



claims against the Defendants no later than 2008, and the statute of limitations has long since expired.

2. Plaintiff has alleged negligent misrepresentation, fraudulent inducement, civil conspiracy, and violations of the Illinois Consumer Fraud Act. The tort claims are subject to a five-year statute of limitations under 735 ILCS 5/13-205. *See McMahan v. Deutsche Bank AG*, 938 F. Supp. 2d 795, 802 (N.D. Ill. 2013). ICFA claims are subject to a three-year statute of limitations. *See Blankenship v. Pushpin Holdings, LLC*, 157 F. Supp. 3d 788, 792 (N.D. Ill. 2016). These statutes begin to run when a reasonable person has sufficient information to put them on inquiry notice to investigate their possible claims. *Knox College v. Celotex Corp.*, 430 N.E.2d 976, 980-81 (Ill. 1981).

3. Although Plaintiff has suggested that the discovery doctrine, equitable tolling, or the fraudulent concealment rule prevented the statute of limitations from running until 2016, when Plaintiff supposedly discovered its claim, this is false. Plaintiff has argued that the immediate default of the borrowers in 2007 is evidence of the Defendants' supposed fraud. If true, that alone, should have put IFC on inquiry notice.

4. But in any event, by 2008, IFC had sued Spirit, taken the deposition of Steve VDH, and made multiple filings in this court alleging that during discovery in that suit, it had determined that representations Spirit and Steve VDH had made (about contracts to which they were parties with Tak and his companies) were false and even fraudulent. To the extent that the discovery rule could possibly have applied, IFC must have discovered its claims by that point.

5. IFC did not amend its complaint in the prior case to allege fraud or misrepresentation, however, and Spirit was granted judgment due to lack of standing as to the sole injunction claim that had been brought against it. IFC did not further pursue Spirit; it later

declared Chapter 7 bankruptcy, and although the bankruptcy trustee investigated how it might collect any claims IFC had outstanding, he did not pursue the claims relevant to this case, and instead sold them to Plaintiff in 2014. Plaintiff sat on the claims until 2016, when Plaintiff's consultant, Marc Langs, began contacting the Defendants. Even if Plaintiff's claims had any merit (and they do not), they are time barred, and judgment should be granted in favor of Defendants.

6. In support of this filing, the Defendants are filing a Joint Memorandum in Support, a Rule 56.1(a)(1)(3) Statement of Undisputed Material Facts, Affidavit of Robert M. Romashko and exhibits.

WHEREFORE, Defendants pray that this Joint Motion for Summary Judgment be granted, that judgment be entered for the Defendants, and that the court grant other and further relief as it deems just and appropriate.

Dated March 18, 2019.

Respectfully submitted,

By: /s/Brian C. Spahn

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on March 18, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

/s/Brian C. Spahn

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