

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 8:12-cv-00087
)	
EMPIRIAN PROPERTY MANAGEMENT, INC.)	
)	
Defendant.)	
_____)	

COMPLAINT

The United States of America alleges as follows:

1. This action is brought by the United States against Defendant Empirian Property Management, Inc. (hereinafter “Empirian”) for refusing to terminate the residential leases or return security deposits to at least four active duty members of the United States Air Force assigned to Offutt Air Force Base in Nebraska, after those servicemembers provided Defendant permanent change of station orders. Empirian’s actions were taken in violation of the Servicemembers Civil Relief Act (hereinafter “SCRA”), 50 U.S.C. app. §§ 501-597b, as amended by the Veterans’ Benefits Act of 2010, Pub. L. No. 111-275, 124 Stat. 2864.

2. This Court has jurisdiction over this action under 28 U.S.C. § 1331, 28 U.S.C. § 1345 and 50 U.S.C. app. § 597a.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b) because the events giving rise to this action occurred in this judicial district and because Defendant, Empirian, conducts business in this judicial district.

4. Empirian is a Delaware for-profit corporation that manages numerous apartment complexes throughout the United States, including Nebraska.

5. From August 30, 2007 to June 20, 2011, pursuant to a contract with the property owner, Empirian managed the day to day operations of The Overlook, a multi-family residential apartment property located at 2882 Comstock Plaza, Bellevue, Nebraska, 68123 in Sarpy County.

6. From August 30, 2007 to June 20, 2011, pursuant to a contract with the property owner, Empirian managed the day to day operations of The Landings, a multi-family residential apartment property located at 10215 Cape Cod Landing, Bellevue, Nebraska, 68123 in Sarpy County.

7. From August 30, 2007 to June 20, 2011, Empirian served as the agent for the owner of The Overlook and for the owner of the Landings.

8. As the property manager of both the Overlook and the Landings, Empirian's duties included, but were not limited to: accepting and processing rental applications; acting as landlord; leasing apartments; terminating leases; collecting rent from tenants; billing tenants for water, sewer and trash services; billing former tenants for damages to apartments; providing accounting services; referring balances owed by former tenants to collections; managing tenant files; and establishing and enforcing rules and policies.

9. At all times relevant to this complaint, Empirian regularly leased residential apartments at The Overlook and The Landings to active duty servicemembers assigned to Offutt Air Force Base in Sarpy County, Nebraska.

10. Empirian, in the course of carrying out its duties as the property manager, lessor and/or agent for the owners of The Overlook and The Landings, refused to terminate at least four residential leases entered into by active duty members of the United States Air Force assigned to Offutt Air Force Base, and/or refused to refund security deposits due, after those servicemembers

received military orders for a permanent change of station and provided Empirian or the prior management company with copies of those orders and written notices of lease termination.

11. The conduct of Empirian described above constitutes a pattern or practice of violating Section 535 of the SCRA, 50 U.S.C. app. § 535.

12. Servicemembers who have been victims of Empirian's refusal to terminate residential leases in violation of the SCRA have suffered damages as a result of Empirian's conduct.

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

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

1. Declares that Empirian's conduct violated the SCRA;
2. Enjoins Empirian, its agents, employees, and successors, and all other persons in active concert or participation with Empirian from:
 - a. refusing to terminate a servicemember's residential lease in violation of Section 535 of the SCRA, 50 U.S.C. app. § 535; and
 - b. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, each identifiable victim of Empirian's illegal conduct to the position he or she would have been in but for Empirian's illegal conduct; and
 - c. failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any illegal conduct in the future and to eliminate, to the extent practicable, the effects of Empirian's illegal conduct;

3. Awards appropriate monetary damages to each identifiable victim of Empirian's violations of the SCRA.

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

The United States requests a trial by jury. The United States further requests that trial of this action be held in Omaha, Nebraska, and that the case be calendared accordingly.

Respectfully submitted this 1st day of March, 2012,

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