

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

MORNINGSTAR PROPERTIES, LLC

d/b/a Morningstar Storage,

Defendant.

Civil Action No. 8:24-cv-2208-JLB-SPF

CONSENT ORDER

CONSENT ORDER

I. INTRODUCTION

1. This Consent Order resolves the allegations in the United States' Complaint that Defendant Morningstar Properties, LLC d/b/a Morningstar Storage (hereinafter "Defendant") engaged in a pattern or practice of violating the Servicemembers Civil Relief Act ("SCRA"), 50 U.S.C. §§ 3901-4043, by enforcing liens on the property or effects of SCRA-protected servicemembers without the required court orders.

2. Defendant is a limited liability company organized and existing under the laws of North Carolina with a principal place of business in Matthews, North Carolina.

3. Defendant manages and operates a network of 99 self-storage facilities under the brand name Morningstar Storage, including nine self-storage facilities located in this district.

4. The United States and Defendant (hereinafter collectively "the Parties") agree that this Court has jurisdiction over this case pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 50 U.S.C. § 4041.

5. Defendant denies the United States' allegations that it engaged in a pattern or practice of violating the SCRA.

6. However, the Parties agree that, to avoid costly and protracted litigation, the claims against Defendant should be resolved without further proceedings. Therefore, as indicated by the signatures appearing below, the Parties agree to the entry of this Consent Order.

7. The effective date of this Consent Order will be the date on which it is approved and entered by the Court.

It is hereby ORDERED, ADJUDGED, and DECREED:

II. INJUNCTIVE RELIEF¹

8. Defendant and its subsidiaries, and any of their officers, employees, agents, representatives, assigns, successors-in-interest, and all persons and

¹ Nothing in this Consent Order shall preclude Defendant from offering greater protections to servicemembers than those afforded by this Consent Order or the SCRA.

entities in active concert or participation with Defendant are hereby enjoined from enforcing storage liens on the personal property of SCRA-protected servicemembers during an early alert period², a period of military service³ or within ninety (90) days following a period of military service, without obtaining a court order or a signed waiver that complies with 50 U.S.C. § 3918 and the requirements set forth in Paragraph 12(d) below.

III. COMPLIANCE WITH THE SCRA AND SCRA POLICIES AND PROCEDURES

A. New Storage Customers

9. No later than ten calendar days after the effective date of this Consent Order, Defendant shall require that any new customer entering into a contract for storage provide the following information: (1) first name; (2) last name; and (3) date of birth and/or social security number.

² For the purposes of this Consent Order the term "early alert" refers to: (a) the period beginning on the date that a member of a reserve component receives orders to report for military service and ending on the date on which the member reports for military service or, if the order is revoked before the member so reports, on the date on which the order is revoked; and (b) the period beginning on the date that a person ordered to report for induction under the Military Selective Service Act receives orders for induction and ending on the date on which the person reports for induction or, if the order to report for induction is revoked before the date on which the person reports for induction, on the date on which the order is revoked. *See* 50 U.S.C. § 3917(a)-(b).

³ For purposes of this Consent Order, the terms "military service" and "period of military service" shall have the definitions set forth in Section 3911 of the SCRA, 50 U.S.C. § 3911(2) and (3).

10. No later than ten calendar days after the effective date of this Consent Order, Defendant shall ensure that all of its written contracts for storage shall clearly and conspicuously require customers to acknowledge military service. The contract shall also, in at least twenty (20) point font, refer customers to an addendum to the contract containing a notice ("Military Notice") to be approved by the United States. The Military Notice shall request that customers contact Defendant if they or a household member join(s) the military, is called to military service, or becomes an active service commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration during the term of the contract. The Military Notice shall include a telephone number, electronic mail address, mailing address, and appropriate point of contact for Defendant. Defendant shall provide all new storage customers with copies of their storage contract, including the Military Notice.

B. Existing Storage Customers

11. No later than ten calendar days after the effective date of this Consent Order, Defendant shall send a copy of the Military Notice to the customer and provide contact information for the customer to notify Defendant of military service. Copies of the Military Notice should be sent by: (1) electronic mail (e-mail) to the customer's email address; or (2) by regular U.S. Mail to the customer's last known address to those customers who have opted out of email

communications or otherwise expressed a preference to receive correspondence via U.S. Mail.

C. Storage Lien Enforcement

12. Within 30 calendar days of the effective date of this Consent Order, Defendant shall develop SCRA Policies and Procedures for Enforcing Storage Liens in compliance with 50 U.S.C. § 3958. These policies and procedures must include the following:

- a. Before enforcing a storage lien through auctioning stored goods, Defendant will attempt to determine whether the customer is a servicemember who is in an early alert period, in a period of military service, or within 90 days of a period of military service by searching the publicly available Department of Defense Manpower Data Center ("DMDC") for evidence of SCRA eligibility by either (a) last name and social security number or (b) last name and date of birth.
- b. If Defendant finds through its search of the DMDC database that the customer is a servicemember in an early alert period, in a period of military service or within 90 days of a period of military service, Defendant (or its agents, including contractors and vendors) shall not enforce

a storage lien without first obtaining a valid written waiver or court order allowing it to do so.

- c. If a DMDC search results in “multiple matches found” or if Defendant is unable to obtain sufficient information to run the search, Defendant shall take additional steps to verify the customer’s military status, including: (1) reviewing all customer-provided information and communications for any indicia of military service; and (2) reviewing any military service information (including forms or orders) that Defendant has received. If Defendant’s review and examination indicates that a customer may be in military service, Defendant (or its agents, including contractors and vendors) shall not enforce a storage lien without first obtaining a valid written waiver or court order allowing it to do so.
- d. Defendant shall not initiate or pursue a waiver under a written agreement as provided in 50 U.S.C. § 3918 unless it sends a notice and a copy of the proposed waiver in the form attached as Exhibit A to the servicemember after they are in breach of the storage contract.

- e. If Defendant files a storage lien action in court and the SCRA-protected customer fails to appear in the action, before seeking default judgment, Defendant will file an affidavit of military service with the court as required by 50 U.S.C. § 3931(b)(1)(A) with the most recent military status report from the DMDC attached.

13. No later than 30 calendar days after the effective date of this Consent Order, Defendant shall provide a copy of the proposed SCRA Policies and Procedures required under Paragraph 12 to counsel for the United States.⁴ The United States shall respond to Defendant's proposed SCRA Policies and Procedures within 45 calendar days of receipt. If the United States objects to any part of Defendant's SCRA Policies and Procedures described in Paragraph 12, the Parties shall confer to resolve their differences. If the Parties cannot resolve their differences after good faith efforts to do so, any Party may bring the dispute to this Court for resolution. Defendant shall implement the SCRA Policies and Procedures within ten (10) calendar days of approval by the United States or the Court.

⁴ All materials required by this Consent Order to be sent to counsel for the United States shall be sent by commercial overnight delivery addressed as follows: Chief, Housing & Civil Enforcement Section, Civil Rights Division, United States Department of Justice, 150 M Street, N.E., Washington, DC 20002, Attn: DJ 216-17M-8. Correspondence may also be sent via electronic mail to the care of the undersigned counsel for the United States.

14. If, at any time during the term of this Consent Order, Defendant proposes to materially change its SCRA Policies and Procedures, it shall first provide a copy of the proposed changes to counsel for the United States. If the United States does not deliver written objections to Defendant within forty-five (45) calendar days of receiving the proposed changes, the changes may be implemented. If the United States makes any objections to the proposed changes within the 45-day period, the specific changes to which the United States objects shall not be implemented until the objections are resolved pursuant to the process described in Paragraph 13.

IV. TRAINING

15. Defendant shall provide SCRA compliance training to all District Managers, store managers, and any other employees who are involved in enforcing storage liens (hereinafter "covered employees") within forty-five (45) calendar days after Defendant's training program is approved by the United States or the Court pursuant to Paragraph 18. Defendant also shall provide the same SCRA compliance training to any employee who becomes a covered employee within thirty (30) calendar days of their hiring, promotion, or transfer on the portions of the SCRA and the Defendant's SCRA Policies and Procedures that are relevant to the employee's duties.

16. During the term of this Consent Order, Defendant shall provide annual SCRA training, with the same content as described in Paragraph 15, to covered employees with respect to their responsibilities and obligations under the SCRA, the SCRA Policies and Procedures, and the terms of this Consent Order.

17. Within forty-five (45) calendar days of the United States' or the Court's approval of the SCRA Policies and Procedures pursuant to Paragraph 13, Defendant shall provide to the United States the curriculum, instructions, and any written material included in the training required by Paragraphs 15 and 16.

18. The United States shall have forty-five (45) calendar days from receipt of these documents to raise any objections to Defendant's training materials, and, if it raises any, the Parties shall confer to resolve their differences. In the event they are unable to do so, either party may bring the dispute to this Court for resolution.

19. The covered employees may undergo the training required by Paragraphs 15 and 16 via live training, computer-based training, web-based training, or interactive digital media. If the training is conducted in any format other than live training, Defendant shall ensure that covered employees have the opportunity to have their questions answered by a company contact that

Defendant identifies as having SCRA expertise within ten business days of the training. Any expenses associated with the training program required by Paragraphs 15 and 16 shall be borne by Defendant.

20. Defendant shall secure a signed statement⁵ in the form attached as Exhibit B from all covered employees at the training required by Paragraphs 15 and 16 acknowledging that they have received, read, and understand the Consent Order and the SCRA Policies and Procedures specific to their responsibilities associated with storage liens, have had the opportunity to have their questions about these documents answered, and agree to abide by them. For the duration of this Consent Order, signed copies of those acknowledgments shall be provided to the United States upon request. Defendant shall also certify in writing to counsel for the United States that the covered employees successfully completed the training required by Paragraphs 15 and 16.

V. COMPENSATION FOR AGGRIEVED SERVICEMEMBERS

21. Within seven (7) calendar days of the date of entry of this Consent Order, Defendant shall provide eighty thousand dollars (\$80,000.00) in compensation to U.S. Air Force Staff Sergeant (SSgt) Stephanie Acevedo, by

⁵ The electronic signature of a covered employee shall be deemed satisfactory for purposes of verifying completion of the training required under this Consent Order.

delivering to counsel for the United States a check payable to Stephanie Acevedo. The United States shall not deliver payment pursuant to this section unless and until SSgt Acevedo has executed and provided to counsel for the United States a written release of all claims, legal or equitable, that she may have against Defendant relating to the claims asserted in this lawsuit. Such release shall take the form of Exhibit C. Counsel for the United States shall deliver a copy of the signed release form to counsel for Defendant.

22. Within seven (7) calendar days of the date of entry of this Consent Order, Defendant shall provide five thousand dollars (\$5,000.00) in compensation to U.S. Army Sergeant (SGT) Leon Jenkins, by delivering to counsel for the United States a check payable to Leon Jenkins. The United States shall not deliver payment pursuant to this section unless and until SGT Jenkins has executed and provided to counsel for the United States a written release of all claims, legal or equitable, that he may have against Defendant relating to the claims asserted in this lawsuit. Such release shall take the form of Exhibit C. Counsel for the United States shall deliver a duplicate of the original signed release form to counsel for Defendant.

23. Within seven (7) calendar days of the date of entry of this Consent Order, Defendant shall provide five thousand dollars (\$5,000.00) in compensation to U.S. Army Servicemember Tavaris Gilbert, by delivering to

counsel for the United States a check payable to Tavaris Gilbert. The United States shall not deliver payment pursuant to this section unless and until Servicemember Gilbert has executed and provided to counsel for the United States a written release of all claims, legal or equitable, that he may have against Defendant relating to the claims asserted in this lawsuit. Such release shall take the form of Exhibit C. Counsel for the United States shall deliver a duplicate of the original signed release form to counsel for Defendant.

VI. CREDIT REPAIR AND OTHER RELIEF

24. Defendant shall not pursue, and must indemnify SSgt Acevedo, SGT Jenkins, and Servicemember Gilbert against any third-party's pursuing, any deficiency that was remaining on their storage contract after their belongings were auctioned. Defendant shall not report, or cause to be reported through a third-party, any negative information concerning SSgt Acevedo, SGT Jenkins, and Servicemember Gilbert to any credit bureau, and shall immediately seek to remove any negative information it caused to appear in any credit bureau report for SSgt Acevedo, SGT Jenkins, and Servicemember Gilbert.

VII. CIVIL PENALTY

25. Within seven (7) calendar days of the date of entry of this Consent Order, Defendant shall pay a total of forty thousand dollars (\$40,000) to the United States Treasury as a civil penalty pursuant to 50 U.S.C. § 4041(b)(3) and 28

C.F.R. § 85.5 to vindicate the public interest. The payment shall be made in the form of an electronic funds transfer pursuant to written instructions to be provided by the United States.

VIII. ADDITIONAL REPORTING AND RECORD-KEEPING REQUIREMENTS

26. For the duration of this Consent Order, Defendant shall retain all records relating to its obligations hereunder, including all records with respect to its storage lien enforcement activities and compliance activities as set forth herein. The United States shall have the right to review and copy any such records, including electronic data, upon reasonable request during the term of this Consent Order.

27. During the term of this Consent Order, Defendant shall send copies of any SCRA or military-related complaint to the United States within five (5) business days of receipt. Defendant shall promptly produce any documents related to the complaint to the United States upon reasonable request. Defendant shall inform the United States in writing of its proposed resolution of the complaint prior to responding to the complainant and no later than fourteen (14) days after receiving the complaint. If the United States raises any objections to Defendant's proposed resolution, the Parties shall meet and confer to consider appropriate steps to address the concerns raised by the United States. If the

Parties are unable to come to an agreement regarding such objections or concerns, either party may bring the dispute to this Court for resolution.

IX. SCOPE OF CONSENT ORDER

28. The provisions of this Consent Order shall apply to Defendant and any of its subsidiaries, predecessors, acquired companies, or successors. It shall also apply to the officers, employees, managers, agents, representatives, assigns, successors-in-interest, and all persons and entities in active concert or participation with any of those persons and entities.

29. This Consent Order does not release claims for practices and violations not addressed in the Complaint's allegations, and it does not resolve or release claims other than claims for violations of 50 U.S.C. § 3958 that may be brought by the United States with respect to SSgt Acevedo, SGT Jenkins, or Servicemember Gilbert. This Consent Order does not release any claims that may be held or are currently under investigation by any other federal or state agency or entity.

30. Nothing in this Consent Order will excuse Defendant's compliance with any currently or subsequently effective provision of law or order of a regulator with authority over Defendant that imposes additional obligations on Defendant.

31. The Parties agree that, as of the date of entry of this Consent Order, litigation is not “reasonably foreseeable” concerning the matters described above. To the extent that either 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 either party of any other obligations imposed by this Consent Order.

X. MODIFICATIONS, ATTORNEY’S FEES AND COSTS, AND REMEDIES FOR NON-COMPLIANCE

32. Any time limits for performance imposed by this Consent Order may be extended by the mutual written agreement of the Parties.

33. The Parties shall be responsible for their own attorney’s fees and court costs, except as provided for in paragraph 34.

34. The Parties shall endeavor in good faith to resolve informally any differences regarding the interpretation of, and compliance with, this Consent Order prior to bringing such matters to the Court for resolution. However, in the event the United States contends that there has been a failure by Defendant, whether willful or otherwise, to perform in a timely manner any act required by this Consent Order or otherwise to comply with any provision thereof, the United States may move the Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring the performance of such

act or deeming such act to have been performed, and an award of any damages, costs, and attorney's fees which may have been occasioned by Defendant's violation or failure to perform.

XI. RETENTION OF JURISDICTION

35. The Court shall retain jurisdiction over all disputes between the Parties arising out of the Consent Order, including, but not limited to, interpretation and enforcement of the terms of the Consent Order.

36. This Consent Order shall be in effect for a period of four (4) years from its date of entry, after which time this case shall be dismissed with prejudice. The United States may move the Court to extend the duration of this Consent Order in the interests of justice.

It is hereby ORDERED, ADJUDGED, and DECREED:

SO ORDERED

This 1st day of November, 2024.


JOHN L. BADALAMENTI
UNITED STATES DISTRICT JUDGE

By their signatures below, the Parties consent to the entry of this Consent Order.

For the UNITED STATES OF AMERICA:

Dated: September 19, 2024

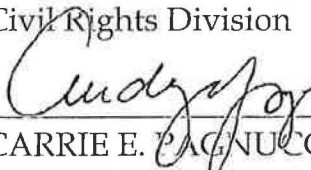
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For Defendant MORNINGSTAR PROPERTIES, LLC d/b/a Morningstar Storage:

Dated: September 19, 2024

A handwritten signature in dark ink, appearing to read "Sarah T. Reise", is written over a horizontal line.

SARAH T. REISE

Troutman Pepper Hamilton Sanders LLP

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Atlanta, GA 30308

Phone: (404) 885-3798

Facsimile: (404) 885-3900

Sarah.reise@troutman.com

EXHIBIT A
IMPORTANT NOTICE AFFECTING MILITARY SERVICEMEMBERS
RIGHTS AND PROTECTIONS AFFORDED UNDER THE
SERVICEMEMBERS CIVIL RELIEF ACT

Attached to this notice you will find a waiver of rights and protections that may be applicable to you and your dependents pursuant to the Servicemembers Civil Relief Act, 50 U.S.C. § 3901, *et seq.* (the "SCRA"). The SCRA provides military personnel and their dependents with a wide range of legal and financial protections. Among other benefits and protections, the SCRA:

- Prohibits storage companies from auctioning off or disposing of servicemembers' belongings without a court order;
- Postpones court actions against servicemembers under certain circumstances;
- Requires the appointment of an attorney to represent a servicemember defendant in any civil action or proceeding; and
- Permits a court to adjust a servicemember's obligations if the servicemember's ability to pay is materially affected by military service.

If you choose to sign the attached waiver, Morningstar Storage will have the option of auctioning off or disposing of your belongings without having to obtain a court order. If you do not sign this waiver, Morningstar Storage will not be able to auction off or dispose of your belongings without obtaining a court order. If Morningstar Storage takes you to court to enforce a storage lien and sell your stored goods, the court may take steps to ensure that a judgment is not entered against you if you are unable to appear due to your military service.

Before waiving this important statutory right, you should consult an attorney regarding whether it is in your interest to waive this right under the conditions offered by Morningstar Storage.

For More Information:

- **CONSULT AN ATTORNEY:** To understand fully your rights under the

law, and before waiving your rights, you should consult an attorney.

- JAG / LEGAL ASSISTANCE: Servicemembers and their dependents with questions about the SCRA should contact their unit's Judge Advocate, or their installation's Legal Assistance Officer. A military legal assistance office locator for all branches of the Armed Forces is available at <http://legalassistance.law.af.mil/>.

MILITARY ONESOURCE: "Military OneSource" is the U.S. Department of Defense's information resource. Go to <http://www.militaryonesource.com>.

**AGREEMENT AND WAIVER OF RIGHTS UNDER SERVICEMEMBERS
CIVIL RELIEF ACT**

I _____ am a Servicemember OR the duly authorized agent or attorney-in-fact of _____, a Servicemember, pursuant to a power of attorney dated _____ and I am aware that I have protections available to me under the Servicemembers Civil Relief Act (SCRA).

These protections include, but are not limited to, the right to not have a storage company sell or dispose of my personal property without a court order during a period of military service or for 90 days thereafter.

By signing this waiver, I acknowledge and agree that:

- I have read and understood the attached IMPORTANT NOTICE TO MILITARY SERVICEMEMBERS;
- I am waiving my right to have a court review and approve the sale or disposal of the contents my storage unit(s) [UNIT NO.] located at [NAME OF STORAGE FACILITY], [ADDRESS] (the "Storage Unit(s)") by Morningstar Storage, in accordance with 50 U.S.C. § 3958;
- In exchange for waiving your SCRA rights with respect to the Storage Unit(s), Morningstar Storage has agreed to waive its right to recover any deficiency balance, storage charges, or other unpaid fees relating to the Storage Unit(s);

Morningstar Storage represents that it has not and will not report, or cause to be reported through a third-party, any negative information concerning me or my Storage Unit(s) to any credit bureau;

- This Waiver shall have no effect on my right to receive any excess proceeds from the sale of the Storage Unit(s) as provided by state law;
- This waiver is made voluntarily and without coercion, duress, or compulsion. I understand the terms of this waiver of rights and acknowledge that I was advised to consult with an attorney regarding this waiver and the protections afforded by the SCRA.

Subject to the above provisions, I hereby waive and give up any right I may have to have a court review and approve the sale or disposal of the contents of the

Storage Unit(s). I authorize Morningstar Storage to auction or dispose of the contents of the Storage Unit(s) in accordance with state law.

Dated: _____

By: _____

Signature

Print Name

Dated: _____

By: _____

Signature

Print Name

For: Morningstar Properties, LLC
dba Morningstar Storage

EXHIBIT B

EMPLOYEE ACKNOWLEDGMENT

I acknowledge that on _____, 20__, I was provided training regarding SCRA compliance, a copy of the Consent Order entered by the Court in *United States v. Morningstar Properties, LLC d/b/a/ Morningstar Storage*, Case No. [####] (M.D. Fla.), and copies of Morningstar's SCRA Policies and Procedures that are applicable to my duties. I have read and understand these documents and have had my questions about these documents and the SCRA answered. I understand my legal responsibilities and shall comply with those responsibilities.

[PRINT NAME]

[SIGNATURE]

[JOB TITLE]

EXHIBIT C

RELEASE

In consideration for the Parties' agreement to the terms of the Consent Order entered by the United States District Court for the Middle District of Florida in *United States v. Morningstar Properties, LLC d/b/a/ Morningstar Storage*, Case No. [####] (M.D. Fla.), and Morningstar's payment to me of \$[AMOUNT], I, {NAME}, hereby release and forever discharge all claims, arising prior to the date of this Release, related to the facts at issue in the litigation referenced above and related to the alleged violation of Section 3958 of the Servicemembers Civil Relief Act, that I may have against Morningstar Properties, LLC and all related entities, parents, predecessors, successors, subsidiaries, and affiliates and all of their past and present directors, officers, agents manager, supervisors, shareholders, and employees and their heirs, executors, administrators, successors, or assigns.

Executed this _____ day of _____, 20__.

SIGNATURE:

PRINT NAME:
