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7 **TIMOTHY W. FITZGERALD**

8 **SPOKANE COUNTY CLERK**

9

10 **IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON**

11 **IN AND FOR THE COUNTY OF SPOKANE**

12 THOMAS SILVER, an individual and all)
13 those similarly situated,)
14 Plaintiff,) Case No.: 17-2-03103-2
15 vs.)
16 RUDEEN MANAGEMENT COMPANY,) **ORDER GRANTING CLASS**
17 INC., a Washington corporation,) **CERTIFICATION**
18 Defendant.)
19)
20)
21)
22)
23)
24)
25)

17 Plaintiff Thomas Silver filed a Motion for Class Certification ("Motion") which was
18 heard by this Court with oral argument on May 19, 2023. This Court, having reviewed the
19 Motion, supporting documents, all previous pleadings on file, and after considering oral
20 argument from both parties, hereby ORDERS, ADJUDGES AND DECREES as follows:

21 **A. The Certified Class:**

22 Pursuant to CR 23(a) and (b)(3), the Court, certifies the following Class:

23 (1) All persons who rented properties owned or managed by Rudeen in the state of
24 Washington;

1 (2) Who paid a damage and/or security deposit at, or any time after, the
2 commencement of their tenancy;

3 (3) Who, within the three (3) years prior to the filing of this lawsuit (August 10,
4 2014), vacated or abandoned the property through the date this Court certified the
5 class (May 19, 2023);

6 (4) Where, at the time of move-out or abandonment, Rudeen was a landlord, pursuant
7 to RCW 59.18.030(16) of subject property;

8 (5) Where, fifteen (15) or more days following termination of the rental agreement
9 and vacation of the premises or, if the tenant abandoned the premises, fifteen (15) or
10 more days after Rudeen learned of the abandonment, Rudeen withheld all, or any
11 portion, of the deposit; and/or

12 (6) Where, within fourteen (14) days following termination of the rental agreement
13 and vacation of the premises or, if the tenant abandoned the premises, within fourteen
14 (14) days after Rudeen learned of the abandonment, the former tenant was not sent a
15 full and specific statement of the basis for retaining the deposit, or a portion thereof;
16 or
17 (7) In circumstances arising after the term specified in RCW 59.18.280 was amended
18 (June 6, 2016) from fourteen (14) days to twenty-one (21) days, then where, within
19 twenty-two (22) days following termination of the rental agreement and vacation of
20 the premises or, if the tenant abandoned the premises, twenty-two (22) or more days
21 after Rudeen learned of the abandonment, Rudeen withheld all, or any portion, of the
22 deposit; and/or

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1 (8) Where, within twenty-one (21) days following termination of the rental agreement
2 and vacation of the premises or, if the tenant abandoned the premises, within twenty-
3 one (21) days after Rudeen learned of the abandonment, the former tenant was not
4 sent a full and specific statement of the basis for retaining the deposit, or a portion
5 thereof.

6
7 The Class does not include any persons who timely and validly request exclusion from
8 the Class, nor Defendant Rudeen, nor any person or entity that has a controlling interest in
9 Defendant Rudeen, Defendant Rudeen's current or former directors and officers, as well as the
10 parties' counsel and their immediate families, and the presiding Court.

11 **B. Additional Findings:**

12 In connection with granting certification, the Court makes the following findings:

- 13 1. The Class satisfies CR 23(a)(1) because the Class of more than 250 former
tenants is so numerous that joinder of all members is impracticable;
- 14 2. The Class satisfies CR 23(a)(2) because there are questions of law or fact
common to the Class, including but not limited to: 1) Whether Defendant Rudeen
violated RCW 59.18.280 by failing to send full, final, and specific deposit
disposition statements and/or refunds due to its former tenants within RCW
59.18.280's statutory deadlines. Liability for the alleged violations will be
determined at a later date.
- 15 3. The Class satisfies CR 23(a)(3) because the claims of the Class Representative
Plaintiff, Mr. Silver, are typical of the claims of the other Class Members. His
claims arise from the same course of conduct as the claims of the Class
(Defendant Rudeen's failure to send full, final, and specific deposit disposition
statements and/or refunds due to its former tenants within RCW 59.18.280's
statutory deadlines) and relies on the same legal theories. In addition, there is no
significant variation of fact pattern between the individuals in these claims, other

1 than possibly the amount of former tenants' deposits, which will be determined
2 through future discovery.

3 4. The Class satisfies CR 23(a)(4) because the Court finds that Mr. Silver is capable
4 of fairly and adequately protecting the interests of the above-described Class and
5 will continue to vigorously pursue this litigation and the rights of the class, and
6 because his counsel, Kirk D. Miller and Shayne J. Sutherland ("Class Counsel")
7 representing the Class are qualified, competent, and capable of prosecuting this
8 action on behalf of the Class. Neither Mr. Silver nor his Counsel have a conflict in
9 representing this matter as a class action.

10 5. The Class satisfies the requirements of CR 23(b)(3) because the common
11 questions of law and fact, including but not limited to Defendant Rudeen's
12 alleged violation of RCW 59.18.280 predominate over any questions that may
13 affect individual Class Members and also because a class action is a superior
14 litigation method to other available methods to fairly and efficiently resolve the
15 small dollar claims of the Class which contains at least over 250 Members. The
16 Class is also sufficiently cohesive to warrant settlement by representation.

17 6. **Plaintiff.** The Court hereby appoints Plaintiff Thomas Silver as the Class
18 Representative Plaintiff pursuant to CR 23 and finds that Mr. Silver has and will
19 continue to fairly, and adequately protect the interests of the Class.

20 7. **Class Counsel.** The Court appoints Kirk D. Miller of Kirk D. Miller, P.S., and
21 Shayne J. Sutherland of Cameron Sutherland, PLLC as counsel for the Class
22 ("Class Counsel"). The Court finds that Class Counsel are qualified, competent,
23 and capable of exercising their responsibilities as Class Counsel.

24 **C. Dates of Future Performance:**

25 1. For the orderly and timely administration of this matter going forward, the Court
establishes the following dates of performance:

Rudeen

(a) Defendant ~~Coast~~ shall provide names and contact information of the Class Members to Class Counsel within thirty (30) days of this Order;

(b) If the parties cannot agree on the form of Class Notice to be sent to Class Members and/or the appointment of a Class Administrator, a hearing on the form of the Class Notice and appointment of a Class Administrator shall be held on 8/25/2023, ^{at 1:30 pm} i.e., approximately sixty (60) days after entry of this Order:

(c) The Approved Class Notice shall be sent to Class Members on or before 9/29/2023 at 8:30 a.m., i.e., no later than ninety (90) days after entry of this Order; and

2. This Court also determines that _____ (Plaintiff Silver/Defendant Coast) will be responsible for the costs associated with providing Class Notice to the Class Members.

IT IS SO ORDERED.

ENTERED: June 9, 2023



HONORABLE JOHN O. COONEY

Presented by:

KIRK D. MILLER, P.S.
Attorney for Plaintiff


Kirk D. Miller, WSBA #40025
421 W. Riverside Avenue, Ste. 660
Spokane, WA 99201
Attorney for Plaintiff and Class

CAMERON SUTHERLAND, PLLC

Shayne J. Sutherland, WSBA #44593
421 W. Riverside Avenue, Ste. 660
Spokane, WA 99201
Attorney for Plaintiff and Class

Present in Court and appearing for Defendant:

[PROPOSED] ORDER GRANTING CLASS CERTIFICATION - 5

Kirk D. Miller, P.S.
421 W. Riverside Ave., Suite 660
Spokane WA 99201
(509) 413-1494

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2 TIMOTHY W. DURKOP, ESQ.
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4 *Not present*
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TIMOTHY W. Durkop, WSBA #22985
Attorney for Defendant Rudeen Management Company, Inc.

[PROPOSED] ORDER GRANTING CLASS
CERTIFICATION – 6

Kirk D. Miller, P.S.
421 W. Riverside Ave., Suite 660
Spokane WA 99201
(509) 413-1494