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COMPLAINT OF JEFF CONORS	§	PUBLIC UTILITY COMMISSION
AGAINST THE GALLERY	§	
APARTMENTS, ROSCOE PROPERTY	§	OF TEXAS
MANAGEMENT, AND CONSERVICE	§	

**THE GALLERY APARTMENTS AND ROSCOE PROPERTY MANAGEMENT’S
EXCEPTIONS TO PROPOSAL FOR DECISION**

The Gallery Apartments and Roscoe Property Management (“RPM”) (collectively, the “Respondents”) respectfully submit this their Exceptions and Responses to the Proposal for Decision submitted by the State Office of Administrative Hearings (SOAH).

Purpose and Introduction

1. The Respondents appreciate the thoughtful consideration given to this matter by the State Office of Administrative Hearings, the Administrative Law Judge (ALJ), the Commission, and the Commissioners.

2. It is the Respondent’s understanding that the Commission will consider and take action on the Proposal for Decision submitted by the SOAH and the ALJ in this matter. The purpose of this letter is to provide additional points of context and clarification for the Commission’s consideration¹.

Exceptions and Responses

A. Proposed Order #1 - Refund of \$49.86.

3. The first recommendation by the ALJ is that Mr. Connors should be refunded \$49.86. This consists of (1) \$30.00 that Mr. Connors claims he is still owed due to the Conservice calculation error; and (2) \$19.86 which is the amount of the October 2019 water bill which the ALJ concluded was billed twice by Conservice.

¹ This response is not intended to be a redundant recitation of the Respondent’s position. Nor should it be construed as an admission of liability or a waiver or retraction of any argument or position previously articulated by Respondents in defense of this matter.

4. This recommendation is premised upon the fact that the Complainant was previously refunded \$120.00 by Conservice and \$85.56 by RPM on behalf of The Gallery, but that Mr. Connors has *not yet accepted* the refund from The Gallery². Thus, because Mr. Connors has not accepted it, the ALJ stated that the refund is “*still due*” to Mr. Connors. *See Proposal for Decision, p. 56, Findings of Facts 24-27. This will result in an overall reduction of Mr. Connors’ refund*³.

5. Accordingly, Respondents request that the “Proposed Ordering Paragraph,” located on Page 61, Section VIII, Para. 2 of the Proposal for Decision, be slightly amended to provide clarity with respect to the prior refund attempt in order to avoid double payment. Respondents recommend that the proposed order state:

“Within _____ days of this Order, The Gallery is ordered to cancel the previous refund check of \$85.56, and then refund Mr. Connors a total of \$49.86, which consists of the \$30 he is still owed for the overbilling that occurred from October 2019 to July 2020 and the \$19.86 that he was double-billed in his October 2019 bill.”

B. Proposed Order #2 – That The Gallery Review of billing practices and detailed report to ensure future compliance.

6. Please note that The Gallery no longer owns the apartment community in question and the entity is closed. The Gallery cannot perform the second recommendation as there are no ongoing billing operations. However, The Gallery will provide a copy of the Proposal for Decision to Conservice so they may review and update their practices accordingly.

CONCLUSION

Conservice admitted to making a simple error when applying a lawful allocation formula in that one of the variables was improperly input into its system. The goal is to make Mr.

² Note, in a prior filing, Mr. Connors calculated that he was due a total refund of \$85.56. The Gallery then sent that amount to Mr. Connors. Mr. Connors then re-calculated his damages and found that \$85.56 was too much, and so he never cashed the refund check. At the hearing, he stated that his updated refund calculation was approximately \$30.00 plus the amount he was allegedly double billed for October 2019.

Connors whole. If the Commission agrees with the findings of the ALJ and upholds the refund amount of \$49.86, Respondents will comply.

To avoid any further confusion, and to finally resolve this matter, Respondents respectfully request the ordering paragraph be amended to clarify the fact that the previous refund check must first be cancelled.

Alternatively, Respondents request that the Commission determine that this case is moot and that it dismiss this Complaint because Mr. Connors has already admitted to having been over-refunded by the Respondents.

Thank you again for your consideration of this matter.

Respectfully submitted,

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