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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

UNITED COMMUNITIES, LLC,

Defendant.

Civil Action No.

COMPLAINT

Plaintiff, the United States of America (the “United States”), by its undersigned attorneys, files this Complaint and alleges as follows:

INTRODUCTION

1. The United States brings this action under the Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. §§ 3901-4043, against United Communities, LLC (“Defendant”) for violating the SCRA’s prohibition against imposing early termination charges when a servicemember lawfully terminates a residential lease upon receipt of qualifying military orders. *See* 50 U.S.C. § 3955.

2. The purpose of the SCRA is to provide servicemembers with protections to enable them to devote their entire energy to the defense needs of the Nation and to protect their civil rights during military service. *See* 50 U.S.C. § 3902. One of those protections is the right of a lessee to terminate a residential lease without penalty upon entering into military service or upon receiving qualifying military orders. 50 U.S.C. § 3955(a)(1), (e)(1). Qualifying orders include orders for a permanent change of station, or for deployment with a military unit (or as an individual in support of a military operation) for a period of not less than 90 days. 50 U.S.C. § 3955(b)(1)(B).

3. Upon receiving qualifying orders, the servicemember can terminate the lease without penalty, provided that the servicemember provides the lessor with (i) written notice of the termination and (ii) a copy of the servicemember’s military orders. 50 U.S.C. § 3955(c)(1).

4. The termination of the lease is effective 30 days after the first date on which the next rental payment is due after the date on which the notice is delivered. 50 U.S.C. § 3955(d)(1). The lessor may not impose an “early termination charge” against a terminating servicemember. 50 U.S.C. § 3955(e)(1).

5. This lawsuit is brought to vindicate the rights of servicemembers who were wrongly required to pay an early termination charge by Defendant, to vindicate the public interest, and to protect servicemembers from future violations of their rights. *See* 50 U.S.C. § 4041.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1345, and 50 U.S.C. § 4041.

7. Defendant is a Delaware limited liability company, administered from, and with a principal place of business, at 222 Haddon Avenue, Suite 301, Haddon Township, New Jersey.

8. Venue is proper in this jurisdictional district under 28 U.S.C. § 1391(b) because Defendant’s principal place of business is in the District of New Jersey, Defendant conducts business within the District of New Jersey, and because a substantial portion of the events that form the basis of United States’ claim occurred within the District of New Jersey.

DEFENDANT

9. Defendant manages the residential housing for military personnel and their families at Joint Base McGuire-Dix-Lakehurst in New Jersey. Defendant is a

subsidiary or affiliate of First Montgomery Group, a private real estate company that develops and manages properties in New Jersey, Pennsylvania, and Delaware.

FACTUAL ALLEGATIONS

10. Joint Base McGuire-Dix-Lakehurst is a military base that is home to Air Force, Army, and Navy installations. Spread across 42,000 acres in southern New Jersey, the base is the Department of Defense's first joint base, and the only joint base that consolidates Air Force, Army, and Navy installations. Personnel stationed at the base participate in a broad range of missions, including combat support and disaster relief.

11. In September 2006, the Air Force entered into an operating agreement with Defendant. That agreement provided that Defendant would develop, manage, and maintain military housing at Joint Base McGuire-Dix-Lakehurst. The operating agreement remains in effect, although it has been amended at various times over the years.

12. Under the operating agreement, any change to Defendant's form lease requires review and approval by Air Force housing personnel.

13. Servicemembers who are stationed at Joint Base McGuire-Dix-Lakehurst and who wish to live on the base enter into lease agreements directly with Defendant. The servicemembers who enter into those leases are personally responsible for paying the rent that is owed to Defendant.

Army Captain Gregory Funk

14. On September 15, 2014, Army Captain Gregory Funk contacted one of Defendant's employees via email to secure a rental property on Joint Base McGuire-Dix-Lakehurst. Defendant's employee responded that Captain Funk would receive the first month of the lease "rent-free" and that, "in return," the lease would run for 24 months. No other terms or conditions of the rent-free offer were discussed. That same day, Captain Funk electronically signed a lease for a residential unit located at 2804 Doolittle Drive at Joint Base McGuire-Dix-Lakehurst. The lease does not mention or reference the "rent-free" offer.

15. On September 22, 2014, Captain Funk signed a "Lease Incentive Addendum." The Addendum provided, in relevant part:

I have received a lease incentive from United Communities in the amount of \$899.20.

If orders are received for [permanent change of station], Separation, or Retirement I will not be responsible for the full lease term if I have fulfilled at minimum six (6) months of the lease term.

If the lease term cannot be fulfilled for any other reason, I will be responsible for paying back United Communities the amount of this lease incentive.

16. On or about April 7, 2016—5 months before the lease expired by its own terms—Captain Funk received military orders to deploy to Qatar for up to 365 days as a part of Operation Inherent Resolve.

17. On or about April 14, 2016, Captain Funk provided written notice of termination to Defendant and provided a copy of his deployment orders to Defendant. After receiving the notice of termination and a copy of Captain Funk's military orders,

Defendant imposed an early termination charge of \$899.20—the amount specified in the “Lease Incentive Addendum.”

18. Captain Funk paid the early termination charge imposed by Defendant.

19. On May 10, 2017, Captain Funk submitted a complaint to the United States Attorney’s Office for the District of New Jersey.

United States’ Investigation

20. By letter dated October 18, 2017, the Department of Justice notified Defendant that it was opening an investigation into Defendant’s residential leasing practices, and requested documents from Defendant, including documents relating to lease terminations (including Captain Funk’s), and Defendant’s policies and procedures regarding the SCRA.

21. Defendant provided documents and information in response to the Department’s request. The documents Defendant provided showed that, through the enforcement of its Lease Incentive Addendum (which was not reviewed or approved by the Air Force), Defendant imposed early termination charges upon at least thirteen servicemembers, including Captain Funk, in violation of the SCRA.

SERVICEMEMBERS CIVIL RELIEF ACT VIOLATIONS

22. The SCRA provides that “[t]he lessee on a [residential] lease . . . may, at the lessee’s option, terminate the lease at any time after . . . the date of the lessee’s military orders . . .” 50 U.S.C. § 3955(a)(1). This option applies to servicemembers who, “while in military service, execute[] the lease and thereafter receive[] military orders for a permanent change of station[, or] to deploy with a military unit, or as an

individual in support of a military operation, for a period of not less than 90 days.” 50 U.S.C. § 3955(b)(1)(B). Termination of leases involving monthly rent payments “is effective 30 days after the first date on which the next rental payment is due and payable after the date on which the [termination] notice . . . is delivered.” 50 U.S.C. § 3955(d)(1). “The lessor may not impose an early termination charge, but any taxes, summonses, or other obligations and liabilities of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.” 50 U.S.C. § 3955(e)(1).

23. The language in the Lease Incentive Addendum violates the SCRA. Specifically, the Lease Incentive Addendum imposes an early termination charge by requiring the servicemember to pay Defendant an amount equal to the lease incentive if the servicemember terminates the lease: (1) for any reason other than a permanent change of station, separation or retirement (for example, a servicemember would have to pay the termination charge even if he or she received SCRA-qualifying deployment orders); or (2) within six months of signing the lease, for any reason at all (including those events protected by the SCRA, such as permanent change of station, separation, retirement, or qualifying deployment orders).

24. Defendant has engaged in a pattern or practice of violating 50 U.S.C. § 3955(e)(1) by imposing early termination charges in accordance with the Lease Incentive Addendum against servicemembers who terminated their residential leases in compliance with the SCRA.

25. Defendant's imposition of early termination charges against Captain Funk and other servicemembers in violation of 50 U.S.C. § 3955 raises issues of significant public importance.

26. Captain Funk and twelve other servicemembers who terminated their residential leases under the SCRA in or after April 2015 and were required to pay early termination charges are "person[s] aggrieved" under 50 U.S.C. § 4041(b)(2) and have suffered damages as a result of Defendant's conduct.

27. Defendant's conduct was intentional, willful, and taken in disregard for the rights of servicemembers.

RELIEF REQUESTED

WHEREFORE, the United States requests that the Court enter an ORDER that:

1. Declares that Defendant's conduct violated the Servicemembers Civil Relief Act, 50 U.S.C. § 3901, *et seq.*;
2. Enjoins Defendant, its agents, employees, and successors, and all other persons and entities in active concert or participation with Defendant from:
 - a. including a provision in any residential lease or lease addendum that requires servicemembers who terminate the lease in accordance with the SCRA to pay an early termination charge;

- b. imposing an early termination charge when a protected servicemember terminates a residential lease early, in accordance with the SCRA, 50 U.S.C. § 3955;
 - c. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the identified victims of Defendant's illegal conduct to the positions they would have been in but for that illegal conduct; and
 - d. failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any illegal conduct in the future;
3. Awards appropriate monetary damages under 50 U.S.C. § 4041(b)(2) to the identifiable victims of Defendant's violations of the SCRA; and
4. Assesses civil penalties against Defendant under 50 U.S.C. § 4041(b)(3) in order to vindicate the public interest.

The United States further requests such additional relief as the interests of justice may require.

Dated: September 27, 2018
Newark, New Jersey

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