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15 Attorneys for Plaintiffs

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

19 JILL MILLER, et al.,
20 Plaintiffs,
21 v.
22 MARK STEVEN SCHMIDT, et al.,
23 Defendants.

CASE NO. 37-2015-00017514-CU-FR-CTL

Judge: Hon. Kenneth J. Medel
Dept: C-66

NOTICE OF ENTRY OF ORDERS

1 TO ALL PARTIES HEREIN AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on July 13, 2018, the Preliminary Approval Order, the
3 Stipulation and Order RE Incentives Award Request, and the Stipulation and Order
4 Approving Revised Class Notice were GRANTED and the following dates calendared:
5

6 Motion for Final Approval to be filed and served by 10/26/2018

7 Opposition to Motion for Final Approval to be filed and served by
8 11/10/2018

9 Reply to Opposition for Final Approval to be filed and served by
10 11/30/2018

11 Final Approval Hearing on 12/7/2018 in Dept 66

12 The Orders are attached hereto.

13
14 Dated: July 17, 2018

CASEY GERRY SCHENK
FRANCAVILLA BLATT & PENFIELD, LLP

15
16 By: 

JEREMY ROBINSON
Attorneys for Plaintiffs

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FILED
Clerk of the Superior Court

JUL 13 2018

By: G. Mendoza, Clerk

7 Attorney for Plaintiffs Jill Miller, Paul Miller,
8 Georgina Gephardt, Benjamin Richter and all others similarly-situated

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO, CENTRAL**

11 JILL MILLER, PAUL MILLER,
12 BENJAMIN RICHTER, GEORGIA
13 GEBHARDT and ROES 1 through 100,
14 individually, and on behalf of all others
15 similarly situated,

Case No. 37-2015-00017514-CU-FR-CTL

~~PROPOSED~~ PRELIMINARY
APPROVAL ORDER

16 Plaintiffs,
17 v.

[Assigned for All Purposes to Judge Kenneth J.
Medel, Dept. C-66]

18 MARK STEVEN SCHMIDT, an individual;
19 MARK S. SCHMIDT, AS TRUSTEE OF
20 MARK S. SCHMIDT TRUST UDT 2/5/92;
21 WILLMARK COMMUNITIES, INC., a
22 California Corporation; ALPINE
23 CREEKSIDE, INC. a California
24 Corporation; ALPINE WOODS, INC., a
25 California Corporation; ALPINE WOODS
26 APARTMENTS, INC. a Delaware
27 Corporation; LA JOLLA NOBEL, L.P., a
28 California Limited Partnership; LA JOLLA
NOBEL I, INC., a California Corporation;
MS NORTH PARK PROPERTIES, INC., a
California Corporation; RANCHO
HILLSIDE, INC., a California
Corporation; PROMINENCE WILLMARK
COMMUNITIES, INC., a California
Corporation; PAVLOV, INC., a California
Corporation; PAVLOV, INC., a Delaware
Corporation; SHADOWRIDGE, INC., a
California Corporation; SHADOWRIDGE
PARK, INC., a Delaware Corporation;
SM PROMINENCE, INC., a California
Corporation; WILLMARK COMMUNITIES
UTC FINANCE 1, INC., a Delaware
Corporation; WILLMARK COMMUNITIES
UTC FINANCE 1, INC., a California
Corporation; and DOES 6 through 100,
inclusive.

Complaint Filed: 05/26/15
Trial Date: None

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Defendants.

ALPINE WOODS APARTMENTS, INC.,
ALPINE CREEKSID, INC., LA JOLLA
NOBEL I, INC., MS NORTH PARK
PROPERTIES, INC., RANCHO HILLSIDE,
INC., SM PROMINENCE, INC.,
PROMINENCE WILLMARK
COMMUNITIES, INC., SHADOWRIDGE,
INC., PAVLOV, INC., and WILLMARK
COMMUNITIES UTC FINANCE 1, INC.

Cross-Complainants,

v.

JILL MILLER and PAUL MILLER,

Cross-Defendants.

1 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, which included a
2 request for provisional certification of the proposed Settlement Class, approval of the form and
3 manner of Class Notice, approval of the procedures and deadlines for asserting objections to or
4 requesting exclusion, and a Final Approval Hearing, was filed with the Court on DATE and came
5 on hearing on DATE. The Court has considered the Parties' Settlement Agreement and Release
6 ("Agreement") and supporting Exhibits, the unopposed Motion for Preliminary Approval of Class
7 Action Settlement, as well as the Memorandum of Points and Authorities and declarations filed in
8 support thereof.

9 **IT IS HEREBY ORDERED THAT:**

- 10 1. This Order incorporates by reference the definitions in the Agreement.
- 11 2. The Court hereby preliminarily approves the Agreement. The Court preliminarily
12 finds the proposed settlement, including the distribution formula described in Plaintiffs' motion
13 for determining settlement payments to Class Members, is fair, reasonable, and adequate. The
14 Court further finds that the settlement has been reached through arm's length, non-collusive
15 bargaining.

16 3. Pursuant to Code of Civil Procedure section 382, the following Settlement Class is
17 provisionally certified for settlement purposes only:

18 All persons who were identified as a lessee, co-lessee or signer on a lease agreement or
19 Final Account Statement at any Willmark Property and (i) moved out of his, her or their
20 rental unit on any date from May 26, 2011 through and including June 30, 2016; or (ii)
21 received a Final Account Statement pertaining to a tenancy at a Willmark Property that
22 terminated on any date from May 26, 2011 through and including June 30, 2016.¹

23 The following are excluded from the Settlement Class: (i) the judge assigned to this case
24 and his staff; (ii) Defendants; and (iii) Defendants' affiliates and employees.

25 _____

26 ¹ As defined in the Agreement, the term "Willmark Property" means any apartment building at any
27 of the following communities: Alpine Woods Apartments, Creekside Meadows Apartments, La
28 Jolla Nobel Apartments, North Park Apartments, Rancho Hillside Apartments, Prominence
Apartments, Shadowridge Apartments, and La Jolla Del Rey/Town Park Villas. "Willmark
Properties" means all of the above-referenced communities.

1 4. The Settlement Class meets all requirements of Code of Civil Procedure 382, for
2 purposes of settlement of the Action only, including: (a) numerosity; (b) commonality; (c)
3 typicality; (d) adequacy of the Representative Plaintiffs and Class Counsel; (e) predominance of
4 common questions of fact and law; and (f) superiority.

5 5. Plaintiffs Jill Miller, Paul Miller, Georgia Gephardt, and Benjamin Richter are
6 appointed as the Settlement Class Representatives, and their counsel, the Law Offices of Jimmie
7 Davis Parker, the Law Offices of Leonard B. Simon P.C., Casey, Gerry Schenk Francavilla Blatt
8 & Penfield LLP, and Phillips Erlewine and Given are appointed Class Counsel for the Settlement
9 Class.

10 6. A Final Approval Hearing shall be held on 12/7/2018
~~10/26/20~~
11 in Department 66 of San Diego Superior Court, located at 330 West Broadway, San Diego,
12 CA 92101, to determine all necessary matters concerning the Agreement, including whether the
13 proposed settlement of the action on the terms and conditions provided for in the Agreement is
14 fair, adequate, and reasonable and should be finally approved by the Court. The motion for final
15 approval shall be filed and served by 10/26. Any opposition briefing filed and served by
16 11/10 and reply briefing filed and served by 11/30. The Court may continue the Final
17 Approval Hearing without further notice to the Settlement Class except through posting on the
18 Administrator's website.

19 7. The Court appoints Gilardi & Co., LLC as the third party settlement administrator
20 ("Administrator"). The costs of settlement administration and Class Notice, including reasonable
21 costs incurred to identify Class Members, shall be paid as set forth in the Agreement.

22 8. The Court hereby approves, as to form and content, the Class Notice attached as
23 Exhibit 1 to the Agreement. The Administrator is directed to provide Class Notice through the
24 mail, publication and website notice procedures set forth in the Agreement. The Court finds that
25 distribution of Class Notice to the Settlement Class Members in the manner and form set forth in
26 the Agreement and this Order meets the requirements of California law, including California Rule
27 of Court 3.769(c), complies with due process, and shall constitute due and sufficient notice to all
28 parties entitled thereto.

1 9. Within 20 calendar days of entry of this Order, or within 30 days of receipt of the
2 information required by Section 4.1 of the Agreement, whichever is later, Class Counsel shall
3 provide the Administrator with a spreadsheet listing each Class Member's last known address to
4 the extent provided by Defendants in accordance with the Agreement.

5 10. Within 60 calendar days of the Preliminary Approval Date, the Administrator shall
6 mail the approved Class Notice and Claim Form to the Settlement Class. Within 7 calendar days
7 of completion of the mailing of the Class Notice and Claim Form, the Administrator shall also
8 arrange for publication of a summary of the content of the Class Notice in accordance with the
9 notice plan submitted with Plaintiffs' Motion for Preliminary Approval, which plan is hereby
10 approved. Within 7 calendar days of completion of the mailing of the Class Notice and Claim
11 Form, the Administrator shall also post the Class Notice on the settlement website established by
12 the Administrator.

13 11. Eligible Class Members must submit a Claim Form as provided in the Agreement
14 and Class Notice in order to recover money under the Agreement. Claim Forms must be
15 postmarked or submitted on line by the Claim Bar Deadline.

16 12. Any member of the Settlement Class may request to be excluded from the
17 Settlement Class by following the instructions set forth in the Agreement and Class Notice.
18 Requests for Exclusion must be postmarked within 60 calendar days after the Class Notice Date.
19 Any person who timely and properly requests exclusion from the settlement will not be bound by
20 the Agreement or have any right to object, appeal, or comment thereon. Requests for Exclusion
21 must be signed by the member of the Settlement Class requesting exclusion and must otherwise
22 comply with the requirements delineated in the Agreement and Class Notice. Settlement Class
23 members who have not requested exclusion shall be bound by all determinations of the Court, the
24 Agreement, and the Final Judgment, regardless of whether they have submitted a Claim Form.

25 13. Any Settlement Class Member who has not excluded himself or herself pursuant to
26 paragraph 12 above may object to the Agreement, and may present evidence and file briefs or
27 other papers that may be proper and relevant to the issues to be heard and determined by the Court
28 as provided in the Class Notice. Any objections must be postmarked within 60 calendar days after

1 the Class Notice Date. No Settlement Class member, however, shall be heard or be entitled to
2 object, and no papers or briefs submitted by any such person shall be received or considered by the
3 Court, unless on or before the objection response deadline the Settlement Class member, or his or
4 her counsel, has properly filed and served their objections as provided in the Agreement and
5 Notice. Any Settlement Class Member who does not make his or her objection in the manner
6 provided for in the Agreement and Notice shall be deemed to have waived such objection and
7 shall be foreclosed objecting to the settlement.

8 14. The Administrator shall provide Class Counsel and Defendants' Counsel with
9 appropriate status updates on the mailing and the processing of Claim Forms, Requests for
10 Exclusions, and objections.

11 15. Upon completion of the settlement administration process, the Administrator shall
12 provide written certification of such completion, and shall provide proof of payment at the request
13 of the Court and/or counsel for the Parties.

14 16. Pending the Final Approval Hearing, all proceedings in the action, other than those
15 necessary to carry out the enforcement of the terms and conditions of the Agreement and this
16 Order, are stayed. Pending final determination of whether the Settlement should be approved,
17 neither the Plaintiffs nor any Class Member, either directly, representatively or in any other
18 capacity shall commence or prosecute against any of the Defendant Released Parties in any action
19 or proceeding in any court or tribunal asserting any of the Released Claims.

20 17. If, for any reason, the Agreement is not finally approved or does not become
21 effective, this Order Granting Preliminary Approval shall be deemed vacated and shall have no
22 force or effect whatsoever, and this action shall proceed as if no settlement has been attempted
23 except as specifically provided in section 8.4 of the Agreement.

24 18. Any Class Member may enter an appearance in the Action, at their own expense,
25 individually or through counsel of his or her own choice. If he or she does not enter an
26 appearance, or submit a request for exclusion (pursuant to ¶12), or an objection (pursuant to ¶13),
27 he or she will be represented by Class Counsel as part of the Settlement Class.

28

1 19. The Parties are hereby authorized without needing further approval from the
2 Court, to agree to and adopt modifications and expansions of the Agreement, including without
3 limitation, the forms and procedures used in distributing settlement payments, provided that any
4 such changes are consistent with this Order and do not limit the rights of Settlement Class
5 members under the Agreement.

6 **IT IS SO ORDERED.**

7
8 DATE: 7.13.18



9 The Honorable Judge Kenneth J. Medel
10 San Diego County Superior Court

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Telephone: (619) 238-1811
Facsimile: (619) 544-9232

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

Jill Miller, et al.,

Plaintiffs,

v.

Mark Steven Schmidt, et al.,

Defendants.

CASE NO. 37-2015-00017514-CU-FR-CTL
I/C Judge: Hon. Kenneth J Medel
**Stipulation and ~~Proposed~~ Order re.
Incentive Award Request**

Date: July 13, 2018
Time: 10:00 a.m.
Dept.: C-66

Case Filed: May 23, 2015
Trial Date: None Set

FILED
Clerk of the Superior Court
JUL 13 2018
By: G. Mendoza, Clerk

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Stipulation and Proposed Order

WHEREAS the Settlement Agreement filed with the Court on June 25, 2018 provides for incentive payments totaling up to \$5,000 to be paid to the three named plaintiffs (counting Mr. and Mrs. Miller as one plaintiff) out of the Class Fund; and

WHEREAS certain of the named plaintiffs are supportive of the settlement but believe the incentive payments should be increased, and have suggested a total of \$5,000 per plaintiff, for a total of \$15,000; and

WHEREAS Class Counsel are of the view that the Court should award such increased incentive payments if it finds them appropriate, but that incentive payments beyond the \$5,000 aggregate cap should be paid from plaintiffs' attorneys fees, rather than out of the Class Fund; and

WHEREAS Defendants do not object to Class Counsel's suggestion:

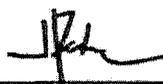
NOW, THEREFOR, IT IS HEREBY ORDERED AS FOLLOWS:

The settlement agreement and attachments filed with the Court on June 25, 2018, scheduled to be reviewed on preliminary approval on July 13, 2018, are hereby amended to provide that the Court may in its discretion award incentive fees up to \$5,000 to each plaintiff (with Mr. and Mrs. Miller considered one plaintiff) for a maximum aggregate payment \$15,000, with the first \$5,000 of such aggregate payments being deducted from the Class Fund, and any further incentive fees deducted from the Attorneys' Fee and Litigation Expense Payment.

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Dated: July 5, 2018

LAW OFFICE OF JIMMIE DAVIS PARKER, APC
THE LAW OFFICES OF LEONARD B. SIMON, P.C.
CASEY GERRY SCHENK FRANCAVILLA BLATT
& PENFIELD, LLP

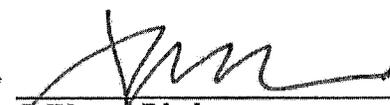
By 

Jimmie Davis Parker

Attorneys for Plaintiffs

Dated: July 6, 2018

MORGAN, LEWIS & BOCKIUS LLP

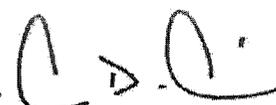
By 

J. Warren Rissier

Attorneys for Defendants
Willmark Communities, Inc.; Alpine Creekside,
Inc.; Alpine Woods, Inc.; Alpine Woods
Apartments, Inc.; La Jolla Nobel, L.P.; La Jolla
Nobel I, Inc.; MS North Park Properties, Inc.;
Rancho Hillside, Inc.; Prominence Willmark
Communities, Inc.; Pavlov, Inc., a California
corporation; Pavlov, Inc., a Delaware corporation;
Shadowridge, Inc.; Shadowridge Park, Inc.; SM
Prominence, Inc.; Willmark Communities UTC
Finance 1, Inc.; and, Willmark Communities UTC
Finance 1, Inc.

Dated: July 6, 2018

WENDEL, ROSEN, BLACK & DEAN LLP

By 

Carl D. Ciochon

Attorneys for Defendant Mark Steven Schmidt,
Individually and as Trustee of the Mark S. Schmidt
Trust UDT 2/5/92

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IT IS SO ORDERED.

Dated: 7-13, 2018

Kenneth J. Medel

Honorable Kenneth J. Medel
JUDGE OF THE SUPERIOR COURT

1 Leonard B. Simon, Esq. (SBN: 58310)
2 LAW OFFICES OF LEONARD B. SIMON P.C.
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7 Attorney for Plaintiffs Jill Miller, Paul Miller,
8 Georgia Gephardt, Benjamin Richter and all others similarly-situated

FILED
Clerk of the Superior Court
JUL 13 2018
By: G. Mendoza, Clerk

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO, CENTRAL**

12 JILL MILLER, PAUL MILLER,
13 BENJAMIN RICHTER, GEORGIA
14 GEBHARDT and ROES 1 through 100,
15 individually, and on behalf of all others
16 similarly situated,

17 Plaintiffs,

18 v.

19 MARK STEVEN SCHMIDT, an individual;
20 MARK S. SCHMIDT, AS TRUSTEE OF
21 MARK S. SCHMIDT TRUST UDT 2/5/92;
22 WILLMARK COMMUNITIES, INC., a
23 California Corporation; ALPINE
24 CREEKSIDE, INC. a California
25 Corporation; ALPINE WOODS, INC., a
26 California Corporation; ALPINE WOODS
27 APARTMENTS, INC. a Delaware
28 Corporation; LA JOLLA NOBEL, L.P., a
California Limited Partnership; LA JOLLA
NOBEL I, INC., a California Corporation;
MS NORTH PARK PROPERTIES, INC., a
California Corporation; RANCHO
HILLSIDE, INC., a California
Corporation; PROMINENCE WILLMARK
COMMUNITIES, INC., a California
Corporation; PAVLOV, INC., a California
Corporation; PAVLOV, INC., a Delaware
Corporation; SHADOWRIDGE, INC., a
California Corporation; SHADOWRIDGE
PARK, INC., a Delaware Corporation;
SM PROMINENCE, INC., a California
Corporation; WILLMARK COMMUNITIES
UTC FINANCE 1, INC., a Delaware
Corporation; WILLMARK COMMUNITIES
UTC FINANCE 1, INC., a California
Corporation; and DOES 6 through 100,
inclusive.

Case No. 37-2015-00017514-CU-FR-CTL

**STIPULATION AND ~~PROPOSED~~
ORDER APPROVING REVISED CLASS
NOTICE (EXHIBIT 1) AND REVISED
PRELIMINARY APPROVAL ORDER
(EXHIBIT 3)**

[Assigned for All Purposes to Judge Kenneth J.
Medel, Dept. C-66]

Complaint Filed: 05/26/15
Trial Date: None

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Defendants.

ALPINE WOODS APARTMENTS, INC.,
ALPINE CREEKSIDE, INC., LA JOLLA
NOBEL I, INC., MS NORTH PARK
PROPERTIES, INC., RANCHO HILLSIDE,
INC., SM PROMINENCE, INC.,
PROMINENCE WILLMARK
COMMUNITIES, INC., SHADOWRIDGE,
INC., PAVLOV, INC., and WILLMARK
COMMUNITIES UTC FINANCE 1, INC.

Cross-Complainants,

v.

JILL MILLER and PAUL MILLER,

Cross-Defendants.

1 This stipulation is entered into with reference to the following facts:

2 A. In preparing for the preliminary approval hearing, the parties determined it is
3 appropriate to modify language in the Class Notice (Ex. 1 to the Settlement Agreement) and
4 proposed Preliminary Approval Order (Ex. 3 to the Settlement).

5 B. Specifically, in the Class Notice, the parties clarified the summary description of
6 the agreement in the section labeled "The Settlement," and modified the section labeled "What
7 About the Tenants Who Brought The Case" to reflect the proposed increase in the incentive
8 awards. In the Preliminary Approval Order, the parties inserted the filing and hearing dates for
9 the Preliminary Approval motion (page 3), revised the description of publication notice
10 (paragraph 10) and corrected several typographical errors.

11 C. Copies of the revised Class Notice and Preliminary Approval Order are attached
12 hereto as Exhibits 1 and 3, respectively.

13 Accordingly, IT IS HEREBY STIPULATED that the revised Class Notice and
14 Preliminary Approval Order attached hereto shall replace the prior versions of the Class Notice
15 and Preliminary Approval Order attached as Exhibits 1 and 3, respectively, to the Settlement
16 Agreement.

17 I, Leonard B. Simon, hereby certify that the content of this document is acceptable to J.
18 Warren Rissier and Carl D. Ciochon, and that I have obtained Messrs. Rissier and Ciochon's
19 authorization to affix their electronic signature to this document.

20
21 Dated: July 12, 2018

Law Office of Jimmie Davis Parker, APC
Law Offices of Leonard B. Simon P.C.
Casey Gerry Schenk Francavilla Blatt &
Penfield LLP

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25 By: s/Leonard B. Simon
Leonard B. Simon
Attorneys for Plaintiffs
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Dated: July 12, 2018

Morgan, Lewis & Bockius LLP

By: s/J. Warren Rissier
J. Warren Rissier
Attorneys for Defendants Willmark
Communities, Inc.; Alpine Creekside, Inc.;
Alpine Woods, Inc.; Alpine Woods
Apartments, Inc.; La Jolla Nobel, L.P.; La
Jolla Nobel I, Inc.; MS North Park
Properties, Inc.; Rancho Hillside, Inc.;
Prominence Willmark Communities, Inc.;
Pavlov, Inc., a California corporation;
Pavlov, Inc., a Delaware corporation;
Shadowridge, Inc.; Shadowridge Park,
Inc.; SM Prominence, Inc.; Willmark
Communities UTC Finance 1, Inc.; and,
Willmark Communities UTC Finance 1,
Inc.

Dated: July 12, 2018

Wendel, Rosen, Black & Dean LLP

By: s/ Carl D. Ciochon
Carl D. Ciochon
Attorneys for Defendant Mark Steven
Schmidt, individually and as Trustee of the
Mark S. Schmidt Trust UDT 2/5/92

* * *

ORDER

IT IS SO ORDERED.

Kenneth J. Medel

DATE: JUL 13 2018

The Honorable Judge Kenneth J. Medel
San Diego County Superior Court

108561653VV-1

Exhibit 1

LONG FORM NOTICE OF CLASS ACTION SETTLEMENT

Miller et al. v. Willmark Communities, Inc., et al. Case No. BC480931

If you leased an apartment unit at a Willmark Property and moved out of your apartment unit between May 26, 2011 and June 30, 2016, this class action settlement may benefit you and affect your rights. The Willmark Properties covered by this Notice include Alpine Woods Apartments, Creekside Meadows Apartments, La Jolla Nobel Apartments, North Park Apartments, Rancho Hillside Apartments, Prominence Apartments, Shadowridge Apartments, and La Jolla Del Rey/Town Park Villas.

This Notice provides you with a brief description of the lawsuit and proposed settlement. More information and key documents related to the settlement can be found at [insert website address set up by Administrator.]

WHAT IS THIS LAWSUIT ABOUT?

In this class action lawsuit, Jill Miller and others bringing the lawsuit (called “Representative Plaintiffs”) allege that Willmark Communities, Inc. and other entities or persons (called “Defendants”) violated California Civil Code section 1950.5 and other laws by improperly administering tenant security deposits, imposing improper move-out charges and reporting alleged debts to credit agencies.

Defendants deny these allegations, deny any wrongdoing and maintain that they fully complied with the law. By entering into this settlement, Defendants in no way admit any violation of law or any liability whatsoever. The Court has not yet determined who is correct. The Parties reached a settlement to avoid the time, uncertainty, and expense of further litigation.

The Parties are settling this lawsuit as a class action. In a class action, one or more persons (such as the Representative Plaintiffs here), seek to assert claims on behalf of a group of people who have similar claims. These people are called the Class or the Class Members. If the Court decides the Class Members are similar enough, it resolves the claims for everyone in the Class, except those who choose to exclude themselves. The Court has not yet decided whether this case could proceed and be tried as a litigation class action, but the Parties have agreed after three years of litigation that the case may be settled as a class action.

On _____, 2018, the Court preliminarily approved a proposed settlement of this lawsuit as set forth in the Settlement Agreement and Release (“Agreement”). In addition, the Court approved certification of the Settlement Class defined as follows:

All persons who were identified as a lessee, co-lessee or signer on a lease agreement or Final Account Statement at any Willmark Property and (i) moved out of his, her or their rental unit on any date from May 26, 2011 through and including June 30, 2016; or (ii) received a Final Account Statement pertaining to a tenancy at a Willmark Property that terminated on any date from May 26, 2011 through and including June 30, 2016. The following are excluded from the Settlement Class: (i) the judge assigned to this case and his staff; (ii) Defendants and their affiliates; and (iii) any person employed by any Defendant during the Class Period.

If you meet this definition, you are a Class Member. Minors or any other persons not listed as lessees, co-lessees or signers on a Willmark Property lease or Final Account Statement are not Class Members.

Unless you exclude yourself from the settlement, you will get relief from debts to Defendants related to your tenancy as provided in the Agreement. Also, if you timely submit a Claim Form (as explained below), you will be eligible to recover money. If you exclude yourself from the Settlement, you will not recover money or get debt relief, but you may pursue whatever claims you may have against Defendants. Whether or not you submit a Claim Form, your right to sue Defendants will be affected by this settlement unless you exclude yourself, so please read this notice carefully.

If the Court approves the settlement at the Final Approval Hearing on _____ at _____ it will bind all Class Members who have not excluded themselves. If the Court does not approve the Settlement, the litigation will continue.

THE SETTLEMENT

The settlement provides that Defendants will, subject to Court approval: (1) waive approximately \$2.4 million in claims against Class Members, (2) provide a fund of approximately \$550,000 which will go, after payment of certain administrative expenses, to Class Members who submit valid claims; and (3) provide approximately \$1,805,000 as payment of Class Counsel's attorneys' fees and litigation expenses

Additionally, Defendants have already changed certain practices relating to tenant security deposits, and will make additional changes beneficial to current residents. Among other things, Defendants will provide vendor invoices to support repair and cleaning work done by third parties in excess of \$125.

In exchange for all of these benefits, Class Members who do not exclude themselves from the Class will waive all claims against Defendants relating to their tenancy except any claims for personal injury.

All Class Members who do not exclude themselves will get the benefits of the waiver of debt. Only Class Members who submit a valid Claim Form (who are referred to herein as "Eligible Class Members") will be eligible to receive a cash payment.

HOW MUCH MONEY WILL I RECEIVE?

The specific amount of the Class Fund paid to Eligible Class Members will be proportional to the amount of their security deposit retained by Defendants. Precise amounts are unknown at this time, but our best estimate is that if every Class Member submitted a valid claim, Eligible Class Members would receive approximately 28.5% of their lost security deposit. However, it is very rare in class actions for all class members to file claims, so the amount is almost certain to be larger. No deduction will be made from these recoveries for attorneys' fees or lawyers' expenses because that is being paid separately by Defendants. If the Defendants did not retain any portion of your security deposit, you will not be eligible to receive a cash payment, but you would still get debt relief if you have debts to Defendants related to your tenancy.

If you lived in an Eligible Household with more than one Class Member, each Lessee may choose to exclude himself or herself, and each Lessee may claim separately and share the recovery. All such Lessees will obtain the debt relief. Thus, if you lived with another person and both of you were Lessees, a cash payment of \$500 owed for that unit would be divided equally between you and the other tenant at \$250 apiece. However, if you lived in the apartment, but were not listed as a lessee, co-lessee or signer on the lease or final account statement, you are not a Class Member.

I AM ELIGIBLE. HOW DO I CLAIM MY MONEY?

To receive money from the settlement, you **must** submit a valid Claim Form by _____, 2018 [and a completed W-9 Form if required.] You may submit your signed claim (and any other materials required by the Settlement Administrator) by mail, postmarked by _____, 2018 or by uploading and submitting a completed Claim Form (and other materials if required) at the [insert website address by Administrator] by _____, 2018.

WHAT HAPPENS IF I DO NOTHING?

If you do nothing, you will get the debt relief provided for by the settlement, if applicable to you, but will not be able to recover money and you will be bound by the Release described below.

HOW DOES THE SETTLEMENT RELEASE AFFECT MY RIGHTS?

The Settlement will release any and all claims you may have relating to your tenancy against all Defendants other than claims for personal injuries. The precise terms of the release are in the Settlement Agreement posted at _____ [insert website address set up by Administrator].

CAN I EXCLUDE MYSELF FROM THE SETTLEMENT?

Yes. To exclude yourself from the settlement, you must mail the Settlement Administrator a statement requesting to be excluded by _____, 2018. Requests for exclusion must be in writing and must include your full name and mailing address. If you exclude yourself, you will not receive any money or debt relief from the settlement, and both you and Defendants will retain any claims you may have against each other.

If you lived in a Household with other Lessees, each Lessee may decide whether to exclude himself or herself from the settlement and each must submit a written exclusion. If there are two Lessees and only one excludes himself or herself, the other will be entitled to recover 50% of any settlement check available to that unit and will get debt relief, unless both lessees agree in writing that the money should be divided differently.

CAN I OBJECT TO THE SETTLEMENT?

Yes. To object to the settlement, not later than _____, 2018, you must file a written statement of your objection with the Court and serve Class Counsel and Defense Counsel at the addresses listed on [insert website address set up by Administrator]. Objections should include your full name, mailing address, telephone number, unit you lived in, approximate date of move-out, and reason(s) for objecting to the settlement. You will still be a member of the Class, and will be treated like other Class Members if the settlement is approved. Thus, even if you object, you must file a timely Claim Form or you will not receive any money from the settlement if approved. Multiple Class Members for the same unit may make their own decision about objecting to the settlement. A Class Member who excludes himself or herself from the settlement cannot also object to the settlement.

WHAT ABOUT PAYMENT OF ATTORNEYS' FEES?

Several law firms have been pursuing this class action since 2015 and have devoted substantial resources to the case. The Court has appointed the Law Offices of Jimmie Davis Parker, the Law Offices of Leonard B. Simon P.C., Casey Gerry Schenk Francavilla Blatt and Penfield, LLP, Shaun Martin, and Phillips Erlewine and Given to serve as Class Counsel. Under the settlement, you will not pay any

portion of their fees or litigation expenses out of your recovery, or otherwise. Rather, Defendants have agreed to pay up to \$1.805 million to Class Counsel for attorneys' fees and reimbursement of litigation expenses incurred in prosecuting the Action, provided the Court approves those amounts as reasonable. Class Counsel would have sought substantially more in Attorneys' Fees if the case went to trial.

WHAT ABOUT THE TENANTS WHO BROUGHT THE CASE?

Representative Plaintiffs Jill Miller, Paul Miller, Georgia Gephardt, and Benjamin Richter have served to represent the Class Members in this case for several years, and the Court has appointed them as Class Representatives. Because they have spent time and effort on this matter, and have had their depositions taken, Class Counsel will ask the Court to approve a service award of up to \$5,000 each (one combined award for Mr. and Mrs. Miller), at the discretion of the Court, to compensate them for their efforts, subject to Court approval.

WHEN AND WHERE IS THE FINAL APPROVAL HEARING?

The Court will hold a Final Approval Hearing on _____, 2018 at _____ p.m. at the San Diego Superior Court, Department C-66, 330 West Broadway, San Diego, CA 92101. At that time, the Court will determine: whether the settlement, including the attorneys' fees, expenses and Service Awards, is fair, reasonable, and adequate, and should be approved. The hearing date and time may change so you should check [insert website address set up by Administrator], or contact the Settlement Administrator if you plan to attend.

The Final Approval Hearing is a public hearing and you are entitled to attend if you wish, but there is no requirement that you attend. You do not need to attend if you want to get a settlement check or debt relief. Nor do you need to attend if you wish to exclude yourself or to object. However, if you do object to any part of the settlement, including the attorneys' fees and expenses, you must file a timely written objection, and if you do so, you may also address the Court at the Final Approval Hearing.

ARE MORE DETAILS AVAILABLE?

Yes. You can find more information and key documents related to the case and the settlement at _____ [insert website address set up by Administrator]. You may also contact Class Counsel or the Settlement Administrator at the numbers or email listed below to obtain additional information. But if you wish to file a claim, object, or exclude yourself from the settlement, you must do so in writing prior to the deadline above.

Class Counsel

() _____

Miller et al. v. Willmark Communities, Inc., et al. Case No. BC480931
c/o _____

() _____

**PLEASE DO NOT CALL OR CONTACT THE COURT WITH QUESTIONS ABOUT THE
SETTLEMENT OR THE SETTLEMENT PROCESS.**

107619525V-8

Exhibit 3

1 Leonard B. Simon, Esq. (SBN: 58310)
2 LAW OFFICES OF LEONARD B. SIMON P.C.
3 655 West Broadway, Suite 1900
4 San Diego, California 92101
5 Phone: 619.338.4549
6 Email: lens@rgrdlaw.com

7 Attorney for Plaintiffs Jill Miller, Paul Miller,
8 Georgia Gephardt, Benjamin Richter and all others similarly-situated

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO, CENTRAL**

12 JILL MILLER, PAUL MILLER,
13 BENJAMIN RICHTER, GEORGIA
14 GEBHARDT and ROES 1 through 100,
15 individually, and on behalf of all others
16 similarly situated,

17 Plaintiffs,

18 v.

19 MARK STEVEN SCHMIDT, an individual;
20 MARK S. SCHMIDT, AS TRUSTEE OF
21 MARK S. SCHMIDT TRUST UDT 2/5/92;
22 WILLMARK COMMUNITIES, INC., a
23 California Corporation; ALPINE
24 CREEKSIDE, INC. a California
25 Corporation; ALPINE WOODS, INC., a
26 California Corporation; ALPINE WOODS
27 APARTMENTS, INC. a Delaware
28 Corporation; LA JOLLA NOBEL, L.P., a
California Limited Partnership; LA JOLLA
NOBEL I, INC., a California Corporation;
MS NORTH PARK PROPERTIES, INC., a
California Corporation; RANCHO
HILLSIDE, INC., a California
Corporation; PROMINENCE WILLMARK
COMMUNITIES, INC., a California
Corporation; PAVLOV, INC., a California
Corporation; PAVLOV, INC., a Delaware
Corporation; SHADOWRIDGE, INC., a
California Corporation; SHADOWRIDGE
PARK, INC., a Delaware Corporation;
SM PROMINENCE, INC., a California
Corporation; WILLMARK COMMUNITIES
UTC FINANCE 1, INC., a Delaware
Corporation; WILLMARK COMMUNITIES
UTC FINANCE 1, INC., a California
Corporation; and DOES 6 through 100,
inclusive.

Case No. 37-2015-00017514-CU-FR-CTL

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

[Assigned for All Purposes to Judge Kenneth J.
Medel, Dept. C-66]

Complaint Filed: 05/26/15
Trial Date: None

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Defendants.

ALPINE WOODS APARTMENTS, INC.,
ALPINE CREEKSIDE, INC., LA JOLLA
NOBEL I, INC., MS NORTH PARK
PROPERTIES, INC., RANCHO HILLSIDE,
INC., SM PROMINENCE, INC.,
PROMINENCE WILLMARK
COMMUNITIES, INC., SHADOWRIDGE,
INC., PAVLOV, INC., and WILLMARK
COMMUNITIES UTC FINANCE 1, INC.

Cross-Complainants,

v.

JILL MILLER and PAUL MILLER,

Cross-Defendants.

1 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, which included a
2 request for provisional certification of the proposed Settlement Class, approval of the form and
3 manner of Class Notice, approval of the procedures and deadlines for asserting objections to or
4 requesting exclusion, and a Final Approval Hearing, was filed with the Court on June 25, 2018
5 and came on hearing on July 13, 2018. The Court has considered the Parties' Settlement
6 Agreement and Release ("Agreement") and supporting Exhibits, the unopposed Motion for
7 Preliminary Approval of Class Action Settlement, as well as the Memorandum of Points and
8 Authorities and declarations filed in support thereof.

9 **IT IS HEREBY ORDERED THAT:**

10 1. This Order incorporates by reference the definitions in the Agreement.

11 2. The Court hereby preliminarily approves the Agreement. The Court preliminarily
12 finds the proposed settlement, including the distribution formula described in Plaintiffs' motion
13 for determining settlement payments to Class Members, is fair, reasonable, and adequate. The
14 Court further finds that the settlement has been reached through arm's length, non-collusive
15 bargaining.

16 3. Pursuant to Code of Civil Procedure section 382, the following Settlement Class is
17 provisionally certified for settlement purposes only:

18 All persons who were identified as a lessee, co-lessee or signer on a lease agreement or
19 Final Account Statement at any Willmark Property and (i) moved out of his, her or their
20 rental unit on any date from May 26, 2011 through and including June 30, 2016; or (ii)
21 received a Final Account Statement pertaining to a tenancy at a Willmark Property that
22 terminated on any date from May 26, 2011 through and including June 30, 2016.¹

23 The following are excluded from the Settlement Class: (i) the judge assigned to this case
24 and his staff; (ii) Defendants; and (iii) Defendants' affiliates and employees.

25 _____
26 ¹ As defined in the Agreement, the term "Willmark Property" means any apartment building at any
27 of the following communities: Alpine Woods Apartments, Creekside Meadows Apartments, La
28 Jolla Nobel Apartments, North Park Apartments, Rancho Hillside Apartments, Prominence
Apartments, Shadowridge Apartments, and La Jolla Del Rey/Town Park Villas. "Willmark
Properties" means all of the above-referenced communities.

1 4. The Settlement Class meets all requirements of Code of Civil Procedure 382, for
2 purposes of settlement of the Action only, including: (a) numerosity; (b) commonality; (c)
3 typicality; (d) adequacy of the Representative Plaintiffs and Class Counsel; (e) predominance of
4 common questions of fact and law; and (f) superiority.

5 5. Plaintiffs Jill Miller, Paul Miller, Georgia Gephardt, and Benjamin Richter are
6 appointed as the Settlement Class Representatives, and their counsel, the Law Offices of Jimmie
7 Davis Parker, the Law Offices of Leonard B. Simon P.C., Casey, Gerry Schenk Francavilla Blatt
8 & Penfield LLP, and Phillips Erlewine and Given are appointed Class Counsel for the Settlement
9 Class.

10 6. A Final Approval Hearing shall be held on _____
11 in Department _____ of San Diego Superior Court, located at 330 West Broadway, San Diego,
12 CA 92101, to determine all necessary matters concerning the Agreement, including whether the
13 proposed settlement of the action on the terms and conditions provided for in the Agreement is
14 fair, adequate, and reasonable and should be finally approved by the Court. The motion for final
15 approval shall be filed and served by _____. Any opposition briefing shall be filed and served
16 by _____ and reply briefing shall be filed and served by _____. The Court may continue the
17 Final Approval Hearing without further notice to the Settlement Class except through posting on
18 the Administrator's website.

19 7. The Court appoints Gilardi & Co., LLC as the third party settlement administrator
20 ("Administrator"). The costs of settlement administration and Class Notice, including reasonable
21 costs incurred to identify Class Members, shall be paid as set forth in the Agreement.

22 8. The Court hereby approves, as to form and content, the Class Notice attached as
23 Exhibit 1 to the Agreement. The Administrator is directed to provide Class Notice through the
24 mail, publication and website notice procedures set forth in the Agreement. The Court finds that
25 distribution of Class Notice to the Settlement Class Members in the manner and form set forth in
26 the Agreement and this Order meets the requirements of California law, including California Rule
27 of Court 3.769(c), complies with due process, and shall constitute due and sufficient notice to all
28 parties entitled thereto.

1 9. Within 20 calendar days of entry of this Order, or within 30 days of receipt of the
2 information required by Section 4.1 of the Agreement, whichever is later, Class Counsel shall
3 provide the Administrator with a spreadsheet listing each Class Member's last known address to
4 the extent provided by Defendants in accordance with the Agreement.

5 10. Within 60 calendar days of the Preliminary Approval Date, the Administrator shall
6 mail the approved Class Notice and Claim Form to the Settlement Class. Within 7 calendar days
7 of completion of the mailing of the Class Notice and Claim Form, the Administrator shall also
8 arrange for a single publication of a summary of the content of the Class Notice in the San Diego
9 Union Tribune (in both the North County and General editions), consistent with the notice plan
10 submitted with Plaintiffs' Motion for Preliminary Approval, which plan is hereby approved.
11 Within 7 calendar days of completion of the mailing of the Class Notice and Claim Form, the
12 Administrator shall also post the Class Notice on the settlement website established by the
13 Administrator.

14 11. Eligible Class Members must submit a Claim Form as provided in the Agreement
15 and Class Notice in order to recover money under the Agreement. Claim Forms must be
16 postmarked or submitted on line by the Claim Bar Deadline.

17 12. Any member of the Settlement Class may request to be excluded from the
18 Settlement Class by following the instructions set forth in the Agreement and Class Notice.
19 Requests for Exclusion must be postmarked within 60 calendar days after the Class Notice Date.
20 Any person who timely and properly requests exclusion from the settlement will not be bound by
21 the Agreement or have any right to object, appeal, or comment thereon. Requests for Exclusion
22 must be signed by the member of the Settlement Class requesting exclusion and must otherwise
23 comply with the requirements delineated in the Agreement and Class Notice. Settlement Class
24 members who have not requested exclusion shall be bound by all determinations of the Court, the
25 Agreement, and the Final Judgment, regardless of whether they have submitted a Claim Form.

26 13. Any Settlement Class Member who has not excluded himself or herself pursuant to
27 paragraph 12 above may object to the Agreement, and may present evidence and file briefs or
28 other papers that may be proper and relevant to the issues to be heard and determined by the Court

1 as provided in the Class Notice. Any objections must be postmarked within 60 calendar days after
2 the Class Notice Date. No Settlement Class member, however, shall be heard or be entitled to
3 object, and no papers or briefs submitted by any such person shall be received or considered by the
4 Court, unless on or before the objection response deadline the Settlement Class member, or his or
5 her counsel, has properly filed and served their objections as provided in the Agreement and
6 Notice. Any Settlement Class Member who does not make his or her objection in the manner
7 provided for in the Agreement and Notice shall be deemed to have waived such objection and
8 shall be foreclosed objecting to the settlement.

9 14. The Administrator shall provide Class Counsel and Defendants' Counsel with
10 appropriate status updates on the mailing and the processing of Claim Forms, Requests for
11 Exclusions, and objections.

12 15. Upon completion of the settlement administration process, the Administrator shall
13 provide written certification of such completion, and shall provide proof of payment at the request
14 of the Court and/or counsel for the Parties.

15 16. Pending the Final Approval Hearing, all proceedings in the action, other than those
16 necessary to carry out the enforcement of the terms and conditions of the Agreement and this
17 Order, are stayed. Pending final determination of whether the Settlement should be approved,
18 neither the Plaintiffs nor any Class Member, either directly, representatively or in any other
19 capacity shall commence or prosecute against any of the Defendant Released Parties in any action
20 or proceeding in any court or tribunal asserting any of the Released Claims.

21 17. If, for any reason, the Agreement is not finally approved or does not become
22 effective, this Order Granting Preliminary Approval shall be deemed vacated and shall have no
23 force or effect whatsoever, and this action shall proceed as if no settlement has been attempted
24 except as specifically provided in section 8.4 of the Agreement.

25 18. Any Class Member may enter an appearance in the Action, at their own expense,
26 individually or through counsel of his or her own choice. If he or she does not enter an
27 appearance, or submit a request for exclusion (pursuant to ¶12), or an objection (pursuant to ¶13),
28 he or she will be represented by Class Counsel as part of the Settlement Class.

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19. The Parties are hereby authorized without needing further approval from the Court, to agree to and adopt modifications and expansions of the Agreement, including without limitation, the forms and procedures used in distributing settlement payments, provided that any such changes are consistent with this Order and do not limit the rights of Settlement Class members under the Agreement.

IT IS SO ORDERED.

DATE: _____

The Honorable Judge Kenneth J. Medel
San Diego County Superior Court

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