

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 pursuant to CPLR
Article 77.

Index No. 656028/2021

IAS Part 53

Hon. Andrew J. Borrok

**OPENING MERITS BRIEF OF U.S. BANK NATIONAL
ASSOCIATION, AS TRUSTEE OF THE NIM TRUSTS BSSP 2005-32N,
BSSP 2006-3, AND BSNIM 2004-HE10, AND SOLELY AT THE DIRECTION OF
POETIC HOLDINGS VI LLC, IN SUPPORT OF ITS RESPONSE TO PETITION**

Respondent U.S. Bank National Association (“U.S. Bank”), solely in its capacity as Indenture Trustee (“the NIM Trustee”) for the NIM Trusts BSSP 2005-32N, BSNIM 2004-HE10, and BSSP 2006-3 (the “Poetic VI NIM Trusts”), and solely at the direction of 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.¹

The Poetic VI NIM Trusts hold certificates in three Subject Trusts (as that term is defined in the Petition): SACO 2005-9, SACO 2005-10, and BSABS 2004-HE10.

¹At the direction of Poetic VI, as a holder of certificates issued by the Poetic VI NIM Trusts, U.S. Bank, solely in its capacity as NIM Trustee, submits this brief pursuant to a direction and indemnity agreement between Poetic VI and U.S. Bank, as NIM Trustee. This brief sets forth the positions of Poetic VI. As set forth in the applicable agreements, U.S. Bank’s capacity in its role as NIM Trustee is separate and distinct from U.S. Bank’s capacity in its role as trustee and/or payment administrator for the Subject Trusts, and these separate roles were created at the closing of the applicable transactions. In this proceeding, U.S. Bank has separate counsel for its NIM Trustee roles and trustee/payment administrator roles.

With respect to SACO 2005-9, SACO 2005-10, and BSABS 2004-HE10, the NIM Trustee joins in the positions stated in the Opening Merits Brief filed today by Poetic VI.

Dated: April 3, 2023

Respectfully submitted,

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