

CAUSE NO. D-1-GN-18-007069

TURNQUIST PARTNERS REALTORS,
INC. d/b/a ENGEL & VÖLKERS
AUSTIN,

Plaintiff,

vs.

ROBERT TURNER AND ITCOA, L.L.C.
d/b/a INDEPENDENCE TITLE
COMPANY

Defendants.

IN THE DISTRICT COURT

OF TRAVIS COUNTY, TEXAS

ROBERT TURNER,

Counter-Plaintiff

vs.

TURNQUIST PARTNERS REALTORS,
INC. d/b/a ENGEL & VÖLKERS
AUSTIN,

Counter-Defendant

419TH JUDICIAL DISTRICT

PLAINTIFF/COUNTER-DEFENDANT'S FIRST AMENDED ANSWER TO
DEFENDANT/COUNTER-PLAINTIFF ROBERT TURNER'S ORIGINAL
COUNTERCLAIM

Now Comes Turnquist Partners Realtors, Inc. d/b/a Engel & Völkers Austin, and files this
First Amended Answer to Defendant/Counter-Plaintiff, Robert Turner's Original Counterclaim and
in support states as follow:

A. GENERAL DENIAL

1. As authorized by Rule 92 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff/Counter-Defendant Turnquist Partners Realtors, Inc. d/b/a Engel & Völkers Austin, generally denies the allegations contained in Defendant/Counter-Plaintiff's Original Counterclaim and respectfully requests that the Defendant/Counter-Plaintiff be required to prove the charges and allegations against them by a preponderance of the evidence as is required by the Constitution and laws of the State of Texas.

B. AFFIRMATIVE DEFENSES

2. In addition, Plaintiff/Counter-Defendant asserts the following affirmative defenses:
- a. Statute of Frauds - Pursuant to Texas Occupations Code §1101.806(c) the Counter-Plaintiff's claims are barred by the Statute of Frauds.
 - b. Plaintiff/Counter-Defendant asserts the affirmative defense of proportionate responsibility pursuant to Chapter 33 of the Texas Civil Remedies and Practice Code. Specifically, any claim for tort, including but not limited to negligence, negligence per se, breach of fiduciary duty, statutory fraud and fraud, are barred in whole or in part by proportionate responsibility of Counter-Plaintiffs, and Counter-Plaintiff's agent and attorney in fact, Terry Irion, which are imputed to Counter-Plaintiffs.
 - c. New and Independent Cause/Superseding Cause.
 - d. Waiver and Release.
 - e. Ratification.
 - f. Any breach of contract by Counter-Defendant was excused by Counter-Plaintiff's own material breach.
 - g. Failure to mitigate.
 - h. Estoppel.

- i. Fraud.
- j. Set Off.

C. PRAYER

3. WHEREFORE, PREMISES CONSIDERED, Plaintiff/Counter-Defendant Turnquist Partners Realtors, Inc. d/b/a Engel & Völkers Austin prays that upon proper hearing of evidence this Court:

- a. Dismiss Defendant/Counter-Plaintiff's suit and/or order that Defendant/Counter-Plaintiff takes nothing as against Plaintiff/Counter-Defendant Turnquist Partners Realtors, Inc. d/b/a Engel & Völkers Austin;
- b. Order that all costs of suit be taxed against Defendant/Counter-Plaintiff; and
- c. Award Plaintiff/Counter-Defendant Turnquist Partners Realtors, Inc. d/b/a Engel & Völkers Austin such other and further relief as may be just in equity or law.

Respectfully Submitted,

COATS|ROSE, P.C.

By: _____


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**ATTORNEYS FOR PLAINTIFF / COUNTER-
DEFENDANT**

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the above document was served on the following counsel(s) of record and/or individual(s) in accordance with TEX. R. CIV. P. 21a via the method indicated for each on the 28th day of February, 2020.

Counsel for Defendant/Counter-Plaintiff

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