

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TIER REIT, INC.,

Plaintiff,

V.

UVEST FINANCIAL SERVICES
GROUP, INC., a/k/a and d/b/a/
UVEST FINANCIAL SERVICES,
INC.,

Defendant.

Civil Action No. 3:15-cv-03831-M

ORDER

On September 28, 2017, the Court heard oral argument on Plaintiff's Motion to Dismiss Counterclaim (ECF No. 42), by which the Defendant seeks indemnification from the Plaintiff. For the reasons stated on the record, the Motion is **GRANTED**.

As a matter of law, Defendant cannot state a claim for relief because the allegations made in the pleadings for the Underlying Lawsuits and Arbitrations do not trigger the indemnity provision upon which UVEST relies, Section 4.1 of the Dealer Management Agreements.

The Court will not consider the Subscription Agreements attached to the Defendant's Appendix because they were not referenced in the pleadings upon which the indemnity claim is based, and the subject Motion is a 12(b)(6) Motion. To the extent the Defendant asked for leave to

have those Subscription Agreements considered, that request is **DENIED**.

SO ORDERED.

September 29, 2017.



Barbara M. G. Lynn
BARBARA M. G. LYNN
CHIEF JUDGE