

STATE OF INDIANA  
IN THE MARION COUNTY SUPERIOR/CIRCUIT COURT

MISCELLANEOUS DOCKET NUMBER \_\_\_\_\_

IN RE: MIDDLETOWN PROPERTY  
MANAGEMENT, LLC,

and

MIDDLETOWN PROPERTY GROUP,  
LLC,

A/K/A BSU RENTALS,

Respondents.

**ASSURANCE OF VOLUNTARY  
COMPLIANCE**

The State of Indiana, by Deputy Attorneys General Kelsey McKnight, Timothy Weber, and Chase M. Haller, and the Respondents, Middletown Property Management, LLC, Middletown Property Group, LLC f/k/a BSU Rentals (collectively, "Middletown"), enter into an Assurance of Voluntary Compliance ("Assurance") pursuant to Indiana Code § 24-5-0.5-7. In support thereof, the parties to this Assurance state as follows:

1. The State of Indiana initiated an investigation of certain acts and practices of the Respondents named in the caption as a result of numerous consumer complaints filed with the Office of the Indiana Attorney General Consumer Protection Division.

2. The State of Indiana alleges that Middletown violated Indiana's Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1 *et. seq.*, and the Indiana Home

Loan Practices Act, Ind. Code § 24-9, *et. seq.*, in its transactions with Indiana consumers. Specifically, the State of Indiana alleges that Middletown:

- a. Engaged in misleading marketing that could cause a reasonable consumer to believe that Middletown, through the use of the unregistered trade name of “BSU Rentals,” had an association or partnership with or the sponsorship or approval of Ball State University, when in fact it did not.
- b. On various occasions violated the covenant of quiet enjoyment by entering leased units without reasonable notice to tenants.
- c. Utilized a “re-decoration fee” to cover the costs of normal wear and tear to leased units at the time of move-in when Middletown had a pre-existing legal duty to delivery leased units to tenants in a safe, clean, and habitable condition pursuant to Ind. Code § 32-31-8-5. The re-decoration fee has likewise caused substantial confusion for tenants who believed it to be a security deposit subject to the protections found in the Indiana Security Deposit Statute at Ind. Code § 31-32-3, *et. seq.*
- d. On various occasions Middletown failed to deliver leased units to tenants in a safe, clean, and livable condition as required by Ind. Code § 32-31-8.
- e. Middletown provided consumers with leases that contained terms that did not conform to Indiana law with respect to the duties imposed on

tenants to maintain certain major systems during the terms of their lease(s).

3. This Assurance does not constitute an admission by Middletown to any violation of Indiana's Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *et seq.*, Indiana Home Loan Practices Act, Ind. Code § 24-9, *et. seq.*, the violation of professional standards relating to a licensed profession, or a violation of any other Indiana law, nor shall it be construed as an abandonment by the Attorney General of his position that the Middletown violated the above referenced statutes.

4. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties.

5. Matters addressed in this Assurance may be reopened in the future for further proceedings in the public interest, at the Attorney General's discretion pursuant to Ind. Code § 24-5-0.5-7(b).

#### **I. PARTIES**

6. The Attorney General is authorized to enter into and file this Assurance with the Marion County Superior Court pursuant to Ind. Code § 24-5-0.5-7.

7. The Respondent, Middletown Property Management LLC is a domestic limited liability company formed in the State of Indiana that regularly engages in real estate transactions with Indiana consumers, with a principal office address of 1721 N. Walnut Street, Muncie, IN 47303

8. The Respondent, Middletown Property Group LLC is a domestic limited liability company formed in the State of Indiana, that regularly engages in real estate

transactions with Indiana consumers, with a principal office address of 1721 N. Walnut Street, Muncie, IN 47303

9. BSU Rentals is an unregistered trade name formerly utilized by the Middletown Respondents in signage and advertising materials.

10. Collectively, these entities are referred to in this Assurance as “Middletown.”

## **II. AGREEMENT**

11. The terms of this Assurance apply to and are binding upon Middletown, its employees, agents, representatives, successors, and assigns.

### **A. REFORMS TO RESIDENTIAL LEASES**

12. Middletown agrees, within 60 (sixty) days of execution of this agreement, to take the following remedial measures in relation to their residential leases with consumers:

12.1. **Use of the BSU Rentals trade name.** Middletown shall make all reasonable efforts to permanently cease the use of the “BSU Rentals” trade name, signage, or logos on all advertising materials in connection with their residential rental business. These efforts shall conclude on or before August 31, 2023, with the exclusion of materials that are outside of the direct control of Middletown or its agents.

12.2. **Quiet Enjoyment.** Middletown shall make affirmative changes to all current and future residential lease agreements wherein

tenants will be entitled to reasonable notice prior to any entry on rental premises by Middletown or its agents. Such reasonable notice shall constitute at least 12 (twelve) hours advance notice of any entry on premises unless an affirmative agreement is made by the tenant to a shorter notice period. This provision shall not be construed to limit the ability of Middletown to enter a leased premises in the event of a bona fide emergency to protect life or property.

12.3. **Use of Redecoration Fee.** Middletown shall make affirmative changes to all future residential lease agreements wherein Middletown shall cease using the term "Redecoration Fee" to describe charges made to a tenant for the purpose of covering normal wear and tear of prior tenant occupants of a rental premises. If a tenant is subject to conversion of their redecoration fee to a security deposit, tenant shall be issued a written notice informing them of this change to their rental agreement, with the requisite 30-day notice required by Ind. Code § 32-31-5-4.

12.4. **Landlord Repair Obligations.** Middletown's tenant leases shall not require a tenant to accept a leased unit in "as is" condition in contravention of any statutory requirements imposed upon landlords. Such statutory requirements shall be satisfied at the expense of the landlord and not the tenant. Middletown shall

affirmatively state that they are responsible for the ongoing maintenance of all major systems required to be serviced by a landlord in accordance with Ind. Code § 32-31-8 for all residential lease agreements.

12.5. Middletown shall not commit any unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction, in violation of Ind. Code § 24-5-0.5-3(a).

12.6. Middletown shall not commit deceptive acts in connection with real estate transactions in violation of Ind. Code § 24-9-7.

## **B. RESOLUTION OF CONSUMER COMPLAINTS**

13. Pursuant to Ind. Code § 24-5-0.5-4(c)(2) and Ind. Code § 24-9-5-4, Middletown shall compensate consumers and the Office of the Attorney General through credits on consumer accounts, consumer refunds, and direct payment to the Office of the General in the total sum of Forty-Five Thousand Dollars (\$45,000) (“Gross Settlement Amount”) as follows:

**13.1. Consumer Refunds and Restitution.** \$35,000.00 (Thirty-Five Thousand Dollars).

13.1.1. Respondents have already provided credits and refunds to consumers totaling \$5,323.00 (Five Thousand Three Hundred Twenty-Three Dollars), which shall be credited against the Gross Settlement Amount;

13.1.2. Respondents have agreed to provide further credits and refunds requested by the Office of the Indiana Attorney General for consumers listed by reference number in a separate spreadsheet exchanged between the parties in the amount of \$5,982.13 (Five Thousand Nine Hundred Eighty Two Dollars and Thirteen Cents), which shall be credited against the Gross Settlement Amount, provided Defendants provide documented proof of those credits/refunds within thirty (30) days of the Court's approval of this Agreement.

13.1.3. A final balance of Twenty-Three Thousand Six Hundred and Ninety-Four Dollars and 87/100 cents (\$23,694.87) of consumer restitution will be due and owing, less any consumer write-offs or refunds issued to additional consumers listed by reference number in a separate spreadsheet exchanged between the parties. Credits and refunds against this amount must be issued within thirty (30) days of the Court's approval of this Agreement; provided, however, that such write-offs and refunds must be supported by documented proof of resolution of the issues raised in the consumer complaint and proof of payment made to or credits made to the account of any complainants. Any payments,

refunds, or account adjustments made pursuant to this section shall be credited to the Gross Settlement Amount.

13.1.4. The remaining balance of consumer restitution after credits allotted from Sections 13.1.1, 13.1.2, and 13.1.3 shall be paid promptly upon completion of the Attorney General's review and approval of these amounts. Payment shall be made to the Office of the Indiana Attorney General and will be refundable to consumers as restitution at the discretion of the Attorney General.

13.2. **Reimbursement of Costs.** Pursuant to Ind. Code § 24-5-0.5-4(c)(4), Defendants shall pay \$10,000.00 (Ten Thousand dollars) as a reimbursement of costs to the Homeowner Protection Unit, which amount shall be made payable to the Office of the Indiana Attorney General within 30 (thirty) days of entry of this Assurance.

14. Provided that Middletown fully complies with payment of the obligations listed in Paragraph 13, the Attorney General shall close all pending investigations known to Attorney General against Middletown as of the date that this Assurance is fully executed by both parties and shall release any and all civil claims for which it may be otherwise entitled to bring against Middletown. This release shall not be construed to limit the ability of the Attorney General to investigate or prosecute claims that accrue after the date of this Assurance.



15. Any subsequent consumer complaints filed against Middletown or its successors and assigns shall be subject to the requirements of Paragraph C. below related to ongoing Compliance Monitoring.

### **C. COMPLIANCE MONITORING**

16. Middletown explicitly agrees to subject itself to the jurisdiction of this Court for a period of two (2) years from the date of this Assurance (the “Compliance Period”) in order to ensure compliance with the terms of the Assurance.

17. Middletown shall cooperate with the Office of the Attorney General in attempting to resolve any future written complaints against Middletown received by the Office of the Attorney General during the Compliance Period. Middletown appoints their counsel, Brent Embrey (Indiana Atty No. 24169-49), as their single point of contact during the compliance period. Middletown may change this single point of contact from time to time by written notice to counsel for the Office of the Indiana Attorney General.

18. Following the full execution of this Assurance, each consumer complaint that is opened, in the discretion of the Attorney General, shall require a formal written response by Middletown within twenty (20) calendar days of their receipt of the associated consumer complaint. This response may be delivered by electronic mail to counsel for the Office of the Attorney General. For good cause shown, Middletown shall be entitled to request in writing an extension to respond to the consumer complaint of an additional fifteen (15) calendar days. The Attorney

General will not unreasonably withhold its consent to an extension provided the matter at issue is not an emergency wherein a delay could adversely affect the health and well-being of a complainant tenant.

19. During the Compliance Period and beginning August 1, 2023, Middletown shall submit by electronic mail a quarterly written report (hereafter “Compliance Report”) to counsel for the Office of the Indiana Attorney General, containing at least the following information:

- a. a list of all open consumer complaints filed with the Indiana Attorney General and against Middletown as a respondent containing, at a minimum: the investigation number, complainant(s) name, complainant(s) property address, whether property is currently occupied, the status of Middletown’s response to the complaint, and any direct actions taken by Middletown to resolve the consumer’s complaint;
- b. notice of any planned material changes to Middletown’s standardized lease terms, including the proposed implementation date;
- c. a narrative of any actions taken by Middletown to improve tenant communications, improve response time to investigate and respond to tenant repair requests, or to ensure that any leased properties are supplied to tenants at the beginning of their lease term in a safe, clean, and livable condition.

18. The Compliance Reports shall be due on the following schedule and will be subject to a ten (10) day grace period for delivery to counsel for the State of Indiana:

<b>Report Trigger Date:</b>	<b>Report Delivery Due:</b>
September 1, 2023	September 11, 2023
December 1, 2023	December 11, 2023
January 1, 2024	January 11, 2024
March 1, 2024	March 11, 2024
June 1, 2024	June 11, 2024
September 1, 2024	September 11, 2024
December 1, 2024	December 11, 2024
January 1, 2025	January 11, 2025
March 1, 2025	March 11, 2025
June 1, 2025	June 10, 2025

19. Should a dispute arise between the Office of the Indiana Attorney General and Middletown following the execution of this Assurance related to Middletown's resolution of any subsequently filed consumer complaints, the Office of the Attorney General may either: a.) file an independent action in Marion County pursuant to its authority under Ind. Code Title 24, *et. seq.* and may seek to consolidate that Cause to this same Court for the disposition of those claims; or the Office of the Indiana Attorney General may pursue appropriate relief through a filed administrative action against a real estate company license held by Middletown

under Ind. Code Title 25 and the related Indiana Administrative Code governing the profession for which Middletown is licensed.

20. This publicly filed Assurance as well as the facts underlying this Assurance shall remain admissible, by agreement of the parties, solely for the purposes of establishing whether Middletown has maintained the appropriate standard of care for its licensed profession in the event that the Office of the Indiana Attorney General maintains a future action against the real estate company broker license held by Middletown or its successors and assigns for acts or omissions occurring on or after the Effective Date of this Agreement.

21. Once approved by the Court, the Office of the Indiana Attorney General shall provide written notice of this resolution to the Indiana Real Estate Commission for the sole purpose of notifying the Commission of this settlement relating to the Middletown's practice of real estate. This notice shall not be construed as the filing of an administrative complaint before the board, but solely as notice of adjudication of a matter wherein the Commission may have held concurrent jurisdiction.

#### **D. ADDITIONAL PROVISIONS**

22. Any violation of the terms of this Assurance constitutes *prima facie* evidence of a deceptive act.

23. Middletown shall not represent that the Office of the Attorney General approves or endorses Middletown's past or future business practices, or that execution of this Assurance constitutes such approval or endorsement.

24. The Office of the Attorney General shall file this Assurance with the Marion County Superior Court and petition the Court to approve this Assurance, as required by Ind. Code § 24-5-0.5-7(a).

25. The Court's approval of this Assurance shall not act as a bar to any private right of action to any person by and against Middletown and likewise the Assurance shall not in any way bar Middletown from seeking its own private rights and remedies for which it may be entitled under the law.

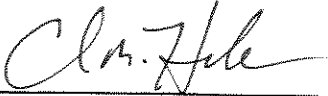
DATED this 15 day of August, 2023.

[SIGNATURES FOLLOW]

[SIGNATURES FOLLOW]

STATE OF INDIANA

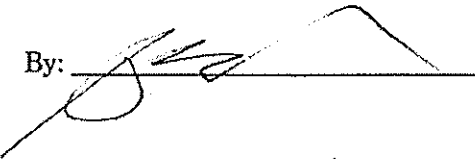
THE OFFICE OF THE INDIANA  
ATTORNEY GENERAL

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RESPONDENT

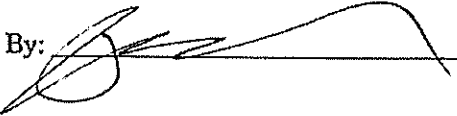
MIDDLETOWN PROPERTY  
MANAGEMENT, LLC

By: 

Name: Derck A. Wilson

Title: Co-owner

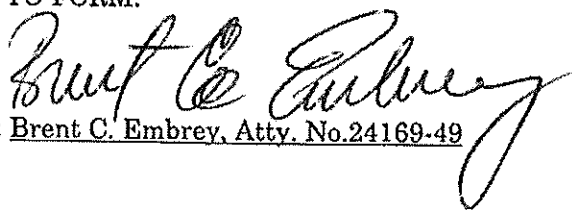
MIDDLETOWN PROPERTY GROUP,  
LLC

By: 

Name: Derck A. Wilson

Title: Co-owner

AS TO FORM:

  
By: Brent C. Embrey, Atty. No. 24169-49