CLAIM FOR RELIEF**

13 **Unjust Enrichment**

14 137. In response to paragraph 137 of the TAC, Defendants incorporate all
15 statements in response to the preceding paragraphs as if set forth herein.

16 138. In response to paragraph 138 of the TAC, Defendants admit that
17 Plaintiff seeks to certify a putative class. Defendants deny that such a putative class
18 may be certified, that Plaintiff may represent the proposed class, and that Plaintiff or
19 any of the putative class members are entitled to any relief from Defendants pursuant
20 to the TAC. Defendants deny, generally and specifically, each and every allegation
21 in this paragraph.

22 139. In response to paragraph 139 of the TAC, Defendants deny, generally
23 and specifically, each and every allegation in this paragraph.

24 140. In response to paragraph 140 of the TAC, Defendants deny, generally
25 and specifically, each and every allegation in this paragraph.

26 141. In response to paragraph 141 of the TAC, Defendants deny, generally
27 and specifically, each and every allegation in this paragraph.

28 142. In response to paragraph 142 of the TAC, Defendants deny, generally

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1 and specifically, each and every allegation in this paragraph.

2 143. In response to paragraph 143 of the TAC, Defendants deny, generally
3 and specifically, each and every allegation in this paragraph.

4 144. In response to paragraph 144 of the TAC, Defendants deny, generally
5 and specifically, each and every allegation in this paragraph.

6 **FIFTH CLAIM FOR RELIEF**

7 **Fraud**

8 145. In response to paragraph 145 of the TAC, Defendants incorporate all
9 statements in response to the preceding paragraphs as if set forth herein.

10 146. In response to paragraph 146 of the TAC, Defendants admit that
11 Plaintiff seeks to certify a putative class. Defendants deny that such a putative class
12 may be certified, that Plaintiff may represent the proposed class, and that Plaintiff or
13 any of the putative class members are entitled to any relief from Defendants pursuant
14 to the TAC. Defendants deny, generally and specifically, each and every allegation
15 in this paragraph.

16 147. In response to paragraph 147 of the TAC, Defendants deny, generally
17 and specifically, each and every allegation in this paragraph.

18 148. In response to paragraph 148 of the TAC, Defendants deny, generally
19 and specifically, each and every allegation in this paragraph.

20 149. In response to paragraph 149 of the TAC, Defendants are without
21 sufficient information or knowledge to form a belief as to the truth of the allegations
22 contained in this paragraph, and on that basis deny, generally and specifically, each
23 and every allegation contained therein.

24 150. In response to paragraph 150 of the TAC, Defendants deny, generally
25 and specifically, each and every allegation in this paragraph.

26 151. In response to paragraph 151 of the TAC, Defendants deny, generally
27 and specifically, each and every allegation in this paragraph.

28 152. In response to paragraph 152 of the TAC, Defendants deny, generally

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1 and specifically, each and every allegation in this paragraph.

2 153. In response to paragraph 153 of the TAC, Defendants deny, generally
3 and specifically, each and every allegation in this paragraph.

4 154. In response to paragraph 154 of the TAC, Defendants deny, generally
5 and specifically, each and every allegation in this paragraph.

6 **AFFIRMATIVE AND OTHER DEFENSES**

7 As separate and distinct affirmative defenses to the allegations in the TAC,
8 Defendants, and each one of Defendants, allege as follows:

9 **FIRST AFFIRMATIVE DEFENSE**

10 **(Failure to State Sufficient Facts to Constitute a Claim)**

11 1. The TAC, and each and every purported claim therein, fails to allege
12 sufficient facts to state a claim of relief against Defendants, or any of Defendants.
13 Among other reasons, Defendants did not inflate or manipulate Plaintiff's 2004 and
14 2007 appraisals and did not make any misrepresentations as to the quality and value
15 of the appraisals. Moreover, defendants CFC, BAC, BANA, and LSI were not
16 involved in Plaintiff's loan and appraisal transactions. Furthermore, Plaintiff's
17 claims are time-barred by the applicable statutes of limitations as Plaintiff received
18 her appraisals in 2004 and 2007 and did not conduct reasonable due diligence
19 relating to her detailed appraisal reports.

20 **SECOND AFFIRMATIVE DEFENSE**

21 **(Failure to Mitigate Damages)**

22 2. The TAC is barred, in whole or in part, because any injuries, damages
23 and/or losses suffered by Plaintiff, if any, were the result of the Plaintiff's failure to
24 use reasonable means to review her appraisals and mitigate her damages in this
25 action, and otherwise exercise due and ordinary care on her own behalf by, among
26 other things, failing to inquire about the appraisal charges she now disputes and the
27 contents of the appraisals that she received.

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THIRD AFFIRMATIVE DEFENSE

(Lack of Standing)

3. Plaintiff lacks standing to assert some or all of her claims against Defendants and to represent any putative class, the existence of which is expressly denied.

FOURTH AFFIRMATIVE DEFENSE

(Estoppel)

4. The TAC is barred, in whole or in part, by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

(Laches)

5. The TAC is barred, in whole or in part, by the doctrine of laches

SIXTH AFFIRMATIVE DEFENSE

(Waiver)

6. The TAC is barred, in whole or in part, by the doctrine of waiver.

SEVENTH AFFIRMATIVE DEFENSE

(Voluntary Payment)

7. The TAC is barred, in whole or in part, by the doctrine of voluntary payment.

EIGHTH AFFIRMATIVE DEFENSE

(Proximate Cause)

8. The TAC is barred, in whole or in part, because none of the alleged acts or omissions of Defendants were the proximate cause of Plaintiff’s purported injuries and damages, if any.

NINTH AFFIRMATIVE DEFENSE

(Disclosure, Ratification, Consent)

9. The TAC is barred, in whole or in part, because of Plaintiff’s ratification, agreement, acquiescence, or consent to the allegedly inflated appraisals because she received the detailed appraisal reports in 2004 and 2007.

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TENTH AFFIRMATIVE DEFENSE

(Unconstitutional as Class Action)

10. The class allegations are barred on the ground that if this action is certified as a class action, Defendants’ rights under the Fifth and Seventh Amendments of the United States Constitution would be violated.

ELEVENTH AFFIRMATIVE DEFENSE

(Plaintiff and the Alleged Putative Class are Not Similarly Situated)

11. Given the individual nature of Plaintiff’s claims, class certification is inappropriate because Plaintiff and the alleged putative class, the existence of which is expressly denied, are not similarly situated.

TWELFTH AFFIRMATIVE DEFENSE

(Lack of Adequacy of Representation)

12. Plaintiff cannot maintain this action as a class action because they are not proper representatives of the alleged putative class, the existence of which is expressly denied, and the alleged putative class does not have adequate representation.

THIRTEENTH AFFIRMATIVE DEFENSE

(Conflicting Interests)

13. Plaintiff has interests that conflict with those of the alleged putative class, the existence of which is expressly denied.

FOURTEENTH AFFIRMATIVE DEFENSE

(Lack of Commonality)

14. Given the individual nature of Plaintiff’s claims, class certification is inappropriate because common questions of law or fact do not predominate over questions affecting only individuals.

FIFTEENTH AFFIRMATIVE DEFENSE

(Lack of Typicality)

15. Given the individual nature of Plaintiff’s claims, class certification is

1 inappropriate because her claims are not typical of those of the alleged putative class,
2 the existence of which is expressly denied.

3 **SIXTEENTH AFFIRMATIVE DEFENSE**

4 **(Lack of Superiority)**

5 16. Given the individual nature of Plaintiff's claims, class certification is
6 inappropriate because Plaintiff cannot demonstrate that class litigation is superior to
7 other available means of adjudication.

8 **SEVENTEENTH AFFIRMATIVE DEFENSE**

9 **(Lack of Community of Interest)**

10 17. There is no community of interest between Plaintiff and the alleged
11 putative class, the existence of which is expressly denied.

12 **EIGHTEENTH AFFIRMATIVE DEFENSE**

13 **(Alleged Class is not Easily Ascertainable)**

14 18. The alleged putative class, the existence of which is expressly denied, is
15 not easily ascertainable.

16 **NINETEENTH AFFIRMATIVE DEFENSE**

17 **(Statute of Limitations)**

18 19. Defendants are informed and believe and on that basis allege that
19 Plaintiff's claims are barred, in whole or in part, by the applicable statutes of
20 limitations, including but not limited to, the statute of limitations set forth in
21 California Code of Civil Procedure sections 337, 338, and 339, California Business
22 and Professions Code section 17208, and *Agency Holding Corp. v. Malley-Duff &*
23 *Assocs., Inc.*, 483 U.S. 143, 156 (1987) (four-year statute of limitations for civil
24 RICO claims), *Pincay v. Andrews*, 238 F.3d 1106, 1108 (9th Cir. 2001) (four-year
25 statute of limitations for civil RICO claims), *F.D.I.C. v. Dintino*, 167 Cal. App. 4th
26 333, 346-48 (2008) (recovery for unjust enrichment is subject to a three-year statute
27 of limitations); *Denholm v. Houghton Mifflin Co.*, 912 F.2d 357, 362 (9th Cir. 1990)
28 (fraud claims have a three year statute of limitations).

TWENTIETH AFFIRMATIVE DEFENSE

(Reservation of Future Defenses)

20. Defendants hereby reserve the right to amend this pleading to include further affirmative defenses.

WHEREFORE, Defendants pray for judgment as follows:

- 1. That Plaintiff and any putative class take nothing by Plaintiff's TAC and that the same be dismissed with prejudice;
- 2. That Defendants have judgment entered in their favor;
- 3. That Defendants be awarded costs of suit; and
- 4. For such other and further relief as this Court deems proper.

Dated: June 26, 2017

BRYAN CAVE LLP

By: _____
Richard P. Steelman Jr.
Attorneys for Defendants

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