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<tr><td>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO
1437 Bannock Street
Denver, Colorado 80202</td><td rowspan="2">

▲COURT USE ONLY▲</td></tr>
<tr><td>THE STATE OF COLORADO ex rel. PHILIP J. WEISER, ATTORNEY GENERAL,

Plaintiff,

v.

AVAIL PROPERTY MANAGEMENT, INC. and PK MANAGEMENT, LLC,

Defendants.</td></tr>
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Div.:</td></tr>
<tr><td colspan="2" align="center">COMPLAINT</td></tr>
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Plaintiff, Philip J. Weiser, Attorney General for the State of Colorado ("Attorney General"), in his official law enforcement capacity, alleges as follows:

I. Introduction

1. The Attorney General brings this action to enjoin Defendants Avail Property Management, Inc. ("Avail") and PK Management, LLC ("PK") (collectively, "Defendants") from continuing to deny rental housing to Colorado consumers by unlawfully considering prospective renters' outdated criminal convictions and non-conviction criminal history information, in violation of Colorado's Rental Application Fairness Act ("RAFA") and Colorado Consumer Protection Act ("CCPA").

2. RAFA is codified §§ 38-12-901 to -905, C.R.S.

3. RAFA prohibits residential landlords from considering certain aspects of prospective renters' criminal histories. RAFA prohibits landlords from considering arrest records—which are not an adjudication of guilt—regardless of when the arrest occurred.

4. RAFA allows landlords to consider convictions that occurred within the last five years, but limits landlords' consideration of older convictions to specific crimes listed in the statute such as manufacturing or selling methamphetamine and offenses requiring registration as a sex offender. Similarly, landlords can only consider deferred judgments relating to a narrow subset of criminal offenses.

5. RAFA is designed to ensure that a prospective renters' stale criminal history or non-conviction records do not bar them from access to housing.

6. In performing criminal background checks on prospective tenants applying for rental housing in Colorado, Defendants repeatedly considered applicants' criminal history information prohibited by RAFA, including convictions that occurred more than five years prior to the application date and non-conviction records.

7. Defendants' unlawful consideration of criminal history information led to prospective tenants being denied access to affordable rental housing.

II. Parties

8. Philip J. Weiser is the duly elected Attorney General of the State of Colorado and is authorized to enforce RAFA and the CCPA under §§ 24-31-101(1)(i)(XVII) and 24-31-101(1)(i)(II), C.R.S. respectively.

9. Defendant Avail is a domestic corporation organized under the laws of Colorado with its principal place of business located at 3455 Ringsby Ct, Ste 145, Denver, CO 80216.

10. Defendant PK is a foreign limited liability company organized under the laws of Delaware with its principal place of business located at 26301 Curtiss Wright Pkwy, Ste 300, Cleveland, OH 44143. According to records filed with the Colorado Secretary of State, PK operates in Colorado under the assumed entity name PK Management CO, LLC.

III. Jurisdiction and Venue

11. Pursuant to §§ 6-1-103, 6-1-110(1), and 24-31-115(8), C.R.S., this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.

12. The Court has personal jurisdiction over the Defendants because they: (a) did business in the State of Colorado at times material to this action; (b) purposefully availed themselves of the rights and privileges of the State of Colorado; (c) engaged in the practices and conduct described in this Complaint; and (d) directed, controlled, participated in, and/or supervised the conduct alleged. Additionally, Avail's headquarters is in Denver.

13. This Court has jurisdiction over the subject matter of this action pursuant to Colorado Const. Art. VI, Section 9, the Colorado Rules of Civil Procedure 57 and 65 and § 24-31-1206, C.R.S.

14. Because a portion of a transaction involving an alleged deceptive trade practice or violation of RAFA occurred in the City and County of Denver, venue is appropriate in this Court. §§ 6-1-103, 24-31-115(3), C.R.S.; C.R.C.P. 98.

IV. Factual Allegations

Overview of Defendants' Criminal Background Screening of Rental Applicants

15. Defendants Avail and PK are property management companies that specialize in management of multifamily affordable housing properties, including properties made affordable through the Low-Income Housing Tax Credit program and other government subsidy programs.

16. As managers of rental housing, Defendants are landlords under Colorado law.

17. During the relevant period, which covers 2023 through the present date, Avail and PK were affiliated companies with integrated personnel, policies, practices, and involvement in the management of residential rental properties in Colorado. For example, PK and Avail share the same President and multiple other senior executives; PK and Avail also shared the same Operations Manager; Avail and PK used identical or nearly-identical tenant selection plans for many Colorado properties; PK's National Director of Training directed

Avail's regional leadership regarding tenant background screening protocols and sent the same directions to PK's other regional managers and directors.

18. In an email to RealPage, PK's National Director of Training referred to an Avail manager as "one of my managers"; and in an email with PK's National Director of Training, an Avail executive noted, "we manage both Avail and PK sites under the same team[.]"

19. During the relevant period, Avail and PK collectively oversaw nearly 4,000 units across more than a dozen properties in Colorado, including throughout the Denver metro area, as well as Colorado Springs and Durango.

20. Many of these properties received low-income housing tax credits or other government subsidies and, therefore, offered housing units for lease at below-market-rate rents. Some of the properties specifically provide affordable housing for seniors.

21. Defendants conduct background screening on all adults seeking to rent housing at Defendants' rental properties in Colorado. The background screening includes a check of prospective tenants' criminal history information.

22. At all times relevant, Defendants used a background screening service called LeasingDesk to conduct criminal history checks on applicants for rental housing. LeasingDesk is operated by RealPage, Inc. ("RealPage"). Defendants use a property management software ("PMS") platform called OneSite, which is also operated by RealPage.

23. Through the RealPage PMS platform, Defendants conduct background checks for rental applicants. Upon request by Defendants, RealPage performs the criminal background screening on the applicant.

24. In making decisions about which rental applicants to accept into their rental units, Defendants consider the criminal history information of applicants listed in the background reports provided by RealPage.

25. When the background screening finishes, RealPage renders an overall housing admissions decision regarding the applicant—such as approved or denied—and produces a pass/fail summary for each category of background information.

26. If RealPage's screening report indicates the applicant does not meet Defendants' admissions requirements regarding criminal history, Defendants use this information to deny the prospective tenant's rental application.

27. When Defendants reject rental application based on criminal history information included in the background screening report about the prospective tenant, Defendants send the rejected applicant a letter stating the application was carefully considered and the denial occurred because of unsatisfactory criminal records based on information obtained in the background screening report, as shown in Figure A.

> Thank you for your recent application. Your request was carefully considered and we regret that we are unable to approve your application at this time for the following reason(s):
>
> Criminal and other public records unsatisfactory
>
> Our decision was based in whole or in part on information obtained in a report from the consumer reporting agencies listed below. These consumer reporting agencies played no part in our decision and are unable to supply specific reasons for our decision on your application.

Figure A – Denial letter excerpt.

28. In addition to an overall admissions decision and a summary for each category of information included in the background screen, RealPage also generates a detailed screening report for each adult applicant and provides that to Defendants.

29. Regarding criminal history information, the detailed report includes information about each criminal offense record reported for the applicant, with columns for the jurisdiction, disposition, type/level, charge, record date, and identification number and/or county.

30. Defendants have access to the detailed report produced by RealPage.

31. Defendants instruct their staff to view the detailed report for each adult applicant whose background screen results in a denial.

32. Defendants knew that RealPage's screening processes often resulted in improper denials. For example, in 2022, a PK compliance executive emailed regional directors and senior leadership, stating, "we realized quite some time ago that we cannot just take Realpage's credit and criminal denials at face value[.]"

33. Defendants continued using RealPage's screening product and continued directing Defendants' staff to defer to RealPage's criminal screening determinations. Defendants instructed their staff not to override pass/fail screening results involving criminal history information. Defendants made those directives even though they were aware that RealPage's criminal denials were unreliable and they were able to review detailed information about the disposition (or lack thereof) and date of each criminal record included in the RealPage screening report.

34. Prospective tenants cannot avoid Defendants' unlawful screening policies and practices, because all applicants seeking to rent units at Defendants' properties are subject to them.

Defendants unlawfully considered records of prospective tenants' criminal convictions that occurred more than five years before the rental application date

35. Throughout the period relevant to this Complaint, Defendants purported to use a lookback period of five years for consideration of applicants' criminal history information.

36. But in implementing this lookback period, Defendants considered the applicants' criminal history information relating to an offense if *any of the following* occurred within the lookback period: the date of conviction, the date of release from detention or incarceration, or the date when all probation, parole, or fines are paid and completed.

37. The date an individual is released from detention or incarceration, and the date when all related consequences such as probation, parole, or fines are resolved, always, or almost always, occur ***after*** the date the conviction occurred, and sometimes many years after.

38. By using a date ***after*** the conviction date listed on the screening report, the Defendants considered a lookback period of longer than five years.

39. Defendants considered and denied applicants based on criminal convictions that occurred more than five years prior to the date of the rental application.

40. This was a foreseeable consequence of Defendants' screening practices.

41. On numerous occasions, Defendants considered records showing a criminal conviction that occurred more than ten years, and sometimes even more than twenty years, before the prospective tenant applied for rental housing.

42. For example, in 2023, Defendants denied an applicant after his screening report showed a criminal conviction for the misdemeanor offense of possession of marijuana that occurred in 2011, twelve years earlier.

43. In 2025, Defendants denied the application of a sixty-nine-year-old man after his screening report showed he was convicted for a misdemeanor offense of violating a civil restraining order in 2003, twenty-two years before he applied to rent housing from Defendants.

Defendants unlawfully considered records of prospective tenants' deferred judgment records

44. Defendants considered deferred judgments in reviewing criminal records. Colorado law allows landlords to consider prospective tenants' deferred judgments only for certain enumerated crimes. Defendants did not limit their consideration accordingly.

45. In 2021, Defendants denied the application of a sixty-one-year-old man after his screening report showed a deferred judgment that occurred 2013. But in fact, Colorado court records showed the prospective tenant had successfully complied with the terms of the deferred judgment agreement, resulting in a termination of probation in 2015, and no judgment of conviction occurred.

46. Similarly, also in 2023, Defendants denied rental housing to a sixty-three-year-old man whose screening report showed that he was subject to a deferred judgment on a misdemeanor harassment charge from twenty-one years prior, in the year 2000. But in fact, Colorado court records showed the prospective tenant had successfully complied with the terms of the deferred judgment agreement, resulting in a termination of probation and dismissal in 2001, and no conviction occurred.

Defendants unlawfully considered non-conviction records involving prospective tenants

47. Screening reports compiled by RealPage for use by Defendants also included other information about prospective tenants' encounters with the

criminal legal system that landlords cannot consider under Colorado law, such as non-conviction records.

48. For example, in 2023, Defendants denied the application of a sixty-five-year-old woman after her screening report showed the existence of a criminal case record in Arizona from October 2019. The screening report did not include any information about the disposition or type/level of the criminal case, and the words “not provided” appeared in the box where the criminal charge normally would be listed.

49. In fact, the information included in the RealPage screening report and considered by Defendants reflected only the fact that the prospective tenant had been arrested.

50. Complete court records show that the state declined to pursue criminal charges against the prospective tenant. Therefore, the prospective tenant had no conviction.

51. But Defendants denied her housing application in 2023 based on this “unsatisfactory” criminal record.

52. In another example, also from 2023, Defendants denied the application of a twenty-six-year-old prospective tenant after their screening report showed a criminal case record dating from more than six years earlier, in 2017. Again, the screening report did not include any information about the disposition or type/level of the criminal case.

53. In fact, Colorado court records indicate that the prospective tenant had been subject to a deferred judgment and that, as of January 2019, the terms of the deferral were successfully completed and, in turn, the charge was dismissed.

54. Therefore, at the time Defendants ran a background screen on the prospective tenant in 2023, there was no conviction.

55. But Defendants denied this prospective tenant’s housing application in 2023 based on this “unsatisfactory” criminal record.

V. Claims for Relief

FIRST CLAIM FOR RELIEF

(Illegal consideration of criminal history information —

§ 38-12-904(1)(b), C.R.S.)

56. The Attorney General incorporates herein by reference all allegations set forth above.

57. RAFA, specifically § 38-12-904(1)(b), C.R.S., expressly prohibits landlords from considering an arrest record of a prospective tenant from any time.

58. Section 38-12-904(1)(b) also expressly prohibits landlords from considering any conviction of a prospective tenant that occurred more than five years before the date of the application, except that a landlord may consider any criminal conviction record or deferred judgment relating to:

> (I) The unlawful distribution, manufacturing, dispensing, or sale of a material, compound, mixture, or preparation that contains methamphetamine, as described in section 18-18-405;
>
> (II) The unlawful possession of materials to make methamphetamine and amphetamine, as described in section 18-18-412.5;
>
> (III) Any offense that required the prospective tenant to register as a sex offender pursuant to section 16-22-103; or
>
> (IV) Any offense described in part 1 or part 6 of article 3 of title 18.

59. Defendants are landlords.

60. Defendants considered arrest records of prospective tenants.

61. Defendants considered prospective tenants' convictions that occurred more than five years before the date of the rental housing application and did not relate to any of the exceptions enumerated in § 38-12-904(1)(b)(I) to -904(1)(b)(IV), C.R.S.

62. Defendants considered prospective tenants' deferred judgments, including deferred judgments that occurred more than five years before the date of the rental housing application and did not relate to any of the exceptions enumerated in § 38-12-904(1)(b)(I) to -904(1)(b)(IV), C.R.S.

63. Accordingly, Defendants violated RAFA, specifically § 38-12-904(1)(b), C.R.S.

64. The Attorney General provided notice to Defendants of these past violations in April 2026, and Defendants did not cure the past violations within seven days of receiving notice.

SECOND CLAIM FOR RELIEF

(Unfair or unconscionable act or practice —

§ 6-1-105(1)(rrr), C.R.S.)

65. The Attorney General incorporates herein by reference all allegations set forth above.

66. It is a deceptive trade practice to knowingly or recklessly engage in any unfair, unconscionable, deceptive, deliberately misleading, false, or fraudulent practice. § 6-1-105(1)(rrr), C.R.S.

67. Defendants' consideration of criminal history information about prospective tenants in violation of RAFA and denying rental housing to prospective tenants based on such improper considerations constitute unfair or unconscionable acts or practices.

68. Colorado has a strong public policy, expressed via RAFA, curtailing landlords' consideration of prospective tenants' criminal history information by prohibiting landlords from considering non-conviction criminal history information and, with very narrow exceptions, all records of convictions that occurred more than five years before the subject rental application.

69. Defendants knew or were reckless to the fact that the RealPage screening reports included criminal history information that could not be considered under RAFA, but Defendants denied prospective tenants based on RealPage's screening reports anyway.

70. Defendants' practice (1) violates public policy, including those policies set out in C.R.S. § 38-12-105; (2) is immoral, unethical, oppressive and unscrupulous; and (3) causes substantial consumer injury.

71. As alleged above, Defendants' conduct inflicted substantial harm on prospective tenants who were denied access to rental housing based on

Defendants' consideration of certain criminal records in violation of Colorado law.

72. The harm suffered by prospective tenants is amplified, because many of Defendants' properties provided below-market-rate rentals. Colorado has a severe deficit of rental units that are affordable and available for its lowest-income households. For extremely- and very-low-income renters, below-market-rate housing subsidized through government programs, such as the rental housing operated by Defendants, is some of the only rental housing they can afford.

VI. Relief Requested

WHEREFORE, Plaintiff prays for judgment against the Defendants and the following relief:

A. An order declaring Defendants' above-described conduct to be in violation of the Rental Application Fairness Act, § 38-12-904(1), C.R.S., and the Colorado Consumer Protection Act, § 6-1-105(1)(rrr), C.R.S.

B. An order permanently enjoining Defendants, their officers, directors, successors, assignees, agents, employees, and anyone in active concert or participation with any Defendant with notice of such injunctive orders, from engaging in any violation of RAFA, and any deceptive trade practice as defined in and proscribed by the CCPA, and as set forth in this Complaint.

C. Additional appropriate orders necessary to prevent Defendants' continued or future violations of RAFA and deceptive trade practices.

D. A judgment in an amount to be determined at trial for restitution, unjust enrichment, or other equitable relief pursuant to § 6-1-110(1), C.R.S.

E. An order requiring Defendants to pay civil penalties in an amount not to exceed $20,000 per violation pursuant to § 6-1-112(1)(a), C.R.S., or $50,000 per violation pursuant to § 6-1-112(1)(c), C.R.S.

F. An order requiring Defendants to pay statutory penalties in the amount of $2,500 per violation pursuant to § 38-12-905, C.R.S.

G. An order requiring Defendants to pay the costs and expenses of this action incurred by the Attorney General, including, but not limited to, Plaintiff's attorney fees, pursuant to §§ 6-1-113(4) and 38-12-905(1), C.R.S.

H. That the Court adopt the Stipulated Consent Judgment, which is being filed simultaneously herewith, as an Order of the Court.

I. Any such further orders as the Court may deem just and proper to effectuate the purposes of RAFA and the CCPA.

Respectfully submitted this 2nd day of September, 2026.

PHILIP J. WEISER
Attorney General

/s/ *Adam Rice*
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