



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

STATE OF DELAWARE, )  
*ex rel.* Kathleen Jennings, Attorney )  
General of the State of Delaware )  
 )  
Plaintiff, )  
 ) C.A. No. \_\_\_\_\_  
 )  
 )  
ADOLPH J. POKORNY, BUCKLEY )  
ASSOCIATES, LLC, 808 ADAMS )  
SERIES, 810 ADAMS SERIES, )  
812 ADAMS SERIES, 814 ADAMS )  
SERIES, 816 ADAMS SERIES, )  
818 ADAMS SERIES, AND 820 )  
ADAMS SERIES, )  
 )  
Defendants. )

**VERIFIED COMPLAINT**

Plaintiff, the State of Delaware Department of Justice, *ex rel.* Kathleen Jennings, Attorney General of the State of Delaware (the “State”), brings this action against Defendants, Adolph Jay Pokorny (“Pokorny”), Buckley Associates, LLC (“Buckley”), 808 Adams Series, 810 Adams Series, 812 Adams Series, 814 Adams Series, 816 Adams Series, 818 Adams Series, 820 Adams Series (collectively, with Buckley, “Pokorny’s Companies”), for violations of a 2002 Stipulation and Consent Order to Cease and Desist (the “2002 Order,” attached as Exhibit A), the Delaware Consumer Fraud Act, 6 *Del. C.* § 2511, *et seq.* (the “Consumer Fraud Act” or

“CFA”), and the Delaware Deceptive Trade Practices Act, 6 *Del. C.* § 2531, *et seq.* (the “Deceptive Trade Practices Act” or “DTPA”). The State alleges as follows:

## **I. SUMMARY OF THE CASE**

1. On May 15, 2022, a tenant of 816 North Adams Street, Wilmington, Delaware, discovered that the wall of a breezeway running underneath his building’s tenement complex had collapsed. After the tenant posted video of the collapsed wall to social media, Wilmington officials responded to the scene to assess the danger to the tenants living inside the complex of buildings. Those officials ordered the owner, Pokorny, to install temporary shoring and informed him that they would return the next day to conduct a full review of the complex. The following day city officials discovered the buildings to be so profoundly ill-kept that they condemned them and ordered the tenants evacuate immediately for their own safety. Twenty-five households became homeless in an afternoon.

2. The specific complex at issue here consists of three buildings comprising 808-820 North Adams Street in Wilmington, Delaware (each a “Property” and collectively, the “Properties”). At all times relevant to this complaint, Pokorny owned the Properties and several others in the city indirectly, a portfolio totaling fifty-one rental units. Pokorny has been an active landlord in the city for nearly five decades, and prior to the wall collapse, and according to Pokorny himself, he visited the Properties every day. Despite his lengthy tenure as a landlord and

frequent presence at the both the Properties, Pokorny allowed them to fall into disrepair.

3. City officials found on May 16, 2022, the day following the wall collapse, substantial disrepair. In the basements, structural supports were not correctly carrying the load and missing masonry caused pockets in the load route. In the apartments themselves, city officials found conditions just as bad, if not worse. Many apartments had water leaks, resulting in rotted or stained drywall, spongy and weak flooring, and mold. Holes in the drywall and insect and rodent infestations were common. Light fixtures and fire alarms were often absent. Collectively, the conditions in the basements and the apartments painted a picture of poorly maintained properties slowly falling apart and left officials concerned for the safety of anyone spending time in the Properties. Given what they found, city officials issued over three hundred violations of local regulations and condemned the Properties, necessitating the immediate evacuation of all the Properties' tenants.

4. A crisis resulted, with more than fifty people rendered homeless. Pokorny avoided acknowledging responsibility for his part in that eviction and failed to take the situation seriously, at one point falsely telling tenants that the reason the Properties had drawn so much attention was because a dead body had been found within. Similarly, when asked directly by a tenant whether he could provide her some money to help her find a place to live, Pokorny said he would check his pockets,

patted them, and then laughed. While addressing community members who had gathered around the Properties and were expressing outrage, Pokorny claimed he was the person most upset by these events, despite being surrounded by his now homeless, former tenants. Consistent with this disregard for the day's events and his role in them, Pokorny told many of his tenants that despite the city's edict, they could go back and live in the condemned apartments after the city officials left, if they lived quietly.

5. The tenants shared a view of the Properties largely consistent with the findings of city officials: apartment units slowly decaying around them. According to tenants, Pokorny had little interest in performing repairs or general maintenance on the Properties and was instead focused primarily on collecting rent. And, even when tenants could get Pokorny to promise to perform needed repairs, he would typically fail to follow through. In the rare instances when repairs were made, they did not address underlying problems.

6. Defendants' conduct at the Properties, effected through Pokorny, violated the 2002 Order, the CFA, and the DTPA. Defendants violated the 2002 Order when they, among other things, failed to comply with local regulations, provided rental units that endangered tenants' health and safety, failed to maintain the Properties' common areas, and failed to make necessary repairs. As to the Consumer Fraud Act, Defendants violated it when they, among other things, failed

to disclose known problems with the apartments before renting them, failed to disclose that they did not adequately maintain the Properties, misrepresented that they would conduct repairs of the apartments, misrepresented that tenants could go back into the Properties despite the condemnation, and violated local regulations and Delaware law. As to the Deceptive Trade Practices Act, Defendants violated it by, among other things, misrepresenting the nature and characteristics of the services they provided in connection with their rental—namely the quality of the repair and maintenance services they provided.

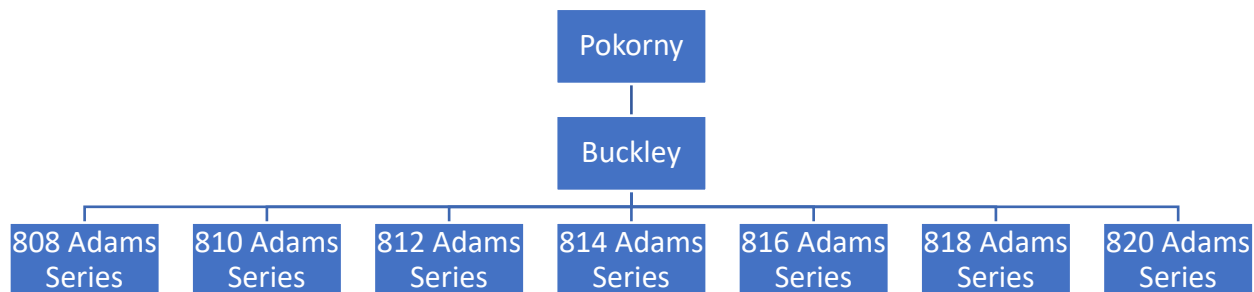
## II. PARTIES

7. The State is the plaintiff in this action, bringing it through Kathleen Jennings, Attorney General of the State of Delaware. The Attorney General has standing to enforce the 2002 Order pursuant to 29 *Del. C.* § 2526(a). (Under 29 *Del. C.* § 2526(a), the Attorney General has standing to enforce the 2002 Order, which was issued pursuant to 6 *Del. C.* § 2521 and was initially enforceable pursuant to 6 *Del. C.* § 2598, the predecessor to 29 *Del. C.* § 2526(a).) The Attorney General has standing to enforce the CFA and DTPA under 29 *Del. C.* § 2520(a)(4), 6 *Del. C.* § 2522(a), and 6 *Del. C.* § 2533(d).

8. Defendant Pokorny is a Pennsylvania resident who owns indirectly numerous buildings in Wilmington, Delaware, and at the time of the allegations in this complaint, owned indirectly the Properties. Pokorny has been operating as a

landlord in the City of Wilmington since 1976. In addition to the Properties, Pokorny also owns multi-unit rental properties on Van Buren Street, Broome Steet, Rodney Street, and Woodlawn Avenue.

9. Defendant Buckley is a Delaware Series LLC. Pokorny owns Buckley and is the sole member Buckley, which in turn, owned each Property through a series LLC for which Pokorny is also the sole member. Each series LLC adhered to the following naming convention: “[Street Number] Adams Series.” For example, 808 Adams Series owned 808 North Adams Street. The corporate ownership structure of the Properties is as follows:



Pokorny conducted his business through these Defendants, and his conduct on behalf of them is attributable to them. As Pokorny described this corporate arrangement, “Buckley, LLC, but that’s me. The banks make you do the LLC stuff.” Each lease entered into by tenants of the Properties identified Pokorny as the landlord, with no mention of the LLC Defendants.

### III. JURISDICTION

10. The Court has subject matter jurisdiction over this matter in accordance with 10 *Del. C.* § 341.

11. This Court has personal jurisdiction over Pokorny and Pokorny's Companies because they owned the Properties, perform landlord services in Delaware, such as collecting rent, transact business in Delaware, contract to lease apartments in Delaware, and caused injury in Delaware through violations of the 2002 Order, Consumer Fraud Act, and Deceptive Trade Practices Act. Jurisdiction over Pokorny's Companies is also proper, as they are organized under Delaware law.

### IV. RELEVANT NON-PARTIES

12. There are several non-parties relevant to this action.

#### A. Wilmington License And Inspection

13. The City of Wilmington's Department of License and Inspection ("L&I") plays a critical role in the facts underlying this action. L&I enforces provisions of Wilmington's Code of Ordinances (the "Wilmington Code") governing rental units. For all times relevant to this complaint, L&I did so through, among other things, employing building inspectors that handle structural matters and housing inspectors that address interior and exterior code violations.

**(i). L&I’s Management**

14. Jeff Starkey (“Starkey”) served as the L&I Commissioner from 2001 to 2014 and from 2017 through the time relevant to this complaint. In that role, he reported directly to the City’s Chief of Staff. Reporting to Starkey, Michael Boykin (“Boykin”) served as Deputy Commissioner of L&I since 2016 through the time relevant to this complaint. Jessica Ramos-Velazquez (“Ramos-Velazquez”) served immediately under Boykin as Code Enforcement Supervisor for all times relevant to this complaint. In that position, she oversaw all operations for code enforcement, including office and daily operations.

**(ii). L&I Inspectors**

15. On May 16, 2022, four L&I housing inspectors (the “Housing Inspectors”) and two building inspectors (the “Building Inspectors”) assessed the Properties.

**B. Wilmington’s Outside Engineering Firm**

16. Larsen & Landis, Inc is a structural engineering firm with whom the city contracts when dealing with concerns about structural issues. Two engineers from that firm were present to assist L&I on May 16, 2022: Steve Huff and John Grieshaber (collectively, “Larsen & Landis”). They each hold professional engineering licenses in Delaware and other states.



**C. Handyman**

17. Pokorny's handyman ("Handyman") was a tenant of the Properties who worked as Pokorny's handyman since at least 2008. While Handyman lived at the Properties, he serviced all the properties Pokorny owned in Wilmington. Pokorny paid Handyman, at least partially, through discounted rent. Pokorny closely monitored and directed Handyman's work, typically arriving in the morning to provide instructions and inspecting Handyman's work upon completion.

**V. FACTUAL ALLEGATIONS**

**A. Pokorny Operated In A Way That Has Created Long-Term Problems At The Properties And In The Surrounding Community**

18. Pokorny has been a landlord in the city since the mid-1970s and owned the Properties since the early 1980s.

**(i). Pokorny's Minimal Cost Approach to Maintenance of the Properties Created Systemic Problems**

19. Pokorny's practice as a landlord was to make repairs and perform maintenance in a fashion that minimized costs. For example, Pokorny often avoided making any repairs by promising tenants that at some indeterminate time in the future he would resolve the issue. When that failed to happen and the tenant reiterated the need for repairs, Pokorny would again reassure them that the repairs would happen sometime in the future. Yet, that future never arrived, and the tenant, realizing that such a future would never arrive, typically stopped raising the issue or moved out. If a tenant forced the issue, either through consistently raising it,

contacting L&I, or otherwise, Pokorny made a superficial effort to fix the problem while failing to remedy the underlying cause. Often, Pokorny's superficial repairs remedied one problem while creating a new one. This corner cutting, over decades, led to the Properties falling into the state of disrepair L&I found in May 2022.

20. Similarly, Pokorny minimized the costs of repairs by avoiding hiring persons with appropriate training or licenses. Instead, Pokorny did the work himself, directed his Handyman to do the work, or paid persons from the community for assistance on one-off projects. Neither Pokorny nor Handyman have formal training in or applicable licenses for the maintenance and repair of buildings nor did the local individuals. Handyman's declining health over the years also impacted his ability to effectively make repairs on Pokorny's behalf. This practice of employing untrained and unlicensed persons who were unable to effect repairs contributed to the Properties' decrepit state.

**(ii). Pokorny Knew The Properties Were Falling Apart**

21. Pokorny was well aware that the Properties were in a state of disrepair. At the time of the wall collapse, Pokorny had been a landlord for nearly 50 years, giving him all the knowledge and understanding such a tenure creates. Also, Pokorny was frequently present at the Properties, visiting them, in his own words, "every day." And he must have seen the disrepair as it was visible on the exterior and in the common areas of the Properties. Likewise, Pokorny must have seen the disrepair in

the interior of the apartments because he entered and reviewed every apartment before it was rented out. Moreover, every tenant the State interviewed detailed complaints telling Pokorny about the state of disrepair of their unit. Given his experience, his frequent presence at the Properties, the plainly visible issues, and the complaints he received, Pokorny knew or should have known the state of the Properties.

**(iii). The Properties Have Been A Blight On The City Of Wilmington For Decades**

22. The Properties are not a new problem, having been the focus of a State investigation as early as January 1996. That investigation found that Pokorny had engaged in a pattern and practice of violating the Delaware Landlord Tenant Code, the Consumer Fraud Act, and the Uniform Deceptive Trade Practices Act in connection with the Properties. The State filed suit against Pokorny in January 2000 in the Justice of the Peace Court, alleging thirteen counts for violations of the Delaware Landlord Tenant Code, the Consumer Fraud Act, and the Uniform Deceptive Trade Practices Act. The Justice of the Peace Court found, after trial, that Pokorny had violated the Delaware Landlord Tenant Code and the Consumer Fraud Act. Pokorny appealed.

23. As a result of that appeal, the State filed a complaint in the Delaware Court of Common Pleas. That litigation ended via settlement, as memorialized in the 2002 Order. In that order, Pokorny agreed to honor several obligations, including:

(1) complying with all state and local laws and regulations governing his rental units; (2) providing rental units that did not endanger the health, welfare, or safety of his tenants; (3) keeping all common areas clean and well maintained; (4) making all repairs necessary to keep his units in as good a condition as they were at the start of tenancy; (5) maintaining all electrical, plumbing, and other facilities in working order; and (6) providing a summary of the Landlord Tenant Code to each tenant at the beginning of their tenancy. In addition, Pokorny agreed he would refrain from taking several actions, including: (1) failing to provide heat and depriving his tenants of the substantial benefit of their bargain for more than forty-eight hours; (2) falsely representing that he is leasing habitable premises in conformity with applicable laws; and (3) leasing properties that are uninhabitable or that contain dangerous or unsafe conditions and failing to disclose those conditions.

24. The 2002 Order binds both Pokorny and any of “his agents, employees, sales representatives, successors, and assignees.” It also included Pokorny’s agreement that a breach of a material term of the 2002 Order represented a breach of the entire agreement, which authorized the State to seek any remedy available to it, including injunctive relief, the filing of an enforcement action, or the cumulative and enhanced penalties then found in 6 *Del. C.* § 2598 and now codified at 29 *Del. C.* § 2526.

**(iv). Pokorny Continued To Mismanage The Properties After The 2002 Order**

25. In the years following the 2002 Order, L&I continued to cite the Properties for violations of the Wilmington Code. For example, in the four years preceding May 2022, L&I cited units in each of the Properties, save for 814 N. Adams St., for violations related to the structural conditions of the Properties, their fitness for human habitation, and the consequences of water infiltration, among other things. These violations were the product of Pokorny's continued failure to maintain, and knowing, willful neglect, of the Properties.

**(v). Pokorny's Neglect Of The Properties Attracts Criminal Activity**

26. Since the entry of the 2002 Order, the Properties have been the sight of numerous calls to law enforcement. Pokorny was at least partially to blame for this criminal activity because the state of disrepair in which Pokorny kept the Properties and his decision to remove the locks to the exterior door of the Properties attracted it. This forced Pokorny's tenants at the Properties to navigate increased dangers to their persons, family, and property simply because they lived at the Properties.

**(vi). Pokorny Used A Form Lease That Imposes Minimal Obligations**

27. Consistent with his effort to cut costs on the maintenance and repair of his properties, Pokorny used a standard lease for all tenants at the Properties. The lease included an acknowledgement that the tenant has received a copy of the

Delaware Landlord Tenant Code. It also included limited obligations on Defendants, including the obligation to supply water and to keep the foundation, floor, outside walls, structural members in a good state of repair, which Pokorny failed to meet.

**C. The Tenants' Experiences Living In The Properties**

28. Tenants' experiences living in the Properties told the same story: buildings that had slowly decayed, were inadequately cared for by Pokorny, and that housed individuals who had few financial resources, limited alternatives, and a general inability to exercise their rights to hold Pokorny to his obligations under the law, such as several tenants not being provided a copy of the Landlord Tenant Code as required by the 2002 Order. Tenants also lived through, among other things, water damage and leaks, mold and mildew, unkept common areas, rodents, roaches, and other pests, unsafe fire escapes, heating that did not work properly, damaged floors, walls, ceilings, windows, and doors, problems with their electric, lighting, and plumbing, and unannounced entry by Pokorny into their apartments.

**D. Pokorny's Neglect Resulted In The Wall Collapse At The Properties**

29. On May 15, 2022, a tenant followed a cat into a brick-walled breezeway that runs underneath one of the Properties' buildings and provides access to the rear of the Property. The tenant saw that one of the walls and a portion of the breezeway's ceiling had collapsed and that there was a pile of bricks on the ground. A series of wooden boards or posts lay among the bricks and several wires were tangled within.

In the wall, a jagged hole was apparent. The tenant posted a video of the collapsed wall to Facebook and TikTok. An employee of L&I became aware of the video. Upon viewing it, they became concerned for the structural integrity of the Properties and the safety of its occupants and routed the matter to their supervisor.

30. L&I's Starkey, Ramos-Velazquez, and a housing inspector visited the Properties that evening to inspect the wall collapse. As a result of that inspection, L&I ordered Pokorny to shore up the wall or evacuate the building by 10:00 p.m. that evening. Pokorny did so by putting four-by-fours in place and using plywood to block access to the alleyway, but L&I remained concerned about the Properties' structural integrity and planned a more detailed inspection.

**E. L&I Performed A Top-To-Bottom Inspection Of The Properties On May 16, 2023**

31. The next day, May 16, 2022, a team consisting of Ramos-Velazquez, six L&I inspectors, and Larsen & Landis conducted a top-to-bottom inspection of the Properties. Ramos-Velazquez, the Building Inspectors, and Larsen & Landis spent two hours and looked at each basement, examining everything from the structural floor systems and joist columns to the general condition of the basements, the masonry walls, and the appliances. Simultaneously, the Housing Inspectors performed a unit-by-unit review of the apartments.

**(i). The Inspection Of The Building's Structure**

32. Larsen & Landis determined that the envelope of the buildings was likely compromised. ("Envelope" refers to the materials protecting a building's structural elements from the weather.) The firm also identified problems with the buildings' structural elements, such as holes in the load-bearing brick walls, unsupported joists with deterioration around the weight-bearing elements, and vertical deflection in the exterior brick walls, which appeared to be load-bearing. In Larsen & Landis' experience, the state of the observable conditions suggested similar conditions existed throughout the buildings. Larsen & Landis determined it was unsafe for individuals to remain in the buildings and relayed this conclusion to L&I.

33. L&I's Building Inspectors concurred with the findings made by Larsen & Landis, including the determination that it was unsafe for individuals to remain in the buildings.

**(ii). The Inspection Of Individual Apartments**

34. While Larsen & Landis and the Building Inspectors reviewed the basements, the Housing Inspectors engaged in an apartment-by-apartment inspection of 23 apartments in buildings 808, 810, 812, 814, 816, 818, and 820. Pokorny or Handyman was present for portions of these inspections, and the Housing Inspectors pointed out some violations as they identified them.



35. Across the 23 apartments, the L&I documented 364 violations of the Wilmington Code. The issues underlying these violations confirmed the lived experiences of the tenants and include, but are not limited to, water damage and leaks, mold and mildew, unkept common areas, rodents, roaches, and other pests, unsafe fire escapes, damaged floors, walls, ceilings, windows, and doors, and problems with the electric, lighting, and plumbing.

**(iii). L&I Condemns The Properties**

36. On May 16, 2022, and as a result of the inspections, L&I Commissioner Starkey ordered an immediate condemnation of the Properties, requiring the tenants to evacuate by 5:00 p.m. Such an “immediate condemnation” requires tenants to evacuate the building at once. L&I placed placards on the door to each building to identify them as condemned and unfit for human habitation.

37. At approximately 1:30 p.m., Ramos-Velazquez verbally relayed the condemnation order to Pokorny. She explained the condemnation order was the result of the structural deficiencies Larsen & Landis had identified, the continuous open penetration of the buildings’ envelopes, the water penetration throughout the buildings, and the electrical, plumbing, and mechanical problems with the buildings. She emphasized to Pokorny that he would need a structural engineer to effect repairs on the Properties and that patchwork by Handyman would be insufficient.

38. Ramos-Velazquez orally relayed that the buildings needed to be evacuated that afternoon. She told Pokorny that he must inform all his tenants of that condemnation, including calling those who were not currently home. Contrary to Ramos Velazquez's instructions, Pokorny told several tenants that although the Properties had been condemned they could stay at their own risk. Ramos-Velazquez became aware of Pokorny saying this to at least one tenant and then reiterated that the tenants could not stay there.

**(iv). L&I Documents Its Findings.**

39. L&I then compiled twenty-three violation notices, one for each inspected apartment (collectively, the "Notices" and each a "Notice"). Those Notices were official documents that listed in graph format the violations L&I identified during the inspection, the relevant Wilmington Code provision, the time period to rectify the violation, whether there is a complainant, the date of compliance, and the violation's location within the apartment. The Notices included pictures supporting many of the violations.

40. In addition to the specific code violations discussed above, each Notice included the three following violations based on the structural deficiencies and resulting condemnation order:

- a. Leasing an apartment unfit for human habitation;
- b. Leasing a condemned apartment; and
- c. Leasing an unsafe structure.

41. In total, across the twenty-three Notices, L&I documented three hundred and sixty-four violations, with one inspector subsequently noting that he had never before written so many violations in a single day.<sup>1</sup> The Notices, along with a report on the Properties prepared by Larsen & Landis, were delivered to Pokorny on May 17, 2022.

**F. Pokorny Knew Or Should Have Known Of The Severity Of The Issues Identified During The Inspections.**

42. Pokorny was aware of the structural deterioration of the Properties. He was, in his own words, at the Properties every day and inspected every apartment before it was rented and took direct responsibility for maintenance and repair work at the Properties. Pokorny's frequent presence at the Properties meant that he must have seen their visible and extensive structural deficiencies. Moreover, inadequate repairs were made within the Properties, suggesting that Pokorny knew of and attempted but failed to remedy those issues. In other instances, Pokorny appears to have caused—and thus must have known about—structural issues such as portions of a load-bearing brick wall that were removed to make way for pipework. Further, as a landlord for nearly 50 years and owner of the Properties approximately 40 years, Pokorny cannot reasonably contend he was unaware of the Properties' structural state. Given Pokorny's direct responsibility for the Properties and role in directing

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<sup>1</sup> Only two hundred and thirteen of the violations identified in the May 17 Report form the basis of any count within this complaint.

all repairs, the obviousness of the issues identified during the May 16<sup>th</sup> inspection, Pokorny's continuous ownership of the Properties, his daily presence at the Properties, and his long history in the industry, Pokorny either knew or should have known about the structural conditions of his properties and the danger they represented.

**G. The Immediate Condemnation Of The Properties Created A Crisis.**

43. Pokorny's years of neglect, combined with his misrepresentation of both the quality of his repairs and whether he would perform repairs at all, led to the May 16 condemnation of the Properties, which upended lives and placed the now-evacuated tenants at yet further risk. Upon hearing news of the condemnation, tenants, including children, disabled persons, and seniors, faced the fact that they no longer had a home. They were confronted with urgent questions, such as where their children would sleep at night, where would they store their food, where would their pets stay, where would they store their clothes, and what would happen to their appliances. Answers to these questions were often not easily found, since most tenants had limited means and did not have resources to find another affordable apartment upon a moment's notice, rent a storage locker, or reserve a hotel room. And worse, given the high crime rates in the area—fostered in part by Pokorny himself—tenants reasonably feared that anything left in the apartments would be stolen.

44. Tenants asked Pokorny for help. Rather than helping to mitigate the situation that he caused, Pokorny furthered his deception and risked additional harm to the tenants. He told them that L&I was out to get him. In knowing violation of the condemnation order and common sense, he encouraged tenants to go back and live in the apartments, telling them to do it quietly so that nobody would notice. Some of Pokorny's statements were outright lies, including his claim that no tenants had complained to him of any problems and that there had been no fires or electrical problems at the Properties.

## **VI. CAUSES OF ACTION**

### **Count I – Violations Of The 2002 Order**

45. The State incorporates the preceding paragraphs as if fully restated herein.

46. At all relevant times, Pokorny was subject to the 2002 Order and the obligations it imposed on him and the prohibitions it placed on him.

47. In part, the 2002 Order obligated Pokorny to:

- a. Comply with all state and local laws and regulations governing the rental units.
- b. Lease units that do not endanger the health, welfare, or safety of his tenants.

- c. Provide units that are fit for the express purpose for which they are rented.
- d. Keep all common areas clean and well maintained.
- e. Maintain units in as good a condition as they were or should have been at the start of each tenant's residency.
- f. Maintain the electrical, plumbing, and other facilities of his rented units in working order.
- g. Provide a summary of the Landlord Tenant Code to tenants when moving into his units.
- h. Refrain from representing that his units were habitable and in conformity with applicable laws when they were not.
- i. Refrain from leasing properties that are uninhabitable or that contain dangerous or unsafe conditions and failing to disclose those conditions.

48. Defendants violated the above provisions of the 2002 Order by:

- a. Violating the Wilmington Code (as discussed in Count IV *infra*) and the Landlord Tenant Code (as discussed in Count IV *infra*) in connection with the lease of units at the Properties.
- b. Leasing apartments at the Properties that endangered the health, welfare, or safety of the tenants, as evidenced by issues common

to all the units, such as the structural issues with the buildings and Defendants' failure to lock the doors of the buildings.

- c. Maintaining the apartments in a manner unfit for the purpose for which they were expressly rented, due to the problems common to all units and unique to the units.
- d. Failing to keep both the exterior and interior common areas of the Properties clean and well maintained.
- e. Failing to make repairs, making inadequate repairs, or requiring tenants to force him to make repairs by doing such things as withholding rent or calling L&I.
- f. Failing to maintain the electrical, plumbing, and other facilities of his rented units in working order.
- g. Failing to provide a summary of the Landlord Tenant Code to many of the tenants at the time they moved into their apartments in the Properties.
- h. Representing that his units were habitable and in conformity with applicable laws when they were not.
- i. Leasing properties that are uninhabitable or that contained dangerous or unsafe conditions and failing to disclose those conditions.

49. Each instance where Defendants violated a provision of the 2002 Order is a separate violation of the 2002 Order.

50. Defendants knew or should have known that the conduct was of the nature prohibited by the 2002 order.

### **Count II – Violations Of The Consumer Fraud Act (Omissions)**

51. The State incorporates by reference the preceding paragraphs as if fully restated herein.

52. The Consumer Fraud Act makes any omission of any material fact with the intent that others rely upon such omission in connection with the sale, lease, receipt, or advertisement of merchandise, regardless of whether or not any person has in fact been misled, deceived, or damaged thereby, an unlawful practice.

53. Merchandise under the Consumer Fraud Act includes real estate.

54. In leasing units at the Properties, Defendants omitted material facts, with the intent that consumers will rely thereon. Defendants failed to disclose issues with the apartments, such as water infiltration and its consequences, that Defendants did not properly or adequately maintain the Properties' units, and the state of disrepair the Properties were in.

55. Each of these facts was material to tenants in connection with their decision whether to lease an apartment in the Properties. Defendants intended the



tenants to rely on these omissions so as to induce them to sign the lease for the apartments.

56. Because Defendants omitted material facts in connection with the tenants' lease and receipt of merchandise and because they intended for the tenants to rely on that omission, they violated the Consumer Fraud Act.

57. Each omission of material fact to each consumer with the intent that the consumer would rely thereon constitutes a separate violation of § 2513(a) of the Delaware Consumer Fraud Act.

58. Defendants knew or should have known that the conduct was of the nature prohibited by 6 *Del. C.* § 2511, *et. seq.*

### **Count III – Violations Of The Consumer Fraud Act (Misrepresentation)**

59. The State incorporates by reference the preceding paragraphs as if fully restated herein.

60. The Consumer Fraud Act makes any act, use, or employment of a misrepresentation in connection with the sale, lease, receipt, or advertisement of merchandise, regardless of whether or not any person has in fact been misled, deceived, or damaged thereby an unlawful practice.

61. Merchandise under the Consumer Fraud Act includes real estate.

62. In leasing units at the Properties, Pokorny, acting on behalf of Defendants, made misrepresentations by telling tenants that he would fix or have

fixed the issues with their apartments that they brought to his attention and failing to fix such issues.

63. In connection with leasing units at the Properties and the tenants' ongoing receipt of real estate and associated services promised in their lease by Defendants, Pokorny, acting on behalf of Defendants, misrepresented the nature and meaning of the condemnation and whether tenants could sneak back into their apartments and live in them once officials left the scene.

64. Because Defendants made misrepresentations in connection with the tenants' lease and receipt of merchandise, they violated the Consumer Fraud Act.

65. Each misrepresentation constitutes a separate violation of § 2513(a) of the Delaware Consumer Fraud Act.

66. Defendants knew or should have known that the conduct was of the nature prohibited by 6 *Del. C.* § 2511, *et. seq.*

#### **Count IV – Violations Of The Consumer Fraud Act (Unfairness)**

67. The State incorporates by reference the preceding paragraphs as if fully restated herein.

68. The Consumer Fraud Act makes any act, use, or employment of an unfair practice in connection with the sale, lease, receipt, or advertisement of merchandise, regardless of whether or not any person has in fact been misled, deceived, or damaged thereby an unlawful practice.

69. Merchandise under the Consumer Fraud Act includes real estate.

70. An unfair practice under the CFA is any act or practice that causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition. In determining whether an act or practice is unfair, violations of public policy as established by law, regulation, or judicial decision applicable in Delaware may be considered as evidence of substantial injury.

71. In leasing units at the Properties, Defendants' violations of relevant state and local laws establish the substantial injury suffered by consumers. For example, L&I's housing inspectors determined that Defendants violated the Wilmington Code 364 times related to the conditions of the individual units. Defendants also violated all of the following provisions of the Delaware Landlord Tenant Code:

- a. "[P]ut the tenant into full possession [of the unit]." 25 *Del. C.* § 5303.
- b. "Comply with all applicable provisions of any state or local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the rental unit and the property of which it is a part." 25 *Del. C.* § 5305(a)(1).

- c. “Provide a rental unit that [does] not endanger the health, welfare or safety of the tenants or occupants and which is fit for the purpose for which it is expressly rented.” 25 *Del. C.* § 5305(a)(2).
- d. “Keep in a clean and sanitary condition all common areas of the buildings, grounds, facilities and appurtenances thereto which are maintained by the landlord.” 25 *Del. C.* § 5305(a)(3).
- e. “Make all repairs and arrangements necessary to put and keep the rental unit and the appurtenances thereto in as good a condition as they were, or ought by law or agreement to have been, at the commencement of the tenancy.” 25 *Del. C.* § 5305(a)(4).
- f. “Maintain all electrical, plumbing and other facilities supplied by the landlord in good working order.” 25 *Del. C.* § 5305(a)(5).
- g. If the rental agreement provides for it, “[s]upply or cause to be supplied, water, hot water, heat and electricity to the rental unit.” 25 *Del. C.* § 5305(b)(2).

72. Defendants’ violations of the above provisions constitute evidence of the substantial injury caused to consumers.

73. Independent of whether such acts violate the Landlord Tenant Code, Defendants engaged in unfair practices through the following:

- a. Not placing tenants in full possession of their units;
- b. Failing to keep the common areas clean and sanitary;
- c. Failing to make necessary repairs to the units; and
- d. Providing units that were unsafe and not fit to be rented.

Each of these caused substantial injury to the tenants.

74. The injuries evidenced by these statutory violations were not reasonably avoidable by the tenants. Tenants had limited access to areas of the building other than their apartment. Many of the problems were structural and systemic in nature such that they were not remediable by any individual tenant. Tenants did not, nor should they be expected to have, knowledge and financial ability to care for a large tenement building. Tenants had limited ability avoid the injuries evidenced by these violations due to an absence of funds sufficient to simply leave the properties. In light of the lack of ability to avoid such injuries, it was not reasonable for a tenant to choose homelessness in order to avoid renting an apartment that caused the substantial injury.

75. Defendants' behavior provided no countervailing benefits to the tenants or to competition.

76. Because Defendants engaged in unfair practices in connection with the tenants' lease and receipt of merchandise, they violated the Consumer Fraud Act.

77. Each unfair practice constitutes a separate violation of § 2513(a) of the Delaware Consumer Fraud Act.

78. Defendants knew or should have known that the conduct was of the nature prohibited by 6 *Del. C.* § 2511, *et. seq.*

**Count V – Violations Of The Deceptive Trade Practices Act (Representing That Services Have Characteristics They Do Not Have)**

79. The State incorporates by reference the preceding paragraphs as if fully restated herein.

80. While the Delaware Deceptive Trade Practice Act’s scope does not include real estate, it nonetheless extends to businesses related to real estate that provide goods or services, as well as services offered in connection with the sale or lease of real estate.

81. Defendants operated a business related to real estate that provided services. Specifically, as a landlord, Pokorny was in the business of providing real estate to tenants through the lease of the Properties entered into by the Defendants and tenants. And, as a landlord, Pokorny provided services related to that real estate. Namely, Pokorny provided maintenance and repair services on behalf of the Defendants to the units of the Properties.

82. The DTPA prohibits a provider of services such as each of the Defendants from “[r]epresenting that . . . services have . . . characteristics . . . that they do not have.” 6 *Del. C.* § 2532(a)(5).I

83. By renting out the units of the Properties, Defendants necessarily represented that the maintenance and repair services Pokorny provided to the Properties had the characteristic of rendering the units safe and habitable. As detailed above, Pokorny's maintenance and repair services were wholly insufficient to keep the units in a condition that was safe and habitable.

84. Accordingly, Defendants violated § 2532(a)(5) of the Deceptive Trade Practices Act as to each of the tenants in the Properties.

85. Defendants knew or should have known that the conduct was of the nature prohibited by 6 *Del. C.* § 2531, *et. seq.*

**Count VI – Violations Of The Deceptive Trade Practices Act (Representing That Services Have A Particular Standard, Quality, Or Grade)**

86. The State incorporates by reference the preceding paragraphs as if fully restated herein.

87. While the Delaware Deceptive Trade Practice Act's scope does not include real estate, it nonetheless extends to businesses related to real estate that provide goods or services, as well as services offered in connection with the sale or lease of real estate.

88. Defendants operated a business related to real estate that provided services. Specifically, as a landlord, Pokorny was in the business of providing real estate to tenants through the lease of the Properties entered into by the Defendants and tenants. And, as a landlord, Pokorny provided services related to that real estate.

Namely, Pokorny provided maintenance and repair services on behalf of the Defendants to the units of the Properties.

89. The DTPA prohibits a provider of services such as each of the Defendants from “[r]epresent[ing] that. . . services are of a particular standard, quality, or grade . . ., if they are of another.” 6 *Del. C.* § 2532(a)(7).

90. By renting out the units of the Properties, Defendants necessarily represented that the maintenance and repair services Pokorny provided to the Properties met standards sufficient to render the units safe and habitable. As detailed above, Pokorny’s maintenance and repair services were wholly insufficient to keep the units in a condition that was safe and habitable.

91. Accordingly, Defendants violated § 2532(a)(7) of the Deceptive Trade Practices Act as to each of the tenants in the Properties.

92. Defendants knew or should have known that the conduct was of the nature prohibited by 6 *Del. C.* § 2531, *et. seq.*

**Count VII – Violations Of The Deceptive Trade Practices Act (Conduct That Creates Confusion Or Misunderstanding)**

93. The State incorporates by reference the preceding paragraphs as if fully restated herein.

94. While the Delaware Deceptive Trade Practice Act’s scope does not include real estate, it nonetheless extends to businesses related to real estate that



provide goods or services, as well as services offered in connection with the sale or lease of real estate.

95. Defendants operated a business related to real estate that provided services. Specifically, as a landlord, Pokorny was in the business of providing real estate to tenants through the lease of the Properties entered into by the Defendants and tenants. And, as a landlord, Pokorny provided services related to that real estate. Namely, Pokorny provided maintenance and repair services on behalf of the Defendants to the units of the Properties.

96. The DTPA prohibits a provider of services such as each of the Defendants from engaging in any other “conduct which similarly creates a likelihood of confusion or of misunderstanding.” 6 *Del. C.* § 2532(a)(12).

97. By renting out the units of the Properties and performing partial, inadequate repairs on the Properties, Defendants engaged in conduct that was likely to cause confusion or misunderstanding. Namely, Pokorny’s conduct created confusion about how well he maintained the Properties. That confusion was even more likely regarding the basements, which the tenants could not access and which Pokorny kept in extremely poor condition.

98. By engaging in conduct likely to cause confusion regarding the services they provided, Defendants violated § 2532(a)(12) of the Deceptive Trade Practices Act as to each of the tenants in the Properties.

99. Defendants knew or should have known that the conduct was of the nature prohibited by 6 *Del. C.* § 2531, *et. seq.*

## **VII. PRAYER FOR RELIEF**

WHEREFORE, the State respectfully requests that the Court grant the following relief:

- A. Enter judgment in favor of the State and against each Defendant on each count;
- B. Entry of a permanent injunction prohibiting Defendants, Defendants' officers, agents, servants, employees, and attorneys, and any other person in active concert or participation with any or all Defendants, from engaging in any false, misleading, or deceptive act or practice in violation of the 2002 Order, the Consumer Fraud Act, or the Uniform Deceptive Trade Practices Act
- C. Order that Defendants pay an enhanced civil penalty of \$25,000.00 for each violation of the 2002 Order;
- D. Order that Defendants pay a civil penalty of \$10,000.00 for each violation of the Consumer Fraud Act;
- E. Order that Defendants pay a civil penalty of \$10,000.00 for each violation of the Deceptive Trade Practices Act;

F. Order that Defendants pay an additional civil penalty of \$10,000.00, pursuant to 6 *Del. C.* § 2581(a), for each violation of the Consumer Fraud Act and the Deceptive Trade Practices Act committed against an elderly person or a person with a disability;

G. Order Defendants to pay compensatory damages to each tenant of the Properties, including treble damages pursuant to 6 *Del. C.* § 2533(c);

H. Order that Defendants pay attorneys' fees for the prosecution of this action;

I. Order that Defendants pay pre- and post-judgment interest at the current legal rate; and

J. Entry of an order awarding such other and further relief as the Court may deem just, proper, and equitable.

Dated: December 3, 2024

Respectfully submitted,

STATE OF DELAWARE  
DEPARTMENT OF JUSTICE

*/s/ Jordan A. Braunsberg* \_\_\_\_\_  
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