

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 16-cv-23664-GAYLES

ORESTES GARCIA,  
Plaintiff,

v.

HSBC MORTGAGE CORPORATION;  
HSBC BANK USA; AMERICAN EXPRESS  
BANK, FSB; and LVNV FUNDING, LLC,  
*as successor in interest to Sears National Bank,*  
Defendants.

---

**ORDER**

**THIS CAUSE** comes before the Court on a *sua sponte* review of the record. The Court has reviewed the record in this case and is otherwise fully advised in the premises.

In the Court's Endorsed Order dated September 20, 2016 [ECF No. 15], the Court directed Defendants HSBC Mortgage Corporation and HSBC Bank USA—for the second time—to file a notice of removal that “unequivocally establishes diversity of citizenship of the parties in this case.” The Defendants filed their Second Amended Notice of Removal on September 26, 2016 [ECF No. 16]. In it, the Defendants allege that Defendant LVNV Funding, LLC's members “consist of Kevin Branigan, Scott Silver, and Rusty Kendall, who are all citizens of South Carolina.” *Id.* at 3-4. As proof of this allegation, the Defendants attached to their Second Notice a Business Organizations Inquiry from the Texas Secretary of State, and a Texas Franchise Tax Public Information Report, both of which list those three individuals as members of LVNV Funding, LLC. *Id.* Ex. D. Both documents also list each individual's mailing address as “200 Meeting Street, Suite 206, Charleston, SC.” *Id.* The Defendants provide no other information about these individuals.

As the Court has previously explained, “a limited liability company is a citizen of any state of which a member of the company is a citizen.” *Rolling Greens MHP, L.P. v. Comcast SCH Holdings, L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004). Thus, “to sufficiently allege the citizenships of unincorporated business entities, the removing party must list the citizenships of all


members of the limited liability company.” *S. Beach Grp. Hotels, Inc. v. James River Ins. Co.*, No. 16-23265, 2016 WL 4157422, at \*2 (S.D. Fla. Aug. 5, 2016) (citation omitted). “Citizenship is equivalent to ‘domicile’ for purposes of diversity jurisdiction,” and “domicile requires both residence in a state and ‘an intention to remain there indefinitely.’” *Travaglio v. Am. Express Co.*, 735 F.3d 1266, 1269 (11th Cir. 2013) (quoting *McCormick v. Aderholt*, 293 F.3d 1254, 1257 (11th Cir. 2002)).

Between the original Notice and the two amendments, the Defendants have failed three times to properly allege diversity jurisdiction. *See South Beach Group Hotels*, 2016 WL 4157422, at \*2 (“[T]he Court is mindful of the Eleventh Circuit’s instruction that, prior to remanding a case for lack of subject matter jurisdiction upon the failure of a removing party to properly allege diversity, a district court must allow the removing party an opportunity to cure the deficiency.” (citing *Corp. Mgmt. Advisors Inc. v. Artjen Complexus, Inc.*, 561 F.3d 1294, 1297-98 (11th Cir. 2009))). Providing a mailing address of “one of the [Charleston] area’s largest commercial office developments,” *200 Meeting*, Beach Co. (2016), <http://thebeachcompany.com/projects/200-meeting-street> (website of building’s real estate developer), as the address of the three members of Defendant LVNV Funding, LLC, does nothing to unequivocally establish the domicile—and, thus, the citizenship—of these members, in contravention of both a direct order of this Court and an unavoidable prerequisite to proceeding in federal court under diversity jurisdiction. *See Travaglio*, 735 F.3d at 1269. Once again, the Defendants’ allegations as to diversity are “fatally defective,” *id.*, and, therefore, the case cannot be permitted to remain in federal court.

Accordingly, it is **ORDERED AND ADJUDGED** that this action is **REMANDED** in its entirety to the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, for want of federal jurisdiction.

This case is **CLOSED** and all pending motions are **DENIED** as moot.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 27th day of September, 2016.

  
DARRIN P. GAYLES  
UNITED STATES DISTRICT JUDGE