

IN THE MADISON COUNTY CIRCUIT/SUPERIOR COURT

CAUSE NO. _____

OFFICE OF THE INDIANA
ATTORNEY GENERAL,

Plaintiff,

v.

PR BINGHAM, L.L.C.,

PR MADISON, L.L.C.,

PROPERTY RESOURCE
ASSOCIATES, L.L.C.,

GARY PLICHTA,

SIMMONS BANK,

Defendants.

**COMPLAINT
FOR RESTITUTION, CIVIL
PENALTIES, AND COSTS
AND JURY DEMAND****I. INTRODUCTION**

1. The State of Indiana, Office of the Indiana Attorney General, by Deputy Attorneys General Chase M. Haller and Timothy M. Weber, files its complaint in this civil action seeking restitution, civil penalties, and costs pursuant to the Indiana Deceptive Consumer Sales Act (“DCSA”), Ind. Code § 24-5-0.5-1 et seq., and the Home Loan Practices Act (“HLP A”), Ind. Code § 24-9 et seq, for injunctive relief, civil penalties, costs, and other relief.

2. Defendants failed to fulfil their legal obligations as a landlord in the State of Indiana by repeatedly failing to repair major systems in a reasonable amount of time, repeatedly failing to maintain utilities for active tenants, failing to perform

on or respond to inquiries involving executed contracts with the City of Anderson, and ultimately systematically failing to provide habitable dwelling to tenants in violation of Ind. Code § 32-31-8.

3. In addition to the negative emotional impact Defendants' failures caused to the tenants, the tenants also suffered actual monetary harm. Accordingly, Defendants committed unfair, abusive, and/or deceptive acts in violation of Ind. Code § 24-5-0.5-3(a) and engaged in deceptive acts in connection with real estate transactions in violation of Ind. Code § 24-9-3-7(c)(4), for which the Office of the Indiana Attorney General now seeks relief.

4. Ind. Code § 32-31-8 contains the legal responsibilities conferred upon a landlord in Indiana.

5. Ind. Code § 32-31-8-5(2) expressly requires landlords to comply with local health department rules and regulations, which reflects a clear public policy choice by the legislature.

6. Ind. Code § 25-34.1-3-2(a) states that except for certain exceptions, no entity shall, for consideration, sell, buy, trade, exchange, option, lease, rent, manage, list, or appraise real estate or negotiate or offer to perform any of those acts in Indiana or with respect to real estate situated in Indiana, without a license.

II. PARTIES

7. Plaintiff, Office of the Indiana Attorney General, is authorized to bring this action under Ind. Code § 24-5-0.5-4(c), Ind. Code § 4-6-12-3(a)(3)(B), et seq., and Ind. Code § 24-9 et seq. The Attorney General brings this action in the public interest

and pursuant to his powers *parens patriae* by and through the Homeowner Protection Unit to hold Defendants accountable and to protect tenant residents who have been adversely affected by Defendants' failure to comply with state statutes and local regulations meant to ensure minimum habitability standards are afforded to all Hoosier tenants.

8. PR Bingham L.L.C. ("Defendant PR Bingham") is a foreign limited liability company registered on or around September 5, 2019, with the Indiana Secretary of State, and was revoked on March 5, 2024. Defendant PR Bingham is the fee simple owner of a residential complex located at 2725 W 16th Street, Anderson, Indiana 46011 known as Bingham Square Apartments. The complex consists of approximately 129 units housed within ten (10) buildings. At all times relevant to this complaint, Defendant PR Bingham conducted business in Indiana by providing real estate-related services to Indiana residents by acting as a landlord in Indiana and engaging in consumer transactions with tenants by and through its property manager, Defendant Property Resource Associates, and other agents.

9. PR Madison L.L.C. ("Defendant PR Madison") is a foreign limited liability company registered on or around April 21, 2021, with the Indiana Secretary of State. Defendant PR Madison is the fee simple owner of a residential complex located at 1641 North Madison Avenue, Anderson, Indiana 46011 known as Madison Square Apartments. The complex consists of approximately eighty-nine (89) units housed within eight (8) buildings. At all times relevant to this complaint, Defendant PR Madison conducted business in Indiana by providing real estate-related services

to Indiana residents by acting as a landlord in Indiana and engaging in consumer transactions with tenants by and through its property manager, Defendant Property Resource Associates, and other agents.

10. Property Resource Associates, L.L.C. (“Defendant PRA”) is a foreign limited liability corporation that is not registered with the Indiana Secretary of State. Defendant PRA is registered with the Secretary of State of Florida with the principal address of 10655 Versailles Blvd, Wellington, Florida 33499. Defendant Gary Plichta is the registered agent for Defendant PRA.

11. Defendant PRA does not hold any professional licenses in the State of Indiana.

12. At all times relevant to this complaint, Defendant PRA conducted business in Indiana by acting as a property manager on behalf of Defendant PR Bingham and Defendant PR Madison at Bingham Square Apartments and Madison Square Apartments in Indiana and engaging in consumer transactions with tenants.

13. Gary Plichta (“Defendant Plichta”) is a natural person with residency in Florida. Defendant Plichta is the incorporator of Defendant PRA according to the Florida Secretary of State

14. Defendant Plichta is a minority member of both Defendant PR Bingham and Defendant PR Madison.

15. Defendant Plichta does not hold any professional licenses in the State of Indiana.

16. At all times relevant to this complaint, Defendant Plichta conducted business in Indiana by acting as a property manager on behalf of Defendant PR Bingham and Defendant PR Madison in his role as manager of Defendant PRA at Bingham Square Apartments and Madison Square Apartments in Indiana and engaging in consumer transactions with tenants.

17. Simmons Bank is named as a Defendant in this complaint to answer as to any interest it may have in Bingham Square Apartments by way of recording 2019R014094 registered in the Madison County Recorder's Office.

18. Simmons Banks is also named as Defendant herein to answer as to any interest it may have in Madison Square Apartments by way of recording 2021R008421 registered in the Madison County Recorder's Office.

19. This suit may implicate the equitable or other rights held by Simmons Bank by virtue of the property serving as collateral for the payment of an associated mortgage note. As such, Simmons Bank is entitled to notice of this suit wherein they can affirmatively assert their interests.

20. Plaintiff reserves the right to amend its pleadings to add as defendants any guarantors or members/owners of the entities responsible for the degradation and abandonment of the tenants at Bingham Square Apartments or Madison Square Apartments. Plaintiff intends to prove that the single-purpose entities PR Bingham and PR Madison were used as instrumentalities of unfair, deceptive and abusive conduct towards tenants located at each respective property.

III. JURISDICTION AND VENUE

21. This Court has original jurisdiction over this action pursuant to Ind. Code § 33-29-1-1.5.

22. This Court has jurisdiction over the defendants in this matter as Defendant PRA and Defendant Plichta managed two multi-family properties, Madison Square Apartments and Bingham Square Apartments, located in the State of Indiana, county of Madison, for compensation on behalf of the owners of the property, Defendant PR Madison and Defendant PR Bingham, respectively.

23. Venue lies with this Court pursuant to Ind. R. Tr. P. 75(A)(2). Defendant PR Madison L.L.C. owned and leased Madison Square Apartments in Anderson, Indiana for all times relevant to this Complaint. Defendant PR Bingham L.L.C. owned and leased Bingham Square Apartments in Anderson, Indiana at all times relevant to this Complaint. The consumers listed in this Complaint all resided in the county where this matter is filed.

IV. FACTS RELATING TO BINGHAM SQUARE APARTMENTS

24. Simmons Bank, successor by merger with Landmark Bank, issued a promissory note on September 17, 2019 totaling \$2,758,250.00 for the acquisition and rehabilitation of the property formerly known as Courtyard Apartments (the “Bingham Loan”). The promissory note was endorsed by Defendant Gary Plichta as “manager” for PR Bingham.

25. The Bingham Loan was guaranteed by Defendant Gary Plichta, individually and on behalf of Plichta Holdings, LLC, Patrick Smith M.D. and Karen

Smith, individually, as Co-Trustees of the Pat and Karen Smith Family Trust, and as general partners of the P&K Smith Family Co., LP, a Missouri Limited Partnership.

26. The Bingham Loan was also guaranteed by Randal R. Trecha, M.D., and Dorreen E. Trecha, husband and wife, as well as in their capacity as co-trustees of the Trecha Family Trust, 1113 Northshore Drive, Columbia MO 65203.

27. Defendant PR Bingham, by and through Defendant PRA and Defendant Plichta, began leasing residential apartment units at Bingham Square Apartments to tenant consumers on or around July 17, 2019.

28. When Bingham Square Apartments was first acquired by Defendant PR Bingham in September 2019, the apartment complex had a 54% occupancy rate equating to approximately seventy (70) households that were actively performing on a lease agreement.

29. On or about September 30, 2020, the Anderson Redevelopment Commission (“ARC”) entered into an Economic Project Agreement (“EPA”) with Defendant PR Bingham. The purpose of the EPA was to rehabilitate Bingham Square Apartments. To incentivize the rehabilitation, ARC agreed to provide certain Tax Increment Financing bonds (“TIF bonds”) to Defendant PR Bingham, in the gross amount of \$935,000 and the net amount of \$900,000.

30. Pursuant to the EPA, the parties anticipated “a capital investment of approximately \$4.4 million in the project.”

31. The TIF bonds were secured by a mortgage on Bingham Square Apartments.

32. Pursuant to an agreement signed by Anderson City Utilities and Defendant Plichta on behalf of Defendant PRA, Defendant PRA was responsible for the utility charges accrued for the individual units and common areas at Bingham Square Apartments.

33. In Spring 2021, Defendant PR Bingham, by Defendant PRA entered into and maintained Housing Assistance Payment (“HAP”) contracts with the Anderson Housing Authority (“AHA”) and qualifying individuals. Other HAP contracts predated PR Bingham’s possession of the property but were maintained by PR Bingham.

34. HAP contracts are used to provide Section 8 tenant-based assistance under the housing choice voucher program of the U.S. Department of Housing and Urban Development.

35. Defendant PR Bingham agreed to maintain the contract unit and premises in accordance with the housing quality standards (“HQS”).

36. By May 18, 2021, Bingham Square Apartments had managed to increase their occupancy rate to approximately ninety (90) households that were actively paying rent to Defendant PR Bingham. As recently as December 14, 2023, some of those same tenants from May 2021 were still living at Bingham Square Apartments.

37. Despite having increased tenant occupancy and receiving funding through the executed EPA, Defendant PR Bingham and Defendant PRA allowed Bingham Square Apartments to fall into significant disrepair.

38. At least as early as February 2021, utilities shut offs began to occur at Bingham Square Apartments due to nonpayment of utilities by Defendant PR Bingham and Defendant PRA. From this point on, utility outages of varying lengths occurred with regularity at Bingham Square Apartments.

39. On or around October 14, 2021, Defendant PR Bingham received notice from the AHA that approximately twenty-one (21) units receiving HAP were not meeting the HQS for the program. The health inspection that triggered the notices to Defendant PR Bingham uncovered habitability violations in each of the twenty-one (21) units, with eleven (11) of those being deemed as having emergency health and safety issues.

40. In response to receiving notice from the AHA of the HQS violations, Defendant PR Bingham cancelled their Section 8 contract and reportedly began evicting tenants who received Section 8 assistance.

41. On April 11, 2022, the AHA filed a lawsuit against Defendant PR Bingham in Madison Circuit Court 3 in cause 48C03-2204-PL-000030 alleging breach of contract.

42. Pursuant to the complaint in cause 48C03-2204-PL-000030, the AHA alleged that Defendant PR Bingham failed to maintain the habitability of certain units which received HAP by failing to make repairs after being noticed to make

repairs. On May 10, 2022, a Default Judgment was entered against Defendant PR Bingham.

43. On May 12, 2022, a large fire severely damaged the northernmost building, which runs East/West along 16th Street, of Bingham Square Apartments (hereinafter, “J Building”). During the fire, another building directly next to J Building was evacuated. Firefighters from multiple departments responded due to the size of the fire, pictured below:¹



¹ <https://www.wthr.com/article/news/local/fire-destroys-anderson-apartment-building-bingham-square/531-a5a170b3-e34b-413e-995c-739dd322ce27>



44. Building J contained fifteen (15) units, with three (3) units believed to have been occupied at the time of the fire.

45. Upon information and belief, Bingham Square Apartments did not have property hazard insurance at the time of the fire to Building J. Therefore, no insurance claims were made following the fire.

46. Defendant PR Bingham's lender, Simmons Bank, was not made aware of the property damage to Bingham Square Apartments at the time of the loss due to the fire.

47. By the Fall of 2022, Defendant PR Bingham and Defendant PRA had largely abandoned Bingham Square Apartments. The apartment complex had no on-site property manager(s) or property maintenance personnel despite being occupied by paying tenants.

48. On July 7, 2023, the City of Anderson, ARC, and Anderson City Utilities filed suit against Defendant PR Bingham and Defendant Plichta, among others, in Madison Circuit Court in a cause docketed as 48C06-2307-MF-00097, alleging that Defendant PR Bingham had failed to rehabilitate Bingham Square Apartments as agreed in the EPA and failed to pay city utilities. As of the date of this Complaint, that matter remains pending.

49. In October 2023, the Anderson Board of Public Safety condemned Building J at Bingham Square Apartments.

50. On November 16, 2023, the Homeowner Protection Unit (“HPU”) conducted a site visit of Bingham Square Apartments. At that time, HPU staff observed the following:

- (a) Tenants were still residing at Bingham Square Apartments;
- (b) Tenants reported not having utilities such as electricity or running water;
- (c) No agents of Defendant PR Bingham or Defendant PRA identified themselves to HPU staff;
- (d) Building J remained standing, pictured below:



51. On or about December 4, 2023, the Anderson Board of Public Safety voted to order the demolition of Building J.

52. Following the abandonment, the only updates that were given to the remaining tenants came from representatives for the City of Anderson relating to the potential sale of the property to new owners.

53. At the time of filing, Bingham Square Apartments has not yet sold to new owners and the remaining tenants have been without any property management or property maintenance personnel for well over a year.

54. During their management of Bingham Square Apartments, Defendant PR Bingham and Defendant PRA regularly changed how they accepted rent payments from the tenants of Bingham Square Apartment. When the complex was first purchased by Defendant PR Bingham, they had an on-site property manager who was available to accept rental payments in person.

55. By 2023, the remaining tenants were instructed to either use AppFolio² rental software or PayNearMe³ to submit their rental payments, without any access to local property management staff to report regular or emergency repair requests.

56. The AppFolio rental application for tenants was supposed to include the ability to communicate with Defendant PR Bingham and Defendant PRA or one of their agents. However, tenants rarely would receive responses from property manager(s) or property maintenance personnel, and billing records did not accurately report tenant account balances.

57. Defendant PR Bingham, through Defendant PRA, was continuing to receive rental income in 2023 from tenants at Bingham Square Apartments with approximately twenty-eight (28) tenants paying rent during a portion of that calendar year.

58. Defendant PR Bingham, through Defendant PRA, received a rental payment from a tenant at Bingham Square Apartments at least as late in the 2023 calendar year as September 8.

59. As of May 21, 2024, Defendant PR Bingham has not demolished Building J. Building J remains abandoned and unsecure.

60. As of May 23, 2024, Defendant PR Bingham owed as much as \$317,756.44 in unpaid utilities to the City of Anderson.

² AppFolio is a property management software that assists property owners and managers by providing a platform to process rent payments and maintenance requests as well as other components of the real estate business. <https://www.appfolio.com/property-manager>

³ PayNearMe is a bill paying platform that allows businesses to have customers make payments in various ways. <https://home.paynearme.com/about/>

V. FACTS RELATING TO MADISON SQUARE APARTMENTS

61. Simmons Bank, successor by merger with Landmark Bank, issued a promissory note on or around April 30, 2021 totaling \$3,438,000.00 for the acquisition and rehabilitation of the property commonly known as Madison Square Apartments (the “PR Madison Loan”). The promissory note was endorsed by Defendant Gary Plichta as “manager” for PR Madison.

62. The PR Madison loan maintained the same guarantors as related in rhetorical paragraphs 25 and 26 of Plaintiff’s Complaint.

63. Defendant PR Madison, by and through Defendant PRA and Defendant Plichta, began leasing residential apartment units at Madison Square Apartments to tenant consumers on or around April 30, 2021.

64. When purchasing Madison Square Apartments, Defendant Plichta reported to Simmons Bank the intention “to invest \$690,000 or \$7,753 per unit in capital improvement in order to upgrade the units and complete exterior and common ground renovations.”

65. This commitment to invest in Madison Square Apartments occurred around the same time that Bingham Square Apartments was beginning to suffer from deferred maintenance by Defendant Plichta, Defendant PR Bingham, Defendant PRA.

66. When Madison Square Apartments was acquired by Defendant PR Madison in April 2021, the apartment complex had an approximately 83% occupancy

rate equating to approximately seventy-four (74) households that were actively performing on a lease agreement.

67. Pursuant to an Agreement for Services signed by Defendant PR Madison with Anderson City Utilities, Defendant PR Madison was responsible for the utility charges accrued for the individual units and common areas at Madison Square Apartments.

68. By the Fall of 2022, Defendant PR Madison and Defendant PRA had largely abandoned Madison Square Apartments. The apartment complex had no on-site property manager(s).

69. As of June 28, 2023, Defendant PR Madison and Defendant PRA had accrued \$272,081.74 in unpaid utilities for electric, water, wastewater, and storm water utilities at Madison Square Apartments.

70. Based on this nonpayment, on July 6, 2023, the City of Anderson filed its Complaint for Monies Owed in cause 48C03-2307-CC-001044 in Madison Circuit Court 3.

71. On November 16, 2023, HPU completed a site visit of Madison Square Apartments. At that time, HPU staff noted the following:

(a) Tenants were still residing at Madison Square Apartments

(b) Representatives for the Anderson City Utilities⁴ were present due to issues with the meters at the complex, which are the property of the utility company.

⁴ Doss F. Baker, Fraud Investigator; Jake Blankinship, Meter Department Supervisor

(c) At several of the buildings inspected by the Anderson City Utility staff, including Buildings E, F, G, and H, the electric meters had been cut out and placed on the floor. Additionally, much of the copper wire inside the buildings had been stripped out.

(d) At one building, utility staff could not access the meters because the room containing the meters had standing water with wires going into the water. The electricity to this inhabited building was shut off that evening due to safety concerns.

(e) Tenants interviewed by HPU indicated that there were no management staff on site in the property management office.

(f) Tenants further indicated that the property management office was abandoned and had been broken into.

(g) The door to the property management office was open and had no lock as demonstrated in this photograph:



(h) Inside the property management office were unsecured cabinets containing sensitive tenant information, including social security numbers and dates of birth.

(i) Inside the property management office was a folder containing uncashed checks dated at least two years prior.

(j) The toilet was missing from the office, pictured below.



(k) No agents of PR Madison or Defendant PRA identified themselves to HPU staff.

72. Defendant PR Madison, through Defendant PRA, was continuing to receive rental income from tenants at Madison Square Apartments in 2023 with approximately 33.7% of the units occupied with tenants paying rent during a portion of that calendar year.

73. Defendant PR Madison, through Defendant PRA, received a rental payment from a tenant at Madison Square via PayNearMe as late as August 1, 2023.

74. As of May 23, 2024, Defendant PR Madison owed as much as \$925,380.36 in unpaid utilities to the City of Anderson, representing an increase of over \$600,000.00 to the balance in just over one year of usage.

VI. TENANT THOMAS GIBBS

75. Tenant Thomas Gibbs (“Thomas”) lived at Bingham Square apartments from approximately September 9, 2009, until his death on December 14, 2023.

76. Upon information and belief, Thomas’ most recent address at Bingham Square Apartments was 2725 W 16th St, K11, Anderson, Indiana 46011.

77. The rental rate for Thomas’ apartment at Bingham Square Apartments was \$735 a month.

78. Thomas paid a rental payment via PayNearMe to Defendant PR Bingham and Defendant PRA at least as late as February 3, 2023.

79. According to rent rolls from Defendant PR Bingham, Thomas had an account balance of \$10,150 as of December 15, 2023. However, Thomas paid at minimum a portion of his rent every month between April 2020 through February 2023.

80. At the time of his death in December 2023, Thomas’ apartment at Bingham Square Apartments did not have running water, had no working furnace, and the ceiling above his bed was severely water damaged.

81. On May 9, 2024, Thomas’ representative filed suit against Defendant PR Bingham in Madison Circuit Court 5 in a cause docketed as 48C05-2405-CT-000079. The suit alleges Defendant PR Bingham was negligent in its oversight of Bingham Square Apartments, and that Defendant PR Bingham’s negligence was a cause of Thomas’ “pain, suffering, and anguish.”

VII. TENANT A⁵

82. Tenant A was interviewed by HPU during a site visit to Bingham Square Apartments on November 16, 2023. At the time she was still living at the complex and completed an affidavit detailing her experiences renting from Defendant PR Bingham and Defendant PRA.

83. Tenant A began living at Bingham Square Apartments on or around January 5, 2018.

84. Tenant A's most recent address at Bingham Square Apartments was 2725 W. 14th Street, Building D, Apartment 11, Anderson, Madison County, Indiana 46011.

85. As of her most recent lease term in 2023, Tenant A's rent was approximately \$610 a month.

86. During her tenancy, Tenant A was living with a disability that resulted in severe lymphedema that made it difficult to utilize stairs. Her apartment was located on the second floor.

87. At the time of HPU's visit to Bingham Square Apartments, Tenant A had gone without hot water in her apartment since August 2023. Additional disruptions to essential utility services included going without heat or air conditioning for three (3) years.

⁵ Tenants A, B, and C are being deidentified to protect their privacy and spare them unnecessary further hardship. The tenants are not parties to this matter. Prior to filing, an affidavit was completed for each of the tenants which includes their identity and their contact info. These affidavits will be provided to Defendants.

88. Furthermore, she only had power in half of her apartment, her shower was not usable, and a large hole had formed in her bedroom ceiling from a water leak.

89. An electrical box in Tenant A's unit malfunctioned, causing the outlet to spark and become inoperable.

90. A picture of Tenant A's scorched outlet in her apartment is shown below:



91. In 2023, Tenant A was evacuated from Bingham Square Apartments by AHA due to the living conditions of her apartment. Due to her disability, she was not able to move all her belongings herself when moving out of the apartment. Once she was able to receive help retrieving her belongings, she discovered the apartment had been ransacked. The door to her unit had been ripped completely off the doorframe, and many of her personal heirlooms were either destroyed or missing. She no longer has access to her old apartment and cannot return to continue looking for any remaining items.

VIII. TENANT B

92. Tenant B was interviewed by HPU during a site visit to Madison Square Apartments on November 16, 2023. At the time she was still living at the complex and completed an affidavit detailing her experiences renting from Defendant PR Madison and Defendant PRA

93. Tenant B first moved to Madison Square Apartments on or around November 5, 2015. She lived at the complex in part because of the proximity to Community Hospital Anderson. She suffers from two debilitating and incurable medical conditions, Crohn's Disease and Addison's Disease. As a result of these ailments, she has frequent syncopal episodes and has on occasion had to walk to the Emergency Department at the hospital.

94. Tenant B's most recent address at Madison Square Apartments was 1631 N. Madison Ave, Apartment A, Anderson, Indiana 46011.

95. As of her most recent lease term in 2023, Tenant B's rent was approximately \$935 a month.

96. Having lived in the complex prior to Defendant PR Madison purchasing Madison Square Apartments, Tenant B observed property conditions worsening after Defendant PR Madison purchased the property.

97. While renting from Defendant PR Madison and Defendant PRA, Tenant B experienced excessive water leaks in the kitchen sink and bathroom sink, black mold growth in her apartment, there were live wires hanging from the ceiling, and

the apartment had a mouse infestation culminating in mice eating through the walls of her unit.

98. On another occasion, Tenant B experienced a furnace fire that originated due to excess dust in the ventilation system.

99. Tenant B went without operable air conditioning during the summer months of 2023 for approximately six (6) months.

100. Defendant PR Madison and Defendant PRA were unresponsive to Tenant B's maintenance requests. Many of the habitability issues that Tenant B experienced required remedial action which she completed with the help of her roommate. Some of those actions included putting down buckets to catch leaking water to prevent further water damage, repeatedly having her apartment sprayed to mitigate black mold growth and buying foam wall filler to fill in holes where mice had chewed through the walls.

101. Throughout 2023, Madison Square Apartments suffered continued deterioration in public safety as the complex became increasingly abandoned. Tenant B personally witnessed an incident where an individual was seen riding a bike through the complex brandishing what appeared to be a semi-automatic rifle. This incident was reported to the police.

102. Additionally, the leasing office was abandoned and was not secured. Tenant B was alerted multiples times of unknown individuals attempting to open accounts in her name or use her social security number.

103. Tenant B no longer lives at Madison Square Apartments.

X. TENANT C

104. Tenant C was interviewed by HPU. At the time of the interview, she was still living at the complex and completed an affidavit detailing her experiences renting from Defendant PR Bingham and Defendant PRA.

105. Tenant C first moved to Bingham Square Apartments on or around May 25, 2022. She lives in the apartment unit with her two teenage sons, aged sixteen (16) and seventeen (17), and her boyfriend.

106. Tenant C's most recent address at Bingham Square Apartments is 2725 W 16th Street, Apartment D15 in Anderson, Madison County, Indiana 46011.

107. As of her most recent lease term in 2023, Tenant C's rent is approximately \$815 a month.

108. Tenant C paid her rent using AppFolio and utilized that platform to submit maintenance requests.

109. At the time of filing, Tenant C has lost contact with Defendant PR Bingham and Defendant PRA and does not know if rent payments are being received by the correct entity. Therefore, she is not currently paying rent.

110. Prior to living in Building D, Tenant C lived in Building J from approximately March 2022 to May 2022.

111. While living in Building J, Tenant C and her family did not have hot water for approximately half the time they were living in the unit, and the central heating did not work.

112. One day between March and May 2022, there was a massive leak in front of Building J that poured into the parking lot. Leaks were so pervasive throughout Building J that it was common for management to turn off the entire building's water supply. This would happen for weeks at a time. Whenever they were without water, Tenant C and her family would purchase large cases of water to bathe.

113. On May 12, 2022, most of Building J caught on fire while Tenant C resided in that building. Tenant C's son alerted her that smoke was in his bedroom. The family evacuated the apartment immediately.

114. The fire to Building J caused Tenant C and her family to lose practically everything they owned, including new furniture they had purchased for the home when they moved in that March, as well as all her sons' presents for their upcoming birthdays.

115. Neither Defendant PR Bingham nor Defendant PRA provided compensation for Tenant C's expenses following the fire to Building J. The family did not have renter's insurance.

116. Two weeks after the fire to Building J, Defendant PR Bingham and Defendant PRA moved Tenant C into a new apartment in Building D.

117. Immediately after moving into Building D, Tenant C learned that the apartment had no working air conditioner. The issue was reported to Defendant PR Bingham and Defendant PRA, but no repairs were made to the air conditioning.

118. On December 25, 2022, a pipe above Tenant C's apartment froze and busted, causing severe leaking and the ceiling to cave in. The water leak was reported to Defendant PR Bingham and Defendant PRA, however rehabilitation of the apartment was slow.

119. Tenant C's apartment, unit D15, is on the top floor of Building D and is connected to the building's common attic space. When there is a hole in the ceiling to any of the top floor units, it can create a security issue for each individual unit on the top floor, because of the shared attic space. Any individual can enter from that ceiling opening and break into any of the below units that have ceiling openings. To help secure her apartment while waiting for ceiling repairs, Tenant C tacked a shower curtain to separate her unit from the common attic space. Tenant C had to utilize this temporary fix for weeks while she waited on Defendant PR Bingham and Defendant PRA to respond. The hole in Tenant C's building was eventually fixed in early 2023.

120. Following the water leak that caused the hole in Tenant C's apartment, she lost hot water to her apartment in 2023. The hot water issue was never resolved, and she remains without access to hot water in her apartment.

121. In December 2023, a large water leak occurred in the common area to Building D right in front of Tenant C's apartment, unit D15. Defendant PR Bingham and Defendant PRA did not fix the water leak. Tenant C and her family had to take remedial action themselves to fix the flooding.

122. Around February of 2024, Tenant C and her family lost all water access in their apartment when damage was done to the common water hookup for Building D. That water hookup provided water access to her unit. The water outage to unit D15 is still outstanding, and the family must rely on the generosity of a fellow tenant at Bingham Square Apartments who allows them to shower at his apartment.

123. Tenant C still resides at Bingham Square Apartments.

XII. CAUSES OF ACTION

COUNT I: SYSTEMATIC FAILURE TO SATISFY STATUTORY LANDLORD RESPONSIBILITIES

**Ind. Code § 24-5,0.5 et. seq.
(As to all Defendants)**

124. Plaintiff re-alleges and incorporates by reference the foregoing.

125. The transactions identified and related to each consumer mentioned *supra* are “consumer transactions” as defined in Ind. Code § 24-5-0.5-2(a)(1).

126. Every real estate transaction that Defendants have consummated with a tenant are also “consumer transactions” as defined in Ind. Code § 24-5-0.5-2(a)(1).

127. Defendants are all “suppliers” as defined in Ind. Code § 24-5-0.5-2(a)(3), either directly, by an agency relationship, or by an alter ego theory.

128. Defendants have failed to manage Bingham Square Apartments and Madison Square Apartments in a manner which complies with Ind. Code § 32-31-8-5 and local health code.

129. Defendants have knowingly and intentionally engaged in a pattern and practice of repeatedly violating Ind. Code § 32-31-8-5, thereby committing unfair, abusive, and/or deceptive acts, omissions, and practices in connection with the

aforementioned consumer transactions as prohibited by Ind. Code § 24-5-0.5-3 by failing to provide a rental premise for their tenants that were in a safe, clean, and habitable condition as required by Ind. Code § 32-31-8-5, including by failing to provide for continuous communal trash services, failing to provide heat, failing to supply a reasonable supply of hot and cold water, and failing to adequately maintain and repair necessary systems.

**COUNT II: ENGAGING IN REAL ESTATE TRANSACTIONS WITHOUT A
LICENSE REQUIRED BY LAW
Ind. Code § 24-9-8-3(a)(4)
(As to all Defendants)**

130. Plaintiff re-alleges and incorporates by reference the foregoing.

131. Ind. Code § 25-34.1-3-2 states that if a person wants to “for consideration, sell, buy, trade, exchange, option, *lease, rent, manage*, list, or appraise real estate or negotiate *or offer to perform any of those acts in Indiana or with respect to real estate situated in Indiana*”, they must obtain a license to practice as a real estate broker as defined by § Ind. Code 24-34.1-1-2(4). *Emphasis added.*

132. Each lease and/or lease renewal, including those at common law, between Defendants and a tenant residing in Indiana constitutes a “real estate transaction” within the meaning of Ind. Code § 24-9-3-7(b).

133. Defendant PRA and Defendant Plichta have, for compensation and on behalf of the owners, Defendant PR Bingham and Defendant PR Madison, knowingly and intentionally managed Bingham Square Apartments and Madison Square Apartments, which is real estate located in the State of Indiana, without a real estate

broker or broker company license required by law, which is a *per se* violation of Ind. Code § 24-9-3-7(c)(4).

134. Each real estate transaction conducted by Defendants without a license or permit required by law allows the State of Indiana to seek costs of its investigation, reasonable attorney's fees, and a civil penalty of up to \$10,000 per transaction. Ind. Code § 24-9-8-3(a)(4).

135. Due to the length and severity of Defendants' conduct, the State of Indiana requests the maximum civil penalty for each unlicensed transaction.

**COUNT III: DECEPTIVE REPRESENTATIONS OF “HABITABILITY” AND
“HABITATION”
Ind. Code § 24-5-0.5-3
(As to all Defendants)**

136. Plaintiff re-alleges and incorporates by reference the foregoing.

137. Ind. Code § 24-5-0.5-3(b)(1) states:

Without limiting the scope of subsection (a), the following acts, and the following representations as to the subject matter of a consumer transaction, made orally, in writing, or by electronic communication, by a supplier, are deceptive acts: **That such subject of a consumer transaction has** sponsorship, approval, performance, **characteristics**, accessories, **uses**, or benefits **it does not have which the supplier knows or should reasonably know it does not have.” (Emphasis added.)**

138. Habitation of a dwelling is a “use” within the meaning of the word in Ind. Code § 24-5-0.5-3(b)(1).

139. Habitability is a “characteristic” of a rental dwelling within the meaning of Ind. Code § 24-5-0.5-3(b)(1).

140. Defendant PR Bingham, Defendant PRA, and Defendant Plichta were aware of the risk that Building J posed to tenants as a burned-out building, and though Defendant PR Bingham was ordered to demolish Building J for health concerns in December 2023, Building J remains standing more than two years after the fire that damaged it.

141. Defendants were aware that they were not paying utilities at either Bingham Square Apartments or Madison Square Apartments. This is patently shown by Defendants owing over a million dollars in unpaid utility bills to Anderson City Utilities. This is also confirmed by tenants on the ground at both properties, who would frequently go without heat, water, and trash services.

142. By February of 2021, Defendants should have known that the representations they were making to consumers that Bingham Square Apartments and Madison Square Apartments were and would remain habitable were not true because Defendants were not paying bills for utilities, were not making needed repairs, and would eventually physically abandon the complexes.

143. Defendants continued to accept rental payments from tenants at Bingham Square Apartments until at least September 8, 2023.

144. Defendants continued to accept rental payments from tenants at Madison Square Apartments until at least August 1, 2023.

145. Each instance where Defendants rented a unit at Bingham Square Apartments or Madison Square Apartments to a consumer after Defendants knew, or should have reasonably known, the unit was not habitable or that Defendants

would be unable to maintain the habitability of the unit due to unpaid utilities and continuous deferred maintenance, constitutes an unfair, abusive, or deceptive act within the meaning of Ind. Code § 24-5-0.5-3(b)(1).

COUNT IV: INCURABLE DECEPTIVE ACTS
Violations of Ind. Code § 24-5-0.5-8
(As to all Defendants)

146. Plaintiff re-alleges and incorporates by reference the foregoing.

147. The deceptive acts alleged in this Complaint are incurable deceptive acts, as defined in Ind. Code § 24-5-0.5-2(a)(8), that Defendants committed as part of a scheme, artifice, or device with intent to defraud or mislead, subjecting Defendants to civil penalties under Ind. Code § 24-5-0.5-8.

COUNT V: KNOWING VIOLATIONS OF THE DECEPTIVE CONSUMER
SALES ACT
Violations of Ind. Code § 24-5-0.5-4(g)
(As to all Defendants)

148. Plaintiff re-alleges and incorporates by reference the foregoing.

149. Defendants committed the acts alleged in this Complaint in Counts I and III with knowledge of their deceptive nature, subjecting them to civil penalties under Ind. Code § 24-5-0.5-4(g).

COUNT VI: VIOLATION OF THE UNIFORM BUSINESS ORGANIZATION
ACT
Ind. Code § 23-0.5-5, et. seq.
(As to Defendant PRA)

150. Plaintiff re-alleges and incorporates by reference the foregoing.

151. Defendant PRA is operating a foreign entity in the State of Indiana, as that term is used in Ind. Code § 23-0.5-5.

152. Defendant PRA, as a foreign entity, may not conduct business in the State of Indiana until it registers with the Secretary of State.

153. Defendant PRA has conducted business in the State of Indiana by managing properties on behalf of Defendant PR Bingham and Defendant PR Madison.

154. Ind. Code § 23-0.5-5-14 states that the Attorney General may maintain an action to enjoin a foreign entity from doing business in Indiana in violation of the law.

155. In addition to an injunction, the Attorney General is entitled to a statutory penalty of not more than ten thousand dollars (\$10,000) for Defendant PRA's failure to file a foreign business registration while operating an illegal property management company pursuant to Ind Code 23-0.5-5-2 (f).

XIII. RELIEF

156. A trial by jury is requested for all issues so triable.

157. Plaintiff, the State of Indiana, requests the Court enter judgment against Defendants: PR Bingham L.L.C., PR Madison L.L.C., Property Resource Associates, L.L.C., and Gary Plichta, jointly and severally, for the following relief:

- a. As to Count I, III, IV, and V, enter Judgment against Defendants for payment of reasonable consumer restitution for damages incurred and/or money unjustly obtained from consumers as a result of Defendants' violations of the Deceptive Consumer Sales Act, pursuant to Ind. Code § 24-5-0.5-4(c)(2).

- b. As to Count II, enter Judgment against Defendants for payment of reasonable consumer restitution for damages incurred and/or money unjustly obtained from consumers as a result of Defendants' violations of the Home Loan Practices Act, pursuant to Ind. Code § 24-9-8-3(a)(2).
- c. As to Count I, II, III, IV, and V, enter Judgment against Defendants for emotional distress damages caused to all Bingham Square Apartment and Madison Square Apartment tenants who experienced physiological harm or fear of future physiological harm as a result of Defendants' failure to pay for utilities.
- d. As to Count I, III, IV, and V, enter Judgment against Defendants for treble restitution for real damages incurred for each knowing violation of the Deceptive Consumer Sales Act perpetrated on a senior consumer pursuant to Ind. Code § 24-5-0.5-4(c)(3).
- e. As to Count I, II, III, IV, and V, enter Judgment against Defendants to reimburse the Office of the Indiana Attorney General its reasonable costs and expenses incurred during the investigation and prosecution of this action, pursuant to Ind. Code § 24-5-0.5-4(c)(4) and Ind. Code § 24-9-8-3(a)(3).
- f. As to Count II, enter Judgment against Defendants in the form of a civil penalty to the State of Indiana in the amount of ten thousand dollars (\$10,000) for each violation of the Home Loan Practice Act, pursuant to Ind. Code § 24-9-8-3(a)4).

- g. As to Counts I, III, IV, and V, enter Judgment against Defendants to pay a civil penalty to the State of Indiana in the amount of five thousand dollars (\$5,000) for each knowing violation of the Deceptive Consumer Sales Act, pursuant to Ind. Code § 24-5-0.5-4(g).
- h. As to Count VI, enter a Judgment against Defendant PRA to pay a civil penalty a penalty to the State of Indiana in the amount of ten thousand (\$10,000) for conducting business in the State of Indiana without first registering with the Indiana Secretary of State; and
- i. All other just and proper relief.

Respectfully submitted,

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