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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

JOSEPH TOLA, On Behalf of Himself and All  
Others Similarly Situated,

Plaintiff,

v.

UCP, INC., MICHAEL C. CORTNEY,  
DUSTIN L. BOGUE, ERIC H. SPERON,  
PETER H. LORI, KATHLEEN R. WADE,  
MAXIM C.W. WEBB, CENTURY  
COMMUNITIES, INC., and CASA  
ACQUISITION CORP.,

Defendants.

Case No. 5:17-cv-02713

CLASS ACTION

**COMPLAINT FOR VIOLATION OF  
THE SECURITIES EXCHANGE ACT  
OF 1934**

JURY TRIAL DEMANDED

Plaintiff, by and through his attorneys, alleges upon personal knowledge as to himself, and upon information and belief based upon, among other things, the investigation of counsel as to all other allegations herein, as follows:

**SUMMARY OF THE ACTION**

1. This is a class action brought on behalf of the public stockholders of UCP, Inc. (“UCP” or the “Company”) against UCP and its Board of Directors (the “Board” or the “Individual Defendants”), to enjoin a proposed transaction announced on April 11, 2017 (the “Proposed Transaction”), pursuant to which UCP will be acquired by Century Communities, Inc.

1 (“Parent”) through its wholly-owned subsidiary, Casa Acquisition Corp. (“Merger Sub,” and  
2 collectively with Parent, “Century”).

3 2. On April 10, 2017, the Board caused UCP to enter into an agreement and plan of  
4 merger (the “Merger Agreement”). Pursuant to the terms of the Merger Agreement, stockholders  
5 of UCP will receive \$5.32 in cash and 0.2309 of a share in the newly combined company for  
6 each share they own.

7 3. On May 5, 2017, defendants filed a Form S-4 Registration Statement (the  
8 “Registration Statement”) with the United States Securities and Exchange Commission (“SEC”)  
9 in connection with the Proposed Transaction.

10 4. The Registration Statement omits material information with respect to the  
11 Proposed Transaction, which renders the Registration Statement false and misleading.  
12 Accordingly, plaintiff alleges herein that defendants violated Sections 14(a) and 20(a) of the  
13 Securities Exchange Act of 1934 (the “1934 Act”) in connection with the Registration Statement.

14 **JURISDICTION AND VENUE**

15 5. This Court has jurisdiction over all claims asserted herein pursuant to Section 27  
16 of the 1934 Act because the claims asserted herein arise under Sections 14(a) and 20(a) of the  
17 1934 Act and Rule 14a-9.

18 6. This Court has jurisdiction over defendants because each defendant is either a  
19 corporation that conducts business in and maintains operations within this District, or is an  
20 individual with sufficient minimum contacts with this District so as to make the exercise of  
21 jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

22 7. Venue is proper under 28 U.S.C. § 1391 because a substantial portion of the  
23 transactions and wrongs complained of herein occurred in this District.

24 **PARTIES**

25 8. Plaintiff is, and has been continuously throughout all times relevant hereto, the  
26 owner of UCP common stock.

27 9. Defendant UCP is a Delaware corporation and maintains its principal executive  
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1 offices at 99 Almaden Boulevard, Suite 400, San Jose, California 95113. The Company is a  
2 homebuilder and land developer. UCP's common stock is traded on the New York Stock  
3 Exchange under the ticker symbol "UCP."

4 10. Defendant Michael C. Cortney ("Cortney") is a director and Chairman of the  
5 Board of UCP. According to the Company's website, Cortney is Chair of the Compensation  
6 Committee, a member of the Audit Committee, and a member of the Nominating and Corporate  
7 Governance Committee.

8 11. Defendant Dustin L. Bogue ("Bogue") is a director, President, and Chief  
9 Executive Officer ("CEO") of UCP.

10 12. Defendant Eric H. Speron ("Speron") is a director of UCP.

11 13. Defendant Peter H. Lori ("Lori") is a director of UCP. According to the  
12 Company's website, Lori is Chair of the Audit Committee and a member of the Compensation  
13 Committee.

14 14. Defendant Kathleen R. Wade ("Wade") has served as a director of UCP since  
15 April 2014. According to the Company's website, Wade is Chair of the Nominating and  
16 Corporate Governance Committee and a member of the Audit Committee.

17 15. Defendant Maxim C.W. Webb ("Webb") has served as a director of UCP since  
18 2007. According to the Company's website, Webb is a member of the Nominating and  
19 Corporate Governance Committee.

20 16. The defendants identified in paragraphs 10 through 15 are collectively referred to  
21 herein as the "Individual Defendants."

22 17. Defendant Parent is a Delaware corporation with its principal executive offices  
23 located at 8390 East Crescent Parkway, Suite 650, Greenwood Village, Colorado 80111.

24 18. Defendant Merger Sub is a Delaware corporation and a wholly-owned subsidiary  
25 of Parent.

26 **CLASS ACTION ALLEGATIONS**

27 19. Plaintiff brings this action as a class action on behalf of himself and the other  
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1 public stockholders of UCP (the “Class”). Excluded from the Class are defendants herein and  
2 any person, firm, trust, corporation, or other entity related to or affiliated with any defendant.

3 20. This action is properly maintainable as a class action.

4 21. The Class is so numerous that joinder of all members is impracticable. As of  
5 March 31, 2017, there were approximately 7,958,314 shares of UCP common stock outstanding,  
6 held by hundreds, if not thousands, of individuals and entities scattered throughout the country.

7 22. Questions of law and fact are common to the Class, including, among others,  
8 whether defendants violated the 1934 Act and whether defendants will irreparably harm plaintiff  
9 and the other members of the Class if defendants’ conduct complained of herein continues.

10 23. Plaintiff is committed to prosecuting this action and has retained competent  
11 counsel experienced in litigation of this nature. Plaintiff’s claims are typical of the claims of the  
12 other members of the Class and plaintiff has the same interests as the other members of the  
13 Class. Accordingly, plaintiff is an adequate representative of the Class and will fairly and  
14 adequately protect the interests of the Class.

15 24. The prosecution of separate actions by individual members of the Class would  
16 create the risk of inconsistent or varying adjudications that would establish incompatible  
17 standards of conduct for defendants, or adjudications that would, as a practical matter, be  
18 dispositive of the interests of individual members of the Class who are not parties to the  
19 adjudications or would substantially impair or impede those non-party Class members’ ability to  
20 protect their interests.

21 25. Defendants have acted, or refused to act, on grounds generally applicable to the  
22 Class as a whole, and are causing injury to the entire Class. Therefore, final injunctive relief on  
23 behalf of the Class is appropriate.

24 **SUBSTANTIVE ALLEGATIONS**

25 **A. Background of the Company and the Proposed Transaction**

26 26. UCP is a homebuilder and land developer with expertise in residential land  
27 acquisition, entitlement, and development, as well as home design, construction, and sales.

1 27. The Company operates in California, Washington, North Carolina, South  
2 Carolina, and Tennessee.

3 28. UCP designs and builds single-family homes for a variety of lifestyles and  
4 budgets through its wholly-owned subsidiary, Benchmark Communities, LLC. The Benchmark  
5 Communities brand is recognized by homebuyers for its high-quality construction and  
6 craftsmanship, cutting-edge home design, and customer-centric service and warranty programs.

7 29. On February 27, 2017, the Company issued a press release wherein it reported its  
8 fourth quarter and full year 2016 results.

9 30. For the fourth quarter, the Company reported that earnings increased to \$0.89 per  
10 share of Class A common stock; revenue from homebuilding operations increased 17.5% to  
11 \$104.4 million; homes delivered increased 15.2% to 257; and net new home orders increased  
12 26.1% to 232 units compared to the fourth quarter of 2015.

13 31. For the full year 2016, UCP reported that earnings increased to \$1.15 per share of  
14 Class A common stock; revenue from homebuilding operations increased 36.2% to \$343.9  
15 million; homes delivered improved 17.0% to 820 units; and net new home orders increased 8.5%  
16 to 933 units.

17 32. With respect to the financial results, Individual Defendant Bogue, President and  
18 CEO of the Company, commented:

19 We are pleased to achieve record earnings for the full year 2016 as a result of  
20 sustained revenue momentum, operating discipline and a transformative approach  
21 to generating stronger profitability. During the year, our efforts to design  
22 innovative homes and uphold best in class construction standards allowed us grow  
23 homebuilding revenues and improve homebuilding gross margin, despite  
24 inflationary increases in material and labor costs. In the fourth quarter, the West  
25 division continued to be the main driver of growth, with home deliveries growing  
26 22.8% and net new home orders growing 31.7%, on the strength of demand from  
27 our first-time and move down home buyer. In the Southeast, fourth quarter net  
28 new home orders grew for the second consecutive quarter. Overall, our West and  
Southeast markets continue to demonstrate healthy housing fundamentals with  
year-end backlog up 45.4% to 362 units. As we look to 2017 and beyond, we are  
committed to growing earnings through a sustainable pipeline of well-located  
communities to drive high-quality orders at attractive margins. We plan to  
accomplish this while improving balance sheet metrics, extending our debt  
maturities and maintaining an effective land strategy to improve returns on equity.

1 33. Nevertheless, the Board caused the Company to enter into the Merger Agreement,  
2 pursuant to which the Company will be acquired for inadequate consideration.

3 34. To the detriment of the Company's stockholders, the terms of the Merger  
4 Agreement substantially favor Century and are calculated to unreasonably dissuade potential  
5 suitors from making competing offers.

6 35. The Individual Defendants have all but ensured that another entity will not  
7 emerge with a competing proposal by agreeing to a "no solicitation" provision in the Merger  
8 Agreement that prohibits the Individual Defendants from soliciting alternative proposals and  
9 severely constrains their ability to communicate and negotiate with potential buyers who wish to  
10 submit or have submitted unsolicited alternative proposals. Sections 5.02(a) and (b) of the  
11 Merger Agreement state:

12 (a) Termination of Existing Discussions. The Company, each of the Company  
13 Subsidiaries, and the respective directors, officers, employees and controlled  
14 Affiliates of the Company and of each of the Company Subsidiaries shall, and the  
15 Company shall instruct each of its Representatives to, cease immediately and  
16 cause to be immediately terminated all soliciting activities, discussions and  
17 negotiations and access to nonpublic information with, to or by any Person (other  
18 than Parent or Merger Sub) regarding any proposal, expression of interest, request  
19 for information or other communication that constitutes, or could reasonably be  
20 expected to lead to, any Company Takeover Proposal. The Company shall  
21 promptly (but not later than one (1) Business Day after the first public  
22 announcement of this Agreement) request that each Person (other than Parent and  
23 Merger Sub) with which or whom the Company heretofore has entered into a  
24 confidentiality, standstill or similar agreement or otherwise has had discussions or  
25 negotiations, in each case, regarding any offer, proposal, expression of interest,  
26 request for information or other communication that constitutes, constituted, or  
27 reasonably could be expected to lead to, any Company Takeover Proposal (any  
28 such Persons and their Affiliates and Representatives being referred to as "Prior  
Company Bidders"), that is in possession of, or was furnished with or provided  
access to, any Company nonpublic information, immediately return to the  
Company or destroy (with a certification of such destruction delivered to the  
Company if such a certification is required by such confidentiality, standstill or  
similar agreement, or with the Company requesting a certification of such  
destruction delivered to the Company if such a certification is not required by  
such confidentiality, standstill or similar agreement) all such nonpublic  
information, and, to the extent not heretofore terminated, the Company and its  
Representatives shall immediately terminate all physical and electronic data room  
access previously granted to any such Prior Company Bidder.

(b) Prohibition on Soliciting Activities. Except as expressly permitted by this  
Section 5.02, from the date hereof until the earlier of the Effective Time and the  
termination of this Agreement in accordance with Article VIII, the Company  
shall not, nor shall it authorize any of its Representatives or permit any of its  
controlled Affiliates to, and the Company shall instruct each of its Representatives

1 not to, on behalf of the Company, directly or indirectly, (i) solicit, initiate, or  
2 knowingly encourage or facilitate any inquiries or the making, announcement or  
3 submission to the Company of any expression of interest, proposal or offer that  
4 constitutes, or reasonably would be expected to lead to, any Company Takeover  
5 Proposal, (ii) enter into any agreement (whether binding, non-binding, conditional  
6 or otherwise) with respect to any Company Takeover Proposal (other than an  
7 Acceptable Confidentiality Agreement entered into in compliance with Section  
8 5.02(c) ), (iii) other than with respect to Parent, Merger Sub, the Confidentiality  
9 Agreement and the Standstill Agreements, fail to enforce, release any Person  
10 from, terminate or waive or render inapplicable, or amend in any manner less  
11 favorable to the Company, the provisions of any confidentiality, standstill or other  
12 similar agreement currently in effect to which the Company or any of the  
13 Company Subsidiaries is a party, with respect to a Company Takeover Proposal,  
14 (iv) “opt out” of, waive or amend, or take any action to render inapplicable to any  
15 Person (other than Parent and Merger Sub) or to any Company Takeover Proposal  
16 (other than the Merger and the other Transactions), the provisions of any Anti-  
17 Takeover Laws or of Article XII of the Company Charter, or (v) engage in,  
18 continue, or participate in any discussions or negotiations with, or furnish any  
19 non-public Company information (whether orally or in writing) or access to the  
20 business, properties, assets, liabilities, books or records of the Company or any  
21 Company Subsidiary to, or otherwise knowingly cooperate with, assist, or  
22 participate in any effort by, any Person (or any Representative of any Person) that  
23 has made, is seeking to make, has informed the Company or any of its controlled  
24 Affiliates of any intention to make, or has publicly announced an intention to  
25 make, any proposal that constitutes, or reasonably would be expected to lead to,  
26 any Company Takeover Proposal. The Company shall be responsible for any  
27 action or inaction taken or omitted to be taken by its or its controlled Affiliates’  
28 Representatives, to the extent acting on its or their behalf or at its or their  
direction, relating to any matters contemplated by this Section 5.02(b).

36. Further, the Company must promptly advise Century of any proposals or inquiries  
received from other parties. Section 5.02(f) of the Merger Agreement states:

(f) Required Notices. At any time prior to obtaining the Company Stockholder  
Approval, the Company shall notify Parent or its Representatives in writing  
promptly (and in any case within one (1) Business Day after knowledge of Parent  
of the receipt thereof) of its or any of its controlled Affiliates’ receipt of any  
Company Takeover Proposal, and disclose to Parent the identity of the Person  
making any such Company Takeover Proposal and the material terms of any such  
Company Takeover Proposal. The Company shall keep Parent informed on a  
reasonably timely basis of the status of any such Company Takeover Proposal,  
including any change to the material terms thereof. The terms and existence of  
any such Company Takeover Proposal and the identity of such Person (if not  
publicly disclosed by the Company or such Person), shall be subject to the  
confidentiality obligations imposed on Parent pursuant to the Confidentiality  
Agreement.

37. Moreover, the Merger Agreement contains a highly restrictive “fiduciary out”  
provision permitting the Board to withdraw its approval of the Proposed Transaction under  
extremely limited circumstances, and grants Century a “matching right” with respect to any

1 “Superior Proposal” made to the Company. Section 5.02(e) of the Merger Agreement provides:

2 (e) Change in Recommendation Permitted in Certain Circumstances. Prior to  
3 obtaining the Company Stockholder Approval, the Company Board shall be  
4 permitted to make a Company Recommendation Change solely in the manner and  
5 to the extent hereafter expressly set forth in this Section 5.02(e) in response to  
6 either (i) a Company Superior Proposal that did not result from a violation in any  
7 material respect of this Section 5.02, or (ii) a Company Intervening Event, in each  
8 case only if the Company Board shall have determined in good faith, After  
9 Consultation, that a failure to do so would be inconsistent with the fiduciary  
10 duties of the Company Board under applicable Law. Notwithstanding any other  
11 provision of this Agreement, at no time shall the Company Board be permitted to  
12 make a Company Recommendation Change, unless: (A) the Company has given  
13 Parent at least four (4) Business Days’ prior written notice that the Company  
14 Board intends to make a Company Recommendation Change (a “Company  
15 Recommendation Change Notice”), which notice shall include, (1) if Company  
16 Recommendation Change is to be made in response to a Superior Company  
17 Proposal, the identity of the Person making the Superior Company Proposal, the  
18 material terms thereof and a true and complete copy of the proposed agreement or  
19 proposal with respect to such Superior Company Proposal (including all proposed  
20 material transaction documents in connection therewith and material exhibits and  
21 schedules, but redacting, if required by any financing source, the amount of any  
22 commitment fee and financing fee information), or (2) if the Company  
23 Recommendation Change is to be made in respect of a Company Intervening  
24 Event, a reasonable summary of the material underlying facts, conditions and  
25 circumstances giving rise to the occurrence and continuing existence of such  
26 Company Intervening Event, (B) during the four (4) Business Day period  
27 commencing on the date of receipt by Parent of the Company Recommendation  
28 Change Notice, the Company and its Representatives shall negotiate in good faith  
with Parent and its Representatives, to the extent Parent desires to negotiate, so  
that Parent may propose in writing a binding offer to make such adjustments to  
the terms and conditions of this Agreement to enable the Company Board to  
determine that (x) the Superior Company Proposal referred to in the Company  
Recommendation Change Notice no longer constitutes a Superior Company  
Proposal or (y) the failure to make a Company Recommendation Change in  
respect of the Company Intervening Event referred to in the Company  
Recommendation Change Notice would no longer be inconsistent with the  
fiduciary duties of the Company Board under applicable Law, and (C) at the end  
of such four (4) Business Day period, the Company Board shall have considered  
in good faith and given effect to the terms of such binding offer and shall have  
determined in good faith, After Consultation, that, (x) the Superior Company  
Proposal, referred to in the Company Recommendation Change Notice, continues  
to constitute a Superior Company Proposal or (y) the failure of the Company  
Board to make a Company Recommendation Change in respect of the Company  
Intervening Event referred to in the Company Recommendation Change Notice  
would continue to be inconsistent with the Company Board’s fiduciary duties  
under applicable Law (it being hereby acknowledged and agreed that that any  
proposed amendment or modification to the material terms of any Superior  
Company Proposal submitted to the Company by any Person who previously  
submitted to the Company a Superior Company Proposal shall require a new  
written notice to Parent from the Company and a three (3) Business Day notice  
and negotiation period shall thereupon commence anew under this Section  
5.02(e)). For purposes of clarification and certainty, under no circumstances shall  
the Company be permitted to terminate this Agreement in respect of a Superior  
Company Proposal unless it shall have concurrently complied in all respects with



1 the requirements of this Section 5.02(e) and Section 8.01(f) (Termination by the  
2 Company before Receipt of Company Stockholder Approval), and under no  
3 circumstances shall the Company be permitted to terminate this Agreement in  
4 respect of, or due to any Company Recommendation Change made by the  
5 Company Board solely in response to, a Company Intervening Event. The  
6 Company hereby expressly confirms and agrees that the immediately preceding  
7 sentence of this Section 5.02(e), to the extent it relates to a Company  
8 Recommendation Change solely in response to or in respect of a Company  
9 Intervening Event, has been agreed to by the parties hereto pursuant to  
10 Section 146 of the DGCL.

11 38. Further locking up control of the Company in favor of Century, the Merger  
12 Agreement provides for a “termination fee” of \$7,050,000, payable by the Company to Century  
13 if the Individual Defendants cause the Company to terminate the Merger Agreement.

14 39. By agreeing to the deal protection devices, the Individual Defendants have locked  
15 up the Proposed Transaction and have precluded other bidders from making successful  
16 competing offers for the Company.

17 40. Additionally, Century, PICO Holdings, Inc.<sup>1</sup> (“PICO”), which is the Company’s  
18 majority stockholder, the Company, and UCP, LLC entered into a voting support agreement (the  
19 “Voting Agreement”). Pursuant to the terms of the Voting Agreement, PICO has agreed to vote  
20 all of its outstanding shares of Company common stock and Class B common stock in favor of  
21 the Proposed Transaction, which amounts to 57% of UCP’s outstanding voting power.  
22 Accordingly, these shares are already locked up in favor of the merger.

23 41. The merger consideration, valued at \$11.37 per share, is inadequate because,  
24 among other things, the intrinsic value of the Company is materially in excess of the amount  
25 offered in the Proposed Transaction.

26 42. The merger consideration also fails to adequately compensate the Company’s  
27 stockholders for the significant synergies that will result from the merger.

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28 <sup>1</sup> The Proposed Transaction is subject to the consummation of the exchange by PICO of all of its  
Series A units of UCP, LLC for shares of Company common stock pursuant to and in accordance  
with the terms of an exchange agreement dated July 23, 2013 among the Company, UCP, LLC,  
and PICO, with UCP, LLC thereafter becoming a wholly-owned subsidiary of the Company.

1 43. The analyses performed by the Company's own financial advisor, Citigroup  
2 Global Markets Inc. ("Citi"), confirm the inadequacy of the merger consideration. For example,  
3 Citi's *Selected Precedent Transactions Analysis* yielded implied per share equity values as high  
4 as \$14.40.

5 44. Accordingly, the Proposed Transaction will deny Class members their right to  
6 share proportionately and equitably in the true value of the Company's valuable and profitable  
7 business, and future growth in profits and earnings.

8 ***The Registration Statement Omits Material Information, Rendering It False and Misleading***

9 45. Defendants filed the Registration Statement with the SEC in connection with the  
10 Proposed Transaction.

11 46. The Registration Statement omits material information with respect to the  
12 Proposed Transaction, which renders the Registration Statement false and misleading.

13 47. First, the Registration Statement omits material information regarding the  
14 Company's financial projections, Century's financial projections, and the analyses performed by  
15 the Company's financial advisor, Citi.

16 48. With respect to UCP's financial projections, the Registration Statement fails to  
17 disclose, *inter alia*: (i) unlevered free cash flow and its constituent line items; (ii) EBITDA;  
18 (iii) net income; (iv) taxes; (v) depreciation and amortization; (vi) capital expenditures;  
19 (vii) changes in net working capital; (viii) stock-based compensation; (ix) operating and other  
20 expenses; and (x) net operating losses.

21 49. With respect to Century's financial projections, the Registration Statement fails to  
22 disclose, *inter alia*: (i) unlevered free cash flow and its constituent line items; (ii) EBITDA;  
23 (iii) net income; (iv) taxes; (v) depreciation and amortization; (vi) capital expenditures;  
24 (vii) changes in net working capital; (viii) stock-based compensation; (ix) operating and other  
25 expenses; and (x) net operating losses.

26 50. With respect to Citi's *Discounted Cash Flow Analysis* for UCP, the Registration  
27 Statement fails to disclose: (i) the unlevered, after-tax free cash flows that UCP was forecasted to  
28

1 generate during the last nine months of the fiscal year ending December 31, 2017 through the  
2 full fiscal year ending December 31, 2021 as used by Citi in the analysis; (ii) the definition of  
3 unlevered free cash flow; (iii) the constituent line items used in calculating unlevered free cash  
4 flow; (iv) the estimated present value of the deferred tax assets of UCP expected by UCP  
5 management to be utilized by the Company; (v) the implied terminal value of UCP; (vi) the  
6 estimated real estate inventory; (vii) the capitalized interest at the end of the projection period;  
7 and (viii) Citi's basis for selecting a range of adjusted real estate inventory multiples of 0.95x to  
8 1.05x and a range of discount rates of 10.1% to 11.5%.

9 51. With respect to Citi's *Discounted Cash Flow Analysis* for Century, the  
10 Registration Statement fails to disclose: (i) the unlevered, after-tax free cash flows that Century  
11 was forecasted to generate during the last nine months of the fiscal year ending December 31,  
12 2017 through the full fiscal year ending December 31, 2021 as used by Citi in the analysis;  
13 (ii) the definition of unlevered free cash flow; (iii) the constituent line items used in calculating  
14 unlevered free cash flow; (iv) the implied terminal value of Century; (v) the estimated adjusted  
15 real estate inventory; and (vi) Citi's basis for selecting a range of adjusted real estate inventory  
16 multiples of 1.00x to 1.20x and a range of discount rates of 7.0% to 8.0%.

17 52. With respect to Citi's *Selected Public Companies Analyses*, the Registration  
18 Statement fails to disclose the individual multiples and financial metrics for the companies  
19 observed by Citi in the analyses.

20 53. With respect to Citi's *Selected Precedent Transactions Analysis*, the Registration  
21 Statement fails to disclose the individual multiples and financial metrics for the transactions  
22 observed by Citi in the analysis. This information is particularly material here, as the selected  
23 transactions go back as far as 1999.

24 54. With respect to Citi's analysis of premiums paid, the Registration Statement fails  
25 to disclose the selected transactions observed by Citi and the premiums paid in those  
26 transactions.

27 55. The disclosure of projected financial information is material because it provides  
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1 stockholders with a basis to project the future financial performance of a company, and allows  
2 stockholders to better understand the financial analyses performed by the company's financial  
3 advisor in support of its fairness opinion. Moreover, when a banker's endorsement of the  
4 fairness of a transaction is touted to shareholders, the valuation methods used to arrive at that  
5 opinion as well as the key inputs and range of ultimate values generated by those analyses must  
6 also be fairly disclosed.

7 56. The omission of this material information renders the Registration Statement false  
8 and misleading, including, *inter alia*, the following sections of the Registration Statement:  
9 (i) "Background of the Merger"; (ii) "UCP's Reasons for the Merger; Recommendation of the  
10 UCP Board of Directors"; (iii) "Century Communities Unaudited Prospective Financial  
11 Information"; (iv) "UCP Unaudited Prospective Financial Information"; and (v) "Opinion of  
12 UCP's Financial Advisor."

13 57. Second, the Registration Statement omits material information regarding potential  
14 conflicts of interest of the Company's officers and directors and Citi.

15 58. Specifically, the Registration Statement fails to disclose when Century first  
16 expressed its interest in retaining members of UCP management following a merger (which  
17 apparently took place prior to March 13, 2017) and the nature of such expression of interest, as  
18 well as the timing and nature of any subsequent communications regarding future employment  
19 and/or directorship of UCP's officers and directors, including who participated in all such  
20 communications.

21 59. Communications regarding post-transaction employment during the negotiation of  
22 the underlying transaction must be disclosed to stockholders. This information is necessary for  
23 stockholders to understand potential conflicts of interest of management and the Board, as that  
24 information provides illumination concerning motivations that would prevent fiduciaries from  
25 acting solely in the best interests of the Company's stockholders.

26 60. The Registration Statement further fails to disclose Citi's holdings in Century's  
27 and its affiliates' stock.

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1 Statement, which contained statements that, in violation of Section 14(a) of the 1934 Act and  
2 Rule 14a-9, in light of the circumstances under which they were made, omitted to state material  
3 facts necessary to make the statements therein not materially false or misleading. UCP is liable  
4 as the issuer of these statements.

5 69. The Registration Statement was prepared, reviewed, and/or disseminated by the  
6 Individual Defendants. By virtue of their positions within the Company, the Individual  
7 Defendants were aware of this information and their duty to disclose this information in the  
8 Registration Statement.

9 70. The Individual Defendants were at least negligent in filing the Registration  
10 Statement with these materially false and misleading statements.

11 71. The omissions and false and misleading statements in the Registration Statement  
12 are material in that a reasonable stockholder will consider them important in deciding how to  
13 vote on the Proposed Transaction. In addition, a reasonable investor will view a full and  
14 accurate disclosure as significantly altering the total mix of information made available in the  
15 Registration Statement and in other information reasonably available to stockholders.

16 72. The Registration Statement is an essential link in causing plaintiff and the  
17 Company's stockholders to approve the Proposed Transaction.

18 73. By reason of the foregoing, defendants violated Section 14(a) of the 1934 Act and  
19 Rule 14a-9 promulgated thereunder.

20 74. Because of the false and misleading statements in the Registration Statement,  
21 plaintiff and the Class are threatened with irreparable harm.

22 **COUNT II**

23 **Claim for Violation of Section 20(a) of the 1934 Act**  
24 **Against the Individual Defendants and Century**

25 75. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

26 76. The Individual Defendants and Century acted as controlling persons of UCP  
27 within the meaning of Section 20(a) of the 1934 Act as alleged herein. By virtue of their  
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1 positions as officers and/or directors of UCP and participation in and/or awareness of the  
2 Company's operations and/or intimate knowledge of the false statements contained in the  
3 Registration Statement, they had the power to influence and control and did influence and  
4 control, directly or indirectly, the decision making of the Company, including the content and  
5 dissemination of the various statements that plaintiff contends are false and misleading.

6 77. Each of the Individual Defendants and Century was provided with or had  
7 unlimited access to copies of the Registration Statement alleged by plaintiff to be misleading  
8 prior to and/or shortly after these statements were issued and had the ability to prevent the  
9 issuance of the statements or cause them to be corrected.

10 78. In particular, each of the Individual Defendants had direct and supervisory  
11 involvement in the day-to-day operations of the Company, and, therefore, is presumed to have  
12 had the power to control and influence the particular transactions giving rise to the violations as  
13 alleged herein, and exercised the same. The Registration Statement contains the unanimous  
14 recommendation of the Individual Defendants to approve the Proposed Transaction. They were  
15 thus directly in the making of the Registration Statement.

16 79. Century also had direct supervisory control over the composition of the  
17 Registration Statement and the information disclosed therein, as well as the information that was  
18 omitted and/or misrepresented in the Registration Statement.

19 80. By virtue of the foregoing, the Individual Defendants and Century violated  
20 Section 20(a) of the 1934 Act.

21 81. As set forth above, the Individual Defendants and Century had the ability to  
22 exercise control over and did control a person or persons who have each violated Section 14(a)  
23 of the 1934 Act and Rule 14a-9, by their acts and omissions as alleged herein. By virtue of their  
24 positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the 1934  
25 Act. As a direct and proximate result of defendants' conduct, plaintiff and the Class are  
26 threatened with irreparable harm.

**PRAYER FOR RELIEF**

**WHEREFORE**, plaintiff prays for judgment and relief as follows:

A. Enjoining defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction;

B. In the event defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages;

C. Directing the Individual Defendants to file a Registration Statement that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading;

D. Declaring that defendants violated Sections 14(a) and/or 20(a) of the 1934 Act, as well as Rule 14a-9 promulgated thereunder;

E. Awarding plaintiff the costs of this action, including reasonable allowance for plaintiff's attorneys' and experts' fees; and

F. Granting such other and further relief as this Court may deem just and proper.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury.

Dated: May 10, 2017

**LEVI & KORSINSKY LLP**

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**CERTIFICATION OF PLAINTIFF**

I, Joseph Tola (“Plaintiff”), hereby declare as to the claims asserted under the federal securities laws that:

1. Plaintiff has reviewed the complaint and authorizes its filing.
2. Plaintiff did not purchase the security that is the subject of this action at the direction of Plaintiff’s counsel or in order to participate in any private action.
3. Plaintiff is willing to serve as a representative party on behalf of the class, either individually or as part of a group, and I will testify at deposition or trial, if necessary. I understand that this is not a claim form and that I do not need to execute this Certification to share in any recovery as a member of the class.
4. Plaintiff’s purchase and sale transactions in the UCP, Inc. (NYSE: UCP) security that is the subject of this action during the class period is/are as follows:

**PURCHASES**

Buy Date	Shares	Price per Share
11/11/13	100	\$13.75

**SALES**

Sell Date	Shares	Price per Share

*Please list additional transactions on separate sheet of paper, if necessary.*

5. Plaintiff has complete authority to bring a suit to recover for investment losses on behalf of purchasers of the subject securities described herein (including Plaintiff, any co-owners, any corporations or other entities, and/or any beneficial owners).

6. During the three years prior to the date of this Certification, Plaintiff has not moved to serve as a representative party for a class in an action filed under the federal securities laws.

7. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond Plaintiff's *pro rata* share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this <sup>9th</sup> \_\_\_ day of May, 2017.



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JOSEPH TOLA