

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

In the Matter of the Application of

U.S. BANK NATIONAL ASSOCIATION (as Trustee,
Securities Administrator, Paying Agent, and/or Calculation
Agent under various Pooling and Servicing Agreements),

Petitioner,

For Judicial Instructions Under CPLR Article 77.

Index No. 656028/2021

Justice Andrew Borrok

IAS Part 53

OPENING MERITS BRIEF OF POETIC HOLDINGS VI, LLC

Poetic Holdings VI, LLC (“Poetic VI”) respectfully submits this opening brief in support of its response to the First Amended Petition, [NYSCEF No. 33](#) (“Petition”), of U.S. Bank National Association, as trustee for the Subject Trusts. Poetic VI holds interests in four of the Subject Trusts, SACO 2005-8, SACO 2005-9, SACO 2005-10, and BSABS 2004-HE10 (the “Poetic VI Trusts”).

Poetic VI joins in the arguments made in the Opening Brief of HBK Master Fund L.P. (“HBK”), [NYSCEF No. 231](#), filed today. For the reasons given in HBK’s Opening Brief, and for the reasons given in Poetic VI’s January 18, 2022 response to the Petition, [NYSCEF No. 63](#), Poetic VI respectfully requests that the Court enter an order instructing the Trustee, with respect to the Poetic VI Trusts:

- (i) That it should continue treating deferred principal proceeds as regular principal, rather than “Subsequent Recoveries,” in accordance with the Trustee’s historical practice and the plain language of the Poetic VI Trust PSAs;

- (ii) That, because deferred principal proceeds are not “Subsequent Recoveries,” which are “the only designated amounts for which write-ups may be applied under the Governing Agreements,” the Trustee should continue its practice of not writing up certificates in respect of such proceeds, *see* Petition ¶¶ 121-22;
- (iii) That Post-Zero Balance Collections, as defined in the Petition ¶ 10, should be distributed through the excess cashflow waterfall; and
- (iv) That the Trustee should continue its practice of applying the Retired Class Provision for “routine distributions” in accordance with its plain meaning so as to “prevent both distributions *and* write-ups to zero-balance Primary Classes.” Petition ¶ 114 (emphasis in original).

Dated: April 3, 2023
New York, New York

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with this Court's so-ordered 8,500-word limit because it contains 416 words (using the "word count" function of Microsoft Word), excluding the parts of the brief exempted by Rule 17 of the New York Commercial Division Rules.

Dated: April 3, 2023

/s/ Felix Gilman

Felix J. Gilman