

**SETTLEMENT AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA AND MICHELE CROWE**

I. INTRODUCTION

1. This Settlement Agreement (“Agreement”) is entered between Plaintiff, the United States of America (“the United States”), through the Department of Justice, and Defendant Michele Crowe (“Defendant”), through their authorized representatives. The United States and the Defendant are referred to herein as the “Parties.”

2. This Agreement resolves a Complaint filed by the United States on June 13, 2017, against the Defendant alleging violations of the Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. § 3901, *et. seq.*, in the United States District Court for the Middle District of Alabama, *United States v. Michele Crowe*, No. 2:17-cv-385 (hereinafter “Civil Action”).

3. In the Civil Action, the United States alleges that Defendant violated the SCRA when she refused to return a security deposit and a pet deposit to her former tenants, United States Air Force Major Kyle Takamura and his wife, Mariel Takamura.

II. RECITALS

4. Defendant resides in Montgomery, Alabama, in the Middle District of Alabama.
5. Defendant has cooperated fully with the United States’ investigation in this matter.
6. The Parties agree that the controversy should be resolved without further proceedings or an evidentiary hearing.
7. To avoid the delay, uncertainty, inconvenience and expense of protracted litigation of the United States’ claims, and in consideration of the mutual promises and obligations set forth below, the Parties agree and covenant to following material terms and conditions:

III. STATEMENT OF CONSIDERATION

8. In consideration of, and consistent with, the terms of this Agreement, the Parties will move jointly for dismissal of the Civil Action, as set forth in Paragraph 27. The Parties agree and acknowledge that this consideration is adequate and sufficient.

IV. TERMS AND CONDITIONS

A. PROHIBITED CONDUCT AND AFFIRMATIVE OBLIGATION

9. Defendant, her employees, agents, representatives, successors and assigns, and all other persons in active concert or participation with her shall not impose an early termination charge on a servicemember who lawfully terminates his or her residential lease under Section 3955 of the SCRA, 50 U.S.C. § 3955.

10. In processing requests for early residential lease terminations by servicemembers, Defendant, her employees, agents, representatives, successors and assigns, and all other persons in active concert or participation with her, shall ensure compliance with the provisions of Section 3955 of the SCRA, 50 U.S.C. § 3955. To this end, Defendant's policies and procedures shall include:

- a. permitting servicemembers to terminate their residential leases upon their entry into military service or receipt of military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for at least 90 days;
- b. accepting terminations by delivery to Defendant or her agent or grantee or agent's grantee of written notice of termination and a copy of military orders (to include any notification, certification, or verification from the servicemember's

commanding officer), including by hand delivery, private business carrier, U.S. Mail, e-mail, or text message;

- c. treating any residential lease termination as effective 30 days after the first date on which the next rental payment is due and payable after the date on which notice was delivered;
- d. limiting any charges that must be paid upon termination to those permitted by Section 3955(e)(1) of the SCRA; and
- e. refunding to the terminating servicemember all rents paid in advance for a period after the effective date of the termination of the lease within 30 days of the effective date of the termination of the lease.

11. For all leases entered after the effective date of this Agreement, Defendant shall include a paragraph with the following language:

Tenant may, at the tenant's option, terminate the lease at any time after either (a) entry into military service (if tenant was not in military service at the time the lease was executed), or (b) receipt of military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for at least 90 days. Tenant may terminate by delivery to Landlord or her agent of written notice of termination and a copy of military orders (to include any notification, certification, or verification from the servicemember's commanding officer), including by hand delivery, private business carrier, U.S. Mail, e-mail, or text message. A lease termination under this paragraph is effective 30 days after

the first date on which the next rental payment is due and payable after the date on which notice was delivered. Landlord will not retain tenant's security deposit or other deposit as a penalty for early termination or impose any other early termination charge, but any taxes, summonses, or other obligations and liabilities of the tenant in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, that are due and unpaid at the time of termination of the lease shall be paid by the tenant.

Defendant shall not include any other language related to early termination for servicemembers in residential leases. For the duration of this Agreement, the lease language related to early termination for servicemembers may be modified only if written notice is given to counsel for the United States¹ twenty (20) days before the proposed modifications are to take effect and the United States makes no objection to the proposed modifications within twenty (20) days. If the United States does not respond or if no objection is made within the time period set forth above, it will be assumed that the United States has no objection to the proposed modification and Defendant may proceed with the modification.

B. DAMAGES FOR KYLE AND MURIEL TAKAMURA

12. Within fifteen (15) days of the effective date of this Agreement, Defendant shall pay Kyle and Mariel Takamura \$1,425 in damages, which includes the return of \$475 from their

¹ Any documents or written material required by this Agreement to be sent to counsel for the United States shall be sent by private business carrier overnight delivery service addressed as follows: Chief, Housing & Civil Enforcement Section, Civil Rights Division, United States Department of Justice, 1800 G Street, N.W., Suite 7002, Washington, DC 20006, Attn: DJ 216-2-2. Correspondence may also be sent via electronic mail to the U.S. Department of Justice, care of the undersigned counsel for the United States.

security deposit, plus \$950 in additional damages. Defendant shall pay said money by sending to counsel for the United States a certified check for \$1,425 payable to Kyle and Mariel Takamura.

13. Kyle and Mariel Takamura shall not receive the check until the United States has received the signed releases at Appendices A and B. When counsel for the United States has received the check from Defendant and the signed releases in the form of Appendices A and B, counsel for the United States shall deliver the check to Kyle and Mariel Takamura and the original, signed releases to Defendant.

14. Defendant shall not seek to collect from Kyle or Mariel Takamura, by deduction from the check sent to the United States or by any other means, any amounts Defendant claims the Takamuras owe for alleged damage to the property. Defendant shall dismiss, with prejudice, her lawsuit in the Small Claims Court of Montgomery County, Alabama (Case No. 03-SM-2017-902482.00), which seeks \$1,839.03 in alleged damages (in addition to Defendant's retention of \$1,750 in security and pet deposits), plus court costs, attorneys' fees, and interest.

C. CIVIL PENALTY

15. Within fifteen (15) days after the effective date of this Agreement, Defendant shall pay a total of \$475 to the United States as a civil penalty, pursuant to 50 U.S.C. § 4041(b)(3)(A). This payment shall be in the form of an electronic funds transfer pursuant to written instructions to be provided by the United States.

16. The civil penalty payment referenced in this Section is a debt for a fine, penalty, or forfeiture payable to and for the benefit of the United States within the meaning of 11 U.S.C. § 523(a)(7), and is not compensation for actual pecuniary loss.

D. REPORTING AND RECORD-KEEPING REQUIREMENTS

17. Within ninety (90) days of the effective date of this Agreement, and thereafter on the anniversary of the effective date of this Agreement, Defendant shall submit to the United States a compliance report, except that the final report shall be submitted sixty (60) days prior to the termination of this Agreement. The compliance report shall include: (a) a copy of any residential lease entered into by Defendant since the effective date of the Agreement; (b) a statement describing the number and location of all residential properties being rented by Defendant and whether any lessee is a servicemember; and (c) a copy of any documents related to any servicemember tenant's request for early lease termination and Defendant's response.

18. During the term of this Agreement, Defendant shall notify counsel for the United States in writing within fifteen (15) days of receipt of any written or oral complaint against Defendant or Defendant's agents or employees, regarding possible violations of the SCRA. If the complaint is written, Defendant shall provide a copy of it with the notification. The notification shall include the full details of the complaint, including the complainant's name, address, and telephone number. Defendant shall also promptly provide the United States all information it may request concerning any such complaint and shall inform the United States in writing within fifteen (15) days of the terms of any resolution of such complaint.

19. For the duration of this Agreement, Defendant shall preserve all records related to this Agreement, including files or other records connected with any residential leases. Upon reasonable notice to Defendant, representatives of the United States shall be permitted to inspect and copy any of Defendant's records related to this Agreement, provided, however, that the United States shall endeavor to minimize any inconvenience to Defendant.

V. SCOPE OF SETTLEMENT AGREEMENT

20. The provisions of this Agreement shall apply to Defendant, her employees, agents, assigns, successors-in-interest, and all persons in active concert or participation with her.

VI. IMPLEMENTATION AND ENFORCEMENT

21. The United States may review compliance with this Agreement at any time. Defendant agrees to cooperate with the United States in any review of compliance with this Agreement. Upon reasonable notice, Defendant shall permit counsel for the United States to inspect and copy all non-privileged records pertinent to this Agreement.

22. The Parties shall endeavor in good faith to resolve informally any differences regarding interpretation of or compliance with this Agreement prior to initiating any court action.

23. Should Defendant materially breach any provision of this Agreement, the Parties agree that the United States may move to restore the present Civil Action to the active docket of this Court for purposes of resolving any such claim of breach. If the United States makes a claim of breach, Defendant consents to and agrees not to contest the United States' motion to restore the present Civil Action to the Court's active docket. Alternatively, the United States may bring a civil action for breach of this Agreement or any provision thereof, in the United States District Court for the Middle District of Alabama. The United States may in such action seek to have the Court impose any remedy authorized at law or equity. This Court shall serve as the exclusive jurisdiction and venue for any dispute concerning this Agreement. Defendant consents to and agrees not to contest the exercise of personal jurisdiction over Defendant by this Court. The Parties further acknowledge that venue in this Court is appropriate and agree not to raise any challenge on this basis.

24. Before taking the steps outlined in Paragraph 23, the United States shall provide Defendant notice of any breach in writing and shall afford Defendant 30 days from the date of mailing to cure the default.

25. In the event the United States reinstates the Civil Action as contemplated by Paragraph 23, above, or any other civil action is commenced to remedy breach of this Settlement Agreement, the United States may seek the following: (1) an order mandating specific performance of any term or provision in this Settlement Agreement, without regard to whether monetary relief would be adequate; (2) an award of reasonable attorneys' fees and costs incurred in bringing an action to remedy breach of this Settlement Agreement; and (3) any additional relief that may be authorized by law or equity. If the Civil Action is reinstated or any other such civil action is filed, Defendant expressly agrees not to count the time during which this Settlement Agreement is in place, or use the terms or existence of this Settlement Agreement, to plead, argue or otherwise raise any defenses under theories of claim preclusion, issue preclusion, statute of limitations, estoppel, laches, or similar defenses.

26. Failure by the United States to enforce any provision of this Agreement shall not operate as a waiver of the United States' right or ability to enforce any other provision of this Agreement.

27. Within fourteen (14) days of the United States' receiving the payments described in paragraphs 12 and 15, the Parties shall jointly move the Court for dismissal of the underlying Civil Action, subject to its reinstatement as set forth in Paragraph 23, above.

28. For the purposes of an action to enforce this Agreement, the Parties agree that each and every provision of this Agreement is material.

VII. TERMINATION OF LITIGATION HOLD

29. The Parties agree that, as of the date of the dismissal of the Civil Action, litigation is not anticipated concerning the matters described above or in the United States' Complaint. To the extent that any Party previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described above, the Party is no longer required to maintain such litigation hold. Nothing in this paragraph relieves any Party of any other obligations imposed by this Agreement.

VI. DURATION, EXECUTION, AND OTHER TERMS

30. This Agreement is effective on the date of signature of the last signatory to the Agreement. The Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

31. The duration of this Agreement shall be for a period of three (3) years from the date of execution.

32. Each Party shall bear its own legal and other costs incurred in connection with this litigation, including the preparation, negotiation, and performance of this Agreement, except as set forth in Paragraph 25.

33. Each Party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

34. This Agreement does not release claims for practices not addressed in the Complaint's allegations, and it does not resolve and release claims other than claims for violations of Section 3955 of the SCRA. This Agreement does not release any claims that may be held or are currently under investigation by any federal agency against Defendant.

35. Nothing in this Agreement will excuse Defendant's compliance with any currently or subsequently effective provision of law that imposes additional obligations on it.

36. Except where this Agreement expressly conditions or predicates performance of a duty or obligation upon the performance of a duty or obligation by another Party, the performance of one Party's duties or obligations under this Agreement shall not be discharged or excused by the actual or alleged breach of the duties and obligations by another Party.

37. This Agreement is governed by and shall be interpreted under the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Middle District of Alabama. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

38. This Agreement, including Appendices A & B, constitutes the complete agreement among the Parties. No prior or contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provision herein or in any other proceeding.

39. This Agreement may be modified only with the written consent of all of the Parties. Any modification must be in writing and signed by the Parties through their authorized representatives.

40. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the entities indicated below.

41. Both Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

42. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

43. The Parties agree that they will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is illegal or invalid.

For the United States:

DATED: June 15, 2017

/s/ T.E. Wheeler, II
T.E. WHEELER, II
Acting Assistant Attorney General
Civil Rights Division

/s/ Sameena Shina Majeed
SAMEENA SHINA MAJEED
Chief

/s/ Alan A. Martinson
ELIZABETH A. SINGER
Director, U.S. Attorneys' Fair Housing Program
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For Michele Crowe:

Michele H. Crowe

Michele H. Crowe
1915 Graham Street
Montgomery, AL 36106

DATED: 16 June 2017

APPENDIX A

RELEASE OF ALL CLAIMS BY KYLE TAKAMURA

In consideration for the parties' agreement to the terms of the Settlement Agreement resolving the United States' allegations in United States v. Michele Crowe, Civil No. 2:17-cv-385 (M.D. Ala.), and Defendant's payment to Mariel Takamura and me of \$1,425, pursuant to the Settlement Agreement, I hereby release and forever discharge all claims related to the facts at issue in the litigation referenced above, or in any way related to that litigation, and any other claims arising from the illegal conduct alleged in that litigation, up to and including the date of execution of this release, that I may have against Defendant Michele Crowe and her agents, employees, heirs, executor, administrator, successors or assigns.

Executed this ____ day of _____, 2017.

KYLE TAKAMURA

APPENDIX B

RELEASE OF ALL CLAIMS BY MARIEL TAKAMURA

In consideration for the parties' agreement to the terms of the Settlement Agreement resolving the United States' allegations in United States v. Michele Crowe, Civil No. 2:17-cv-385 (M.D. Ala.), and Defendant's payment to Kyle Takamura and me of \$1,425, pursuant to the Settlement Agreement, I hereby release and forever discharge all claims related to the facts at issue in the litigation referenced above, or in any way related to that litigation, and any other claims arising from the illegal conduct alleged in that litigation, up to and including the date of execution of this release, that I may have against Defendant Michele Crowe and her agents, employees, heirs, executor, administrator, successors or assigns.

Executed this ____ day of _____, 2017.

MARIEL TAKAMURA