

why the facts and accounts presented are so complex that an equitable accounting is warranted. Therefore, Wease's accounting claim is dismissed.

i. Wease's declaratory judgment claim is denied.

Wease bases his declaratory judgment claim on alleged violations of the Texas Property Code and the RESPA. The Declaratory Judgment Act (the "Act") confers on federal courts discretion to decide whether to declare the rights of litigants. *See Rowan Companies, Inc. v. Griffin*, 876 F.2d 26, 28 (5th Cir.1989) ("[I]t is a matter for the district court's sound discretion whether to decide a declaratory judgment action."). Federal courts may declare rights, but the Act does not require them to do so. *See Pub. Affairs Assocs., Inc. v. Rickover*, 369 U.S. 111, 112 (1962) (per curiam) ("[The] Act was an authorization, not a command."). Because the Court has determined that Wease has no viable causes of action under the Texas Property Code or the RESPA, the Court declines to consider his request for declaratory relief. *See Collin Cnty, Tex. v. Homeowners Ass'n for Values Essential to Neighborhoods*, 915 F.2d 167, 170-71 (5th Cir. 1990) (describing the Act as remedial and noting that defendant's underlying claim is what is litigated in a declaratory judgment action). Accordingly, declaratory relief is denied.

j. Ocwen is entitled to judicial foreclosure.

Wease's sole argument against Defendants judicial foreclosure claim is that Defendants lacks clean hands to foreclose. Doc. 76 at 38. However, the Court has found that Ocwen's actions were proper. *See supra* Subsection III.a. Moreover, because the evidence shows that Wease defaulted on his loan, Ocwen is entitled to foreclosure. *See doc. 73-1* at 50. Wease's new payment was due on August 2011. Doc. 73-1 at 54. Wease did not make his August 2011 payment. *See Doc. 73-1* at 50. From September to December 2011, Wease made payments on his loan, but was still behind by at least \$1,000. *Id.* In January and February 2012, Wease's

payments were rejected because the funds were insufficient to satisfy the amounts owed on his loan and escrow accounts. *Id.* And Wease's payment history does not reflect any other payments after February 2012. *Id.* Accordingly, Ocwen's motion is granted.

k. The parties' objections are denied.

Both parties object to some of each other's summary judgment evidence. *See docs. 76, 80.* Wease objects to Ocwen's Exhibits A (declaration of Ocwen's loan analyst Katherine Ortwerth), A-5 (notice of delinquent taxes), and A-6 (notice of delinquent taxes). *Doc. 76 at 14; 73-1 at 42-48.* Wease contends that the documents are hearsay. *Doc. 76 at 14.*

The Court finds that the documents are admissible. Ortwerth's declaration is not hearsay. *See Dalton v. FDIC*, 987 F.2d 1216, 1223 (5th Cir. 1993) (*held*, a bank employee may gain personal knowledge by reviewing the organization's records); *Madison One Holdings, LLC v. Punch Int'l, NV*, No. 4:06-cv-3560, 2009 WL 911984, at *11 (S.D. Tex. Mar. 31, 2009) (affiant may gain personal knowledge about activities she did not personally participate, and her personal knowledge and competence to testify may be inferred from her position). Moreover, the delinquency notices were properly authenticated under Fed. R. Evid. 803(6) as business records based on Ortwerth's declaration. Accordingly, the evidence is admissible.

Plaintiff also objects to Exhibits B (declaration of Ocwen's counsel Philip Danaher), and B-1-B-3 (tax statements from the City of Garland, Garland Independent School District, and Dallas County). *Doc. 76 at 16; 73-1 at 88-96.* Wease contends that the documents are hearsay. *Doc. 76 at 16.* The Court finds that Exhibits B-1-B-3 do not lack trustworthiness and thus are admissible as public records under Fed. R. Evid. R. 803(8). *See Bedford Internet Office Space, LLC v. Travelers Cas. Ins. Co.*, 41 F. Supp. 3d 535, 544-45 (N.D. Tex. 2014) (overruling