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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**

13 SAM HAKIM, an individual,
14
15 Plaintiff,

16 v.

17 MAURICIO UMANSKY, an individual;
18 UMRO REALTY CORPORATION, a
19 California corporation; MAURICIO
20 OBERFELD, an individual; 3620
21 SWEETWATER MESA, LLC, a California
22 limited liability company; and DOES 1
23 through 10, inclusive,

24 Defendants.

25 AITAN SEGAL,

26 Plaintiff,

27 v.

28 MAURICIO UMANSKY, an individual;
UMRO REALTY CORPORATION, a
California corporation; MAURICIO
OBERFELD, an individual; 3620
SWEETWATER MESA, LLC, a California
limited liability company; and DOES 1
through 100, inclusive,

Defendants.

Case No. 19SMCV01619 (Lead)
Consolidated with Case No.: 19SMCV01720

**AITAN SEGAL'S SECOND AMENDED
COMPLAINT FOR:**

- (1) **BREACH OF IMPLIED
COVENANT OF GOOD FAITH
AND FAIR DEALING;**
- (2) **BREACH OF DUTY OF
HONESTY AND FAIRNESS;**
- (3) **BREACH OF DUTY TO
DISCLOSE;**
- (4) **FRAUD;**
- (5) **NEGLIGENT INTERFERENCE
WITH PROSPECTIVE
ECONOMIC ADVANTAGE**

Assigned for all purposes to the Honorable
Mark H. Epstein in Dept. R

1 Aitan Segal (“Plaintiff” or “Segal”), hereby alleges against defendants and each of them,
2 as follows:

3 **COMMON ALLEGATIONS**

4 1. At all times herein mentioned, Segal was and is an individual residing and doing
5 business in the County of Los Angeles, as a real estate agent, duly licensed as such and acting as
6 a sales associate for the licensed real estate brokerage of Pickford Real Estate, Inc., dba Berkshire
7 Hathaway Home Services California Properties (“BHHS”).

8 2. Segal is informed and believes, and on that basis alleges, that defendant UMRO
9 REALTY CORPORATION is a California corporation with its principal place of business in
10 Beverly Hills, California. UMRO is a real estate brokerage firm, doing business as "The Agency."
11 Hereafter, UMRO REALTY CORPORATION, a California corporation, and Does 1 through 10,
12 inclusive, shall be referred to as “UMRO.”

13 3. Segal is informed and believes, and on that basis alleges, that defendant
14 MAURICIO UMANSKY, an individual, is an individual residing in the County of Los Angeles,
15 California. Hereafter, MAURICIO UMANSKY, an individual, and Does 11 through 20,
16 inclusive, shall be referred to as “Umansky.” Segal is informed and believes, and thereon alleges,
17 that Umansky is the Chief Executive Officer and co-owner of UMRO and in doing all of the acts
18 herein alleged, was acting within the scope of such agency. Hereafter, all references to
19 “UMRO/Umansky” shall be deemed to refer to UMRO and Umansky.

20 4. Segal is informed and believes, and on that basis alleges, that defendant,
21 MAURICIO OBERFELD, an individual, is an individual residing in the County of Los Angeles,
22 California. Hereafter, MAURICIO OBERFELD, an individual, and Does 21 through 30,
23 inclusive, shall be referred to as “Oberfeld.”

24 5. Segal is informed and believes, and on that basis alleges, that defendant 3620
25 SWEETWATER MESA, LLC, is a California limited liability company, with its principal place
26 of business at 484 S. San Vicente Boulevard, Los Angeles, CA, and whose single managing
27 member and agent is and has been Mauricio Oberfeld who, in doing all acts herein alleged, was
28 acting within the scope of such agency. Hereafter, 3620 SWEETWATER MESA, LLC, and Does

1 31 through 40, inclusive, shall be referred to as 3620 Sweetwater Mesa, LLC. Hereafter, all
2 references to the “Oberfeld/3620 Sweetwater Mesa, LLC” shall be deemed to refer to Oberfeld
3 and 3620 Sweetwater Mesa, LLC. Collectively, Umansky, Oberfeld, UMRO and 3620
4 Sweetwater Mesa, LLC may be referred to hereafter as “Defendants.”

5 6. Segal currently does not know the true names and capacities of the defendants sued
6 as Does 1 through 100, inclusive, and therefore sues these defendants by fictitious names. Segal
7 will amend the Second Amended Complaint to add the true names and capacities of these
8 defendants when they are ascertained. Each of the fictitiously named Doe defendants is
9 responsible in some manner for the events and happenings alleged in this Second Amended
10 Complaint and for Segal’s damages.

11 7. Each defendant at all times mentioned in this Second Amended Complaint was an
12 agent, principal, master, servant, employee, employer, partner and/or joint venturer of each of the
13 other defendants, and in doing the things, acts and omissions alleged in this Second Amended
14 Complaint was acting within the course and scope of that agency, employment or representation,
15 with the knowledge, consent, ratification and approval of each of the other defendants. Any
16 allegation referring to a single defendant refers to all such defendants, jointly and severally.

17 8. That at all times herein relevant Segal and BHHS had a broker/agent relationship
18 by which all commissions earned were to be divided in an agreed manner. That prior to the filing
19 of this Second Amended Complaint, BHHS assigned to Segal any and all of its rights to any and
20 all claims for real estate commissions arising from the transaction which is the subject of this
21 Second Amended Complaint. Segal therefore brings this action on his own behalf and as assignee
22 of the rights of BHHS, as assigned to Segal. That any and all references to Segal herein shall,
23 whether or not specifically stated, be deemed to include BHHS.

24 **VENUE**

25 9. Pursuant to California Code of Civil Procedure Section 395(a), venue is proper in
26 Los Angeles County, California because Defendant UMRO's principal place of business is located
27 in Los Angeles County. Also, on information and belief, defendants Umansky and Oberfeld
28 reside in Los Angeles County.

1 **JURISDICTION**

2 10. This Court has jurisdiction of this matter for the reason that Defendants have
3 committed the acts complained of herein within the State of California.

4 **BACKGROUND FACTS**

5 **The Property**

6 11. The property that is the subject of this action is located at 3620 Sweetwater Mesa,
7 Malibu, California (the "Property"). Segal is informed and believes and thereon alleges that the
8 Property consists of an approximately 15,000 square foot residence situated on over 16 acres of
9 land overlooking the Pacific Ocean. Segal is further informed and believes, and thereon alleges,
10 that in or about 2006, the Property was purchased by Teodoro Nguema Obiang Mangue
11 ("Obiang"), the Vice President of Equatorial Guinea and the son of the current President of
12 Equatorial Guinea. Obiang held title to the Property through Sweetwater Malibu LLC
13 ("Sweetwater").

14 **The United States Action for Forfeiture of The Property**

15 12. Segal is informed and believes and thereon alleges that on or around April 28, 2011,
16 the United States Department of Justice ("United States DOJ") filed an action against Sweetwater
17 and Obiang seeking forfeiture of the Property.

18 13. Segal is informed and believes that on or around October 10, 2014, the United
19 States entered into a Stipulation and Settlement Agreement ("Settlement Agreement") with
20 Obiang and Sweetwater, by which Sweetwater and Obiang agreed to liquidate the Property in a
21 manner consistent with the Settlement Agreement.

22 14. Segal is informed and believes and thereon alleges that the terms of the Settlement
23 Agreement provided for the selection of a licensed real estate agent to sell the Property. The
24 Settlement Agreement further provided that the Property's sale proceeds were to be distributed in
25 the following manner: First, sale proceeds were to be paid to expenses incurred for the
26 maintenance and sale of the Property. Second, sale proceeds of \$10,300,000 were to be forfeited
27 to the United States. Third, any and all remaining funds were to be paid to a charity jointly
28 selected by the United States and Obiang with the funds to be used for the benefit of the people

1 of the Republic of Equatorial Guinea.

2 **Umansky/UMRO Are Retained to Sell the Sweetwater Property**

3 15. Segal is informed and believes and thereon alleges that, with the approval of the
4 United States and Obiang, UMRO/Umansky was selected as their licensed real estate agent for
5 the liquidation sale of the Property.

6 16. Segal is informed and believes and thereon alleges that UMRO/Umansky and
7 Sweetwater entered into a Residential Listing Agreement designating UMRO/Umansky as the
8 exclusive listing agent for the Property from April 18, 2015 through October 18, 2016. Pursuant
9 to the Agreement, UMRO/Umansky was to receive a 6% brokerage commission in connection
10 with the Property's sale.

11 17. Segal is informed and believes that UMRO/Umansky did not list the Property for
12 sale on the Multiple Listing Service, but rather advertised the Property confidentially to a discrete
13 client base.

14 **Segal is Retained as Agent by a Prospective Buyer**

15 18. Sam Hakim (hereafter "Hakim"), who is not a party to this action, is a real estate
16 developer with investments in and around Malibu, among other places. Hakim knew of the
17 Property because it was situated close to some of his other investments. Segal is informed and
18 believes and thereon alleges that Hakim attended a party at the Property given by Obiang, and at
19 that time had a further opportunity to view and appreciate the Property.

20 19. After learning that the Property may be for sale, in or about May of 2015, Hakim
21 engaged Segal and BHHS to act as his broker and agent in connection with the prospective
22 purchase of the Property, as well as with respect to the proposed resale of the Property following
23 its purchase.

24 **Umansky and Oberfeld Manipulate Hakim's Offers for their Own Benefit**

25 20. That in or about May, 2015, Segal, on behalf of Hakim, contacted the United States
26 Department of Justice advising that Segal had a pre-qualified buyer (Hakim) with verifiable funds
27 who was interested in purchasing the Property. Segal further advised that Hakim was requesting
28 to tour the Property with the intention of making an offer. Thereafter, the United States

1 Department of Justice advised Segal to contact Umansky with respect to the Property.

2 21. On or about May 22, 2015, Segal contacted Umansky advising him that Hakim was
3 very interested in the Property and wanted to tour the Property. Segal further provided Umansky
4 with documentation concerning Hakim's proof of funds for the Property's purchase. Thereafter,
5 Umansky advised Segal that he was still "setting up" the Property and had not yet received access
6 to the Property, so Segal/Hakim would have to wait several weeks before they could tour the
7 Property.

8 22. On or about July 27, 2015, Umansky advised Segal that the asking price for the
9 Property was \$32 million. The same day, Hakim, through Segal, submitted to Umansky a
10 Residential Purchase Agreement and Joint Escrow Instructions offering to purchase the Property
11 for the sum of \$32 million ("Purchase Offer"). Umansky was further informed that Hakim would
12 pay significantly more, i.e., at least \$40 million, to purchase the Property. In conjunction with
13 the Purchase Offer, Hakim also provided to Umansky documentation evidencing his proof of
14 funds for the Property's purchase.

15 23. On or about August 1, 2015, Hakim, Segal and Umansky participated in a meeting
16 at the Property and toured the Property. At this meeting, Umansky informed Hakim and Segal
17 that others had made offers to purchase the Property. Hakim and Segal informed Umansky that
18 Hakim was very interested in the Property and they made an oral offer to purchase the Property
19 for at least \$40 million, further advising Umansky that Hakim would pay whatever it takes to
20 obtain this Property. Umansky acknowledged this verbal offer but informed Segal and Hakim
21 not to put it in writing. He explained that the seller was not motivated by the sales price as it
22 would not benefit from any excess sales proceeds, as any amount over \$32 million would not be
23 going to the seller and therefore, price was not a deciding factor. He further advised that the DOJ
24 was also overseeing the process. Segal and Hakim responded by providing Hakim's Bio,
25 including his asset holdings and further information concerning Hakim's intentions with respect
26 to the Property. Umansky advised that he would relay the information concerning Hakim, as a
27 potential buyer, to the seller. Based on Umansky's representations, which Segal and Hakim relied
28 upon, Hakim did not provide a formal written offer to purchase the Property for \$40 million or

1 more at that time.

2 24. On or about December 14, 2015, Umansky provided Hakim, through Segal, a Seller
3 Multiple Counter Offer No. 1 dated October 1, 2015, making a counter offer to sell the Property
4 to Hakim for the purchase price of \$33.5 million ("Counter Offer"). Umansky again advised
5 Hakim of the factors to be considered, as set forth in the preceding paragraph, including that the
6 seller was not motivated by the sales price because any excess proceeds would not go to the seller
7 (any sale proceeds in excess of \$10,300,000 were to be paid to a charity for the benefit of the
8 people of the Republic of Equatorial Guinea.) Based on Umansky's representations, which Hakim
9 relied upon, Hakim again did not provide a formal written offer to purchase the Property for \$40
10 million or more. Instead, he followed Umansky's instructions and accepted the \$33.5 million
11 Counter Offer on December 15, 2015 and provided the executed Counter Offer to Umansky
12 (through Segal) the same day.

13 **Umansky and Oberfeld's Plan to Develop the Property**

14 25. That based upon information first discovered by Segal on and after August 3, 2018,
15 Segal is informed and believes and thereon alleges that at or about the time Umansky entered into
16 a listing agreement to act as Sweetwater's agent for the sale of the Property, Umansky realized the
17 Property could be a business opportunity from which he could personally profit. Segal is further
18 informed and believes and thereon alleges that Umansky contacted Oberfeld with respect to the
19 prospective business venture in the Property. Umansky and Oberfeld thereafter developed a plan
20 to cause Oberfeld to purchase the Property, either in his individual name or in the name of the
21 3620 Sweetwater Mesa LLC, at a price below its then current market value, make slight
22 improvements to the Property, and re-sell it for a significant profit, while excluding and concealing
23 Hakim and his proposed higher offer from consideration by the Seller. Segal is informed and
24 believes that Umansky planned to, and did, invest in the purchase, development and re-sale of the
25 Property with Oberfeld and the 3620 Sweetwater Mesa LLC and personally profited from his
26 investment in the Property. That Segal did not know of these intentions before August 3, 2018,
27 and had no reason to suspect or inquire further of them, as Umansky repeatedly represented to
28

1 Segal that the seller's motivation in choosing a buyer was not related to the price to be paid for the
2 Property.

3 **UMRO/Umansky Hand Picks Oberfeld/3620 Sweetwater Mesa, LLC As the Property**

4 **Buyer**

5 26. Segal is informed and believes that, in addition to representing Sweetwater in
6 connection with the sale of the Property, UMRO/Umansky was also a dual agent representing
7 Oberfeld/3620 Sweetwater Mesa, LLC as a purchaser. Segal is informed and believes that
8 Oberfeld/3620 Sweetwater Mesa, LLC, through Umansky, initially offered to purchase the
9 Property for the sum of \$32 million. Segal is further informed and believes that on or about
10 December 14, 2015, Umansky issued a counter offer to Oberfeld/3620 Sweetwater Mesa, LLC,
11 offering to sell the Property to Oberfeld/3620 Sweetwater Mesa, LLC for the sum of \$33.5
12 million. Segal is informed and believes, and thereupon alleges, that Umansky told Hakim,
13 through Segal, to refrain from making an offer that was higher than the asking price because
14 Umansky was positioning Oberfeld/3620 Sweetwater Mesa, LLC, Umansky's client and business
15 partner, to purchase the Property for a price below its true market value so that UMRO/Umansky,
16 through their development venture with Oberfeld/3620 Sweetwater Mesa, LLC could improve
17 the Property and resell it for a significant profit.

18 27. Segal is informed and believes that Oberfeld/3620 Sweetwater Mesa, LLC accepted
19 the counter offer and, with Umansky's help, was approved as a buyer by the United States
20 Department of Justice on or about February 8, 2016. Segal is further informed and believes that
21 Umansky persuaded the United States Department of Justice to approve Oberfeld/3620
22 Sweetwater Mesa, LLC as the Property buyer over any other prospective buyer, including Hakim,
23 because of Umansky's undisclosed business partnership and intention to personally invest in the
24 Property with Oberfeld/3620 Sweetwater Mesa, LLC and to personally profit from the
25 investment. Plaintiff is informed and believes and thereon alleges that had it not been for
26 Umansky's undisclosed and wrongful associations, as aforesaid, that Hakim would have been
27 chosen by the seller, with the approval of the Department of Justice, to be the buyer of the
28 Property, such information and belief being based upon numerous facts, including but not limited

1 to the facts that Hakim was willing to offer at least \$40 Million, or whatever it would take to
2 purchase this Property, and Hakim was a qualified buyer with excellent credit who had no known
3 disqualifying factors and that in a separate action brought by the seller of the property
4 (Sweetwater Malibu CA, LLC, et al v. Mauricio Umansky, et al, United States District Court Case
5 No. CV 19-1848-GW-SSx), the seller alleges, at ¶ 52, that had it not been for the alleged wrongful
6 acts, the seller “would have sold the Property to another buyer for millions of dollars more than
7 Oberfeld.”

8 **Hakim Offers to Purchase Oberfeld's Position in**
9 **the Transaction for \$8 Million**

10 28. On or around February 20, 2016, Hakim sent Oberfeld and Umansky a letter of
11 intent with respect to the Property ("LOI"). Pursuant to the LOI, Hakim offered to pay Oberfeld
12 the sum of \$8 million for Oberfeld to assign to Hakim Oberfeld's position as a buyer of the
13 Property under the existing purchase and sale agreement between Oberfeld and Sweetwater.
14 Thus, Hakim agreed to pay the total sum of \$41.5 million (the \$33.5 million purchase price to the
15 Seller, and the \$8 million to Oberfeld) for the purchase of the Property.

16 29. On or around February 22, 2016, Umansky, on behalf of Oberfeld, responded to
17 the LOI with a counteroffer demanding that Hakim agree to pay the sum of \$15 million to assume
18 the position of Oberfeld/3620 Sweetwater Mesa, LLC in the transaction.

19 30. Hakim is informed and believes and thereupon alleges that Umansky did not
20 disclose to Sweetwater, Obiang, or the United States Department of Justice the fact that Hakim
21 (i) offered to pay \$40 million to purchase the Property, (ii) was willing to pay \$41.5 million for
22 the Property, or (iii) that Hakim had offered to pay \$8 million to assume the position of
23 Oberfeld/3620 Sweetwater Mesa, LLC in the transaction.

24 31. Because, as discovered on or about August 3, 2018, Umansky was himself an
25 investor in the Property, it was in Umansky's best interest not to disclose this information, because
26 Umansky wanted the Property to be sold to Oberfeld/3620 Sweetwater Mesa, LLC, and not to
27 Hakim, so that Umansky could himself profit from the re-sale of the Property as an investor with
28 Oberfeld.

1 32. Segal is further informed and believes that Sweetwater remained ignorant of the
2 negotiations between Oberfeld/3620 Sweetwater Mesa, LLC, through UMRO and Umansky, and
3 Hakim, through Segal, to sell Oberfeld's right to purchase the Property to Hakim, and thus
4 remained ignorant that the negotiations demonstrated Hakim was willing to pay \$41.5 million for
5 the Property, and the \$33.5 million purchase price was below fair market value in 2016. Plaintiff
6 is further informed and believes and thereon alleges that had Sweetwater not been ignorant of the
7 aforesaid negotiations, that Hakim would have been chosen by the seller, with the approval of the
8 Department of Justice, to be the buyer of the Property, such information and belief being based
9 upon numerous facts, including but not limited to the facts that Hakim was willing to offer at least
10 \$40 Million, or whatever it would take to purchase this Property, and Hakim was a qualified buyer
11 with excellent credit who had no known disqualifying factors and that in a separate action brought
12 by the seller of the property (Sweetwater Malibu CA, LLC, et al v. Mauricio Umansky, et al,
13 United States District Court Case No. CV 19-1848-GW-SSx), the seller alleges, at ¶ 52, that had
14 it not been for the alleged wrongful acts, the seller “would have sold the Property to another buyer
15 for millions of dollars more than Oberfeld.”

16 **Oberfeld/Umansky Purchase the Property for \$32.5 Million**

17 33. On or around March 31, 2016, Oberfeld, through Umansky, identified certain repair
18 items at the Property and requested a \$1 million credit from Sweetwater, effectively reducing the
19 purchase price from \$33.5 million to \$32.5 million. Thereafter, UMRO and Umansky notified
20 Sweetwater that Oberfeld would remove all contingencies required to complete the purchase of
21 the Property if Oberfeld received a \$1 million repair credit, and later recommended to Sweetwater
22 and the United States Department of Justice that the parties agree to the \$1 million repair credit
23 in order to finalize the sale of the Property to Oberfeld and/or 3620 Sweetwater Mesa, LLC.

24 34. In or about June, 2016, Sweetwater consummated the sale of the Property to 3620
25 Sweetwater Mesa, LLC for the net amount of \$32.5 million. At such time, Segal was unaware of
26 the buyer's identity, as well as Umansky's involvement as an investor in 3620 Sweetwater Mesa,
27 LLC. Plaintiff is informed and believes and thereon alleges that, for the reasons heretofore stated,
28 had it not been for Umansky's undisclosed and wrongful associations, as aforesaid, and had

1 Sweetwater not been ignorant of the aforesaid negotiations between Oberfeld, through UMRO and
2 Umansky, and Hakim, through Segal, that Sweetwater would have consummated the sale of the
3 Property to Hakim, instead of Oberfeld/3620 Sweetwater Mesa, LLC.

4 **Oberfeld/Umansky Re-Sell the Property for \$69.9 Million**

5 35. Segal is informed and believes that on or around April 1, 2017, Oberfeld/3620
6 Sweetwater Mesa, LLC and Umansky, along with other investors, sold the Property for \$69.9
7 million. UMRO/Umansky was the listing agent for the resale. Thus, UMRO/Umansky facilitated
8 a sale of the Property for \$37 million more than he and Oberfeld/3620 Sweetwater Mesa, LLC
9 had initially paid a year earlier.

10 **Multiple Lawsuits Are Filed Against UMRO/Umansky**

11 **Arising from The Subject Transaction**

12 36. Segal is informed and believes and thereon alleges that on or about August 15,
13 2017, Sweetwater sent a written demand letter to UMRO and Umansky, asserting a real estate
14 brokers' professional liability claim for breach of fiduciary duties, breach of statutory duties,
15 negligence, and other claims arising from UMRO's and Umansky's actions as Sweetwater's real
16 estate agent in the sale of the Property to Oberfeld/3620 Sweetwater Mesa, LLC. The demand
17 letter addressed UMRO/Umansky's failure to fully disclose to Sweetwater the business
18 relationship between UMRO and Umansky and Oberfeld/3620 Sweetwater Mesa, LLC in the sale
19 and resale of the Property, the financial benefits received by UMRO and Umansky, the conflict
20 of interest of UMRO and Umansky, the recommendation to provide Oberfeld with a \$1 million
21 repair credit, the failure to disclose material information to Sweetwater regarding the value of the
22 Property, the failure to disclose the negotiations between Oberfeld and Hakim regarding Hakim's
23 \$8 million offer to purchase an assignment of Oberfeld's purchase offer to Sweetwater and the
24 United States to buy the Property for \$33.5 million or Oberfeld's counter-demand for a \$15 million
25 assignment fee from Hakim, the profits derived by UMRO and Umansky from the investment
26 with Oberfeld in renovating and reselling the Property, and other related claims ("Sweetwater
27 Claims"). Segal is further informed and believes that Sweetwater pursued, or is currently
28 pursuing, the Sweetwater Claims against UMRO/Umansky.

1 37. On September 27, 2017, UMRO and Umansky tendered their defense of the
2 Sweetwater Claims to their insurance carrier, Western World Insurance Company ("Western
3 World"). Thereafter, they demanded that Western World defend and settle the Sweetwater Claims
4 for the policy's \$3 million limit.

5 38. On or about June 25, 2018, Western World commenced an action against UMRO
6 and Umansky for rescission of the insurance policy issued to UMRO as a result of alleged
7 misrepresentations, breaches of fiduciary duty and other misconduct by UMRO/Umansky with
8 respect to, *inter alia*, the Sweetwater Property transaction discussed herein.

9 39. Segal is informed and believes and thereon alleges that Hakim has or will
10 commence an action against UMRO, Umansky, Oberfeld, 3620 Sweetwater Mesa, LLC and other
11 responsible parties relative to the losses claimed to have been caused Hakim by the actions of said
12 persons.

13 40. It was not until on or about August 3, 2018 that Segal discovered or reasonably
14 should have discovered the wrongful acts of the defendants, by virtue of a newspaper article
15 addressing such conduct. That prior to said date, Segal had no reasonable basis to believe or
16 assume that UMRO/Umansky or Oberfeld/3620 Sweetwater Mesa, LLC had committed the
17 wrongful acts alleged herein, for the following reasons:

18 a. Plaintiff initially contacted the DOJ inquiring into the sale of this property and was
19 specifically told by DOJ personnel, who presumably did know of the specifics and conditions by
20 which this property was to be sold, and who had presumably vetted the designated agent, that
21 Plaintiff and his client Hakim were to deal solely with defendant Umansky relative to any offers
22 or other inquiries concerning the property, as Umansky was the broker mutually appointed with
23 the Seller and approved by the DOJ to oversee the process of selling the subject property.

24 b. Neither Segal nor Hakim had ever seen, spoken with or otherwise had any access
25 whatsoever to the Seller's principal, known only by Segal to have been a diplomat in connection
26 with Equatorial Guinea and that he had to sell the Property because of some kind of arrangement
27 with the DOJ. He was, in all respects, an "absent seller," whose intentions and any/all
28

28

1 communications regarding the property sale were being directed to and disclosed by and through
2 the broker appointed by the DOJ, i.e., the defendant, Umansky.

3 c. That at all times mentioned herein defendant Umansky was known by Segal to be
4 a television personality, owner of a recognized brand of luxury estates, former co-listing agent of
5 a \$10M property with Segal, and someone with whom Segal had a good rapport with for over 10
6 years prior to the subject transaction. That Segal had first met Umansky as a high school student
7 and Segal had a long standing business relationship with Umansky on several past matters and
8 nothing that had ever taken place during those other matters served to suggest to Segal that
9 Umansky would have anything other than a legitimate and legal reason for offering his input on
10 the manner in which this or any other transaction would best be effectuated.

11 d. During the course of their communications regarding the transaction, Umansky
12 expressly advised Segal that the sales price was determined to be \$32M and that the price was not
13 the primary determining factor for whether an offer would be accepted, and that rather, a buyer
14 would be chosen based upon whatever arrangements had been made between Seller and the DOJ,
15 the specifics of which Segal was unaware and were not disclosed to him. Umansky further
16 advised that the Seller's primary concern was who was buying the Property. Consistent with his
17 statements, Umansky made specific inquiries of Segal and Hakim for Hakim's "Bio". Umansky
18 further represented that the DOJ was overseeing the entire transaction process.

19 e. Although Plaintiff was of the understanding and belief that the DOJ was somehow
20 involved in this transaction and that certain undisclosed agreements had been made between the
21 Seller and the DOJ, Plaintiff was not privy to those arrangements and had no specific knowledge
22 regarding the conditions of sale or other specific terms of any agreements or other arrangements
23 that had been made between Seller and the DOJ or which Seller was otherwise subject to because
24 of his specific circumstances.

25 f. That defendant Umansky, as the Seller's DOJ appointed representative, represented
26 that he would convey to the Seller, Hakim's offer to purchase the Property for the sum of \$40M,
27 presumably to confirm that it would make no difference.

28

1 g. That after Plaintiff learned of Seller's acceptance of the offer by Oberfeld, Segal
2 inquired of Umansky as to why Oberfeld's offer had been accepted over that of Hakim's.
3 Umansky, the defendant herein, affirmatively induced Segal into believing that there was no
4 untoward intent involved by reiterating that price was not the deciding factor with respect to this
5 particular transaction and he specifically stated that Oberfeld had the "right" answers regarding
6 the needs of this particular transaction and that Hakim's offer was "very close" and "just missed"
7 being the accepted offer. Thus, defendant Umansky himself affirmatively induced Plaintiff to
8 believe that there was nothing underhanded or illegal or wrongful about his actions. Segal relied
9 on Umansky's representations in assuming that there was, in fact, nothing underhanded or illegal
10 or wrongful about his actions.

11 h. It was not unusual for Segal, a licensed representative in many high value
12 transactions such as this one, to rely on the input of other involved brokers for purposes of
13 discerning the viability of various buyers and to provide insight as to the various concerns of
14 certain Sellers. It was Segal's understanding and belief that Sellers will typically use a liaison to
15 negotiate terms of a deal in place of the owner and for various reasons unknown to Segal and which
16 differ uniquely from deal to deal. This type of reliance is greatly magnified when dealing with a
17 property of this magnitude, an absent seller who is the son of a dignitary of a foreign country, and
18 the involvement of the DOJ who, as known to Segal, had directed all purchasing inquiries to a
19 single person directly appointed by the DOJ, all under the auspices of the DOJ. Segal had no
20 reason to believe that Umansky himself and the suggested purchase price were not vetted by the
21 DOJ and that the process was not being scrutinized by the DOJ, as well as the Seller, who was
22 believed by Segal to be the diplomatic head of a foreign government for which Segal assumed
23 there was oversight by layers of attorneys and/or sovereign government officials, from the
24 inception of the transaction.

25 i. As a licensed real estate agent since 2004, Segal knew that brokers were subject to
26 ethical guidelines and he expected and anticipated that Umansky, a well-known, highly publicized,
27 very successful broker appointed and overseen by the Department of Justice was following the law
28 and his ethical responsibilities. Based on the information then known to Segal, Segal believed that

1 if Umansky was advising that the price was not the deciding factor with respect to the sale of this
2 property then there must be something he knows, from his unique inside position, that served as a
3 valid reason for his statements. Therefore, rather than to conduct himself in a manner directly
4 adverse to that as instructed by the only avenue of communication to the Seller i.e., Umansky, and
5 so as not to jeopardize the opportunity to buy the desired Property, Segal relied on Umansky's
6 instructions and proceeded accordingly.

7 j. That based on Plaintiff's history as a real estate agent dealing with the purchase and
8 sale of high end residences, Plaintiff had learned and believed that there are in fact legitimate
9 reasons for a broker to relay a seller's desire to sell a particular property for a more modest amount
10 than could otherwise be achieved. These reasons are by no means limited to those that would put
11 a prospective buyer and his broker on notice that there is some kind of secret intent by the listing
12 broker to steer the sale to a secret buyer who would thereafter partner up with the broker for
13 purposes of obtaining a secret profit for themselves. Such reasons could include, but are not
14 necessarily limited to, tax purposes, insurance purposes, appraisal purposes, purposes related to
15 comparative market analyses, financing purposes, preferable terms of sale, the condition of the
16 property or, in a matter such as this, some confidential, behind the scenes, unique and confidential
17 arrangement between an absent foreign dignitary and the Department of Justice that the "outside"
18 prospective buyers and their brokers could not possibly or reasonably know of or have been privy
19 to. As but one example, there are sellers who well realize that once the proposed purchase price
20 exceeds a certain amount, the odds of escrow timely closing becomes diminished (as the buyer
21 may come to believe he offered too much, or a lender may disapprove the loan, or the buyer may
22 conclude that the higher price, in conjunction with the need for repairs to the property, far exceeds
23 the value of the property). Such conclusions will often lead to aggressive negotiating tactics, failed
24 contingencies and delayed and/or cancelled escrows, and the need to begin the process all over
25 again with a backup or other prospective buyer and possible loss of the sale and a missed
26 opportunity to exit the property within the time frame that may be required. Plaintiff has also
27 experienced situations where higher offers, particularly those that stand out well above all other
28 offers, have been rejected by sellers because they are considered as "bluster" for the purpose of

1 enabling the higher offeror to be chosen only so he or she can then aggressively seek to bargain
2 the seller down to a price and terms less favorable than the other lesser offers. A significant risk
3 of “jumping” at the higher offer is the loss of other serious buyers who, upon their initial rejection,
4 do not care to hang around as backups while the seller chases after the insincere higher offeror. It
5 was Plaintiff’s reasonable belief that the Seller of this particular property was being forced to sell
6 it under significant time constraints and subject to a private agreement (as between the seller and
7 the DOJ) that was presumed to be based upon an appraisal and/or Comparative Market Analysis
8 prepared by the Seller’s broker and approved by the Seller and Seller’s representatives, as well as
9 the DOJ, and an established price based on that appraisal.

10 k. Prior to the transaction upon which this action is based, Plaintiff had experienced
11 situations where properties were the subject of litigation and/or insurance claims where the sellers
12 preferred to sell to a solid buyer at a lower price, because the seller wanted a smooth transaction,
13 without delays brought about by aggressive negotiating or a less desirable buyer, with the
14 understanding that the proceeds of the pending insurance claim would make up for the lower
15 purchase price.

16 l. That it was Segal’s understanding, based upon information provided by Umansky,
17 as well as the results of his ongoing due diligence investigation, that the escrow period was to be
18 particularly short for a property of this nature and that this could have been a significant factor
19 regarding the sale and negotiations as it was common for many properties in the Malibu hillside
20 to be subject to hillside failures (mudslides), fires, mold, structural defects, roof defects, foundation
21 and other defects involving geological and soil conditions and questionable construction practices,
22 all concerns that could complicate and extend the ability to close escrow on time. Umansky
23 reiterated that the Seller had concerns other than price alone and Segal had no reasonable basis for
24 assuming that these representations were due to the wrongful conduct of the Defendants, as alleged
25 herein (as opposed, for instance, to his desire to seek out a more mainstream offer that would
26 maximize the chances for a prompt trouble free close of escrow).

27 m. Prior to the transaction upon which this action is based Plaintiff was involved in or
28 learned of certain transactions, particularly involving inherited property owners, probate sales,

1 trusts, bequeathed institutions, and liquidation opportunities where a certain quota had been set for
2 the sale and once the sale price met that quota, the seller’s motivation was to make a quick sale,
3 with qualifications and timing as the key considerations (as opposed to price).

4 n. Plaintiff had no reason to assume that the highly experienced DOJ appointed
5 broker, Defendant Umanksy, who has claimed to be a top agent, “with decades of experience and
6 accolades to his name” and who is claimed to be the founder and owner of “a highly regarded,
7 award-winning real estate brokerage that specializes in luxury real estate” was not, on his own,
8 legitimately “screening” or otherwise filtering the formal offers to be presented to his client, a
9 foreign dignitary, whose incentives could not have been known by Plaintiff and who would not be
10 expected to have known anything (or to have cared) about the details of effectuating the prompt
11 closing of a high end Malibu, California property that was being sold under the auspices of the
12 DOJ. Plaintiff had no reason to assume that Umansky was seeking to defraud his client or anyone
13 else, the more reasonable conclusion being that he was seeking to help his client obtain a quick,
14 trouble free closing.

15 o. Plaintiff had no knowledge that Umansky had partnered up with the buyer to whom
16 Umansky steered the Seller, until he read that in the news article of August 3, 2018. Until that
17 time, Plaintiff did not and could not have known or even suspected that defendant Umanksy would
18 have had anything to gain from directing his client, the Seller, to any one or more specific buyers.

19 **Commissions to be Paid to Segal or his Assignor**

20 41. That with an effective date of April 1, 2015, BHHS, by and through its Agent,
21 Segal, entered into a valid written California Association of Realtors form Buyer Representation
22 Agreement – Exclusive (hereafter “Buyer Representation Agreement”), with Hakim, whereby
23 Hakim designated Segal as his exclusive representative for the purchase of the subject Property,
24 whereby Hakim agreed to pay to BHHS a sum representing 2.500% of the acquisition price of the
25 subject property. The Buyer Representation Agreement further provided that the sums referenced
26 herein would be in addition to and/or separate from compensation provided by Seller to Segal or
27 his Assignor.

28 42. That by a written Addendum to the Buyer Representation Agreement, dated

1 December 16, 2015, Hakim and BHHS, by and through Segal as its Agent, entered into a valid
2 written agreement (hereafter the “Seller Representation Agreement”) that for any sale or transfer
3 of the subject Property, based on a decision by Hakim to sell the Property within 5 years of its
4 acquisition, that Segal/BHHS shall be Hakim’s exclusive listing agent/broker, whereby Hakim
5 would pay to Segal (or Segal’s Assignor) a sliding scale commission based on a percentage of the
6 sale price, ranging from 1.5% of the total sale/transfer price of less than \$50,000,000.00 to 4.75%
7 of a total sale/transfer price equal to or greater than \$85,000,000.00.

8 43. That at all times herein relevant, Segal and Umansky had an oral agreement that in
9 the event Segal’s client, Hakim, was to purchase the subject Property, that Umansky’s
10 commission would be divided such that 2% of the sale price of the subject Property would be paid
11 to Segal/BHHS, as the cooperating broker. Segal subsequently proposed to reduce the
12 Segal/BHHS share to 1%. This was in addition to any and all sums to otherwise be earned by
13 Segal, as alleged above.

14 **FIRST CAUSE OF ACTION**

15 **(Breach of Implied Covenant of Good Faith and Fair Dealing**
16 **Against Umansky and UMRO)**

17 44. Segal repeats and re-alleges the allegations set forth in paragraphs 1 through 43
18 above as though fully set forth herein.

19 45. That, as alleged above, Segal and Umansky (including UMRO) had an oral
20 agreement that in the event Segal’s client, Hakim, was to purchase the subject Property, that
21 Umansky’s commission would be divided such that at least 2% of the sale price of the subject
22 Property would be paid to Segal/BHHS, as the cooperating broker.

23 46. That in every contract, including the contract which is the subject of this cause of
24 action, there is an implied covenant of good faith and fair dealing by each party not to do anything
25 which will deprive the other part(ies) of the benefits of the contract, and a breach of this covenant
26 by failure to deal fairly or in good faith gives rise to an action for damages.

27 47. That by their actions as alleged above, including but not limited to their actions in
28 concealing their true intention of acquiring the Property for their own benefit; by falsely rejecting

1 Hakim's good faith and higher offers for purchase of the Property; by actively dissuading Hakim
2 from presenting his proposed written offers for significantly higher than the actual acquisition
3 price; by failing to convey Hakim's intentions with respect to the proposed purchase of the
4 Property; as well as by further acts that Plaintiff believes will be developed through the course of
5 discovery, defendants, and each of them, acted such that Segal/BHHS were deprived of the
6 benefits of the subject oral agreement, in breach of defendants' implied covenant of good faith
7 and fair dealing as to Segal/BHHS.

8 48. As a result of Umansky's and UMRO's breach of the covenant of good faith and
9 fair dealing, Segal/BHHS sustained damages, including but not limited to commissions that
10 would have otherwise been earned and paid to them, relative to the purchase and sale of the
11 Property by Hakim, in an amount that is believed to be in excess of four million five hundred
12 thousand dollars (\$4,500,000.00), plus interest at the legal rate, subject to proof at the time of
13 trial.

14 **SECOND CAUSE OF ACTION**

15 **(Breach of Duty of Honesty and Fairness Against Umansky and UMRO)**

16 49. Segal repeats and realleges the allegations set forth in paragraph 1 through 48 above
17 as though fully set forth herein.

18 50. As a real estate broker for Oberfeld and Sweetwater, as well as by virtue of
19 Umansky/UMRO's agreement with Segal, as alleged above, Umansky and UMRO owed a duty
20 of honesty and fairness to all parties to the transaction, including third parties who stood to receive
21 an economic benefit from the sale of the Property, including but not limited to Segal and BHHS.

22 51. Umansky and UMRO breached their duty of honesty and fairness to Segal and
23 BHHS by engaging in the acts and omissions discussed hereinabove, including, but not limited
24 to, their actions in concealing their true intention of acquiring the Property for their own benefit;
25 by falsely rejecting Hakim's good faith and higher offers for purchase of the Property; by actively
26 dissuading Hakim from presenting his proposed written offers for significantly higher than the
27 actual acquisition price; by failing to convey Hakim's intentions with respect to the proposed
28 purchase of the Property; as well as by further acts that Plaintiff believes will be developed

1 through the course of discovery, all for the purpose of benefitting Oberfeld and Umansky as his
2 co-investor.

3 52. As a direct and proximate result of Umansky's and UMRO's breach of the duty of
4 honesty and fairness to Segal, Segal/BHHS has sustained damages, including but not limited to
5 commissions that would have otherwise been earned and paid to him and BHHS, relative to the
6 purchase and sale of the Property by Hakim, in an amount that is believed to be in excess of four
7 million five hundred thousand dollars (\$4,500,000.00), plus interest at the legal rate, subject to
8 proof at the time of trial.

9 53. In undertaking the actions and conduct described above, UMRO and Umansky
10 acted with the intention to deceive and defraud, among others, Segal and BHHS, and were guilty
11 of fraud, oppression and malice. In addition to actual damages, Segal is therefore entitled to an
12 award of exemplary and punitive damages against UMRO and Umansky in an amount to be
13 determined at trial.

14 54. Segal is informed and believes and thereon alleges that at all times herein
15 mentioned, and in doing all of the acts alleged herein, Umansky was acting as an officer, director,
16 or managing agent of UMRO, and, at all times herein mentioned, Umansky was the principal
17 actor relative to the alleged wrongful conduct and therefore, Segal is entitled to an award of
18 exemplary and punitive damages against UMRO, in an amount to be determined at trial.

19 **THIRD CAUSE OF ACTION**

20 **(Breach of Duty to Disclose Against Umansky and UMRO)**

21 55. Segal repeats and re-alleges the allegations set forth in paragraphs 1 through 48
22 above as though fully set forth herein.

23 56. As a real estate broker for Oberfeld/3620 Sweetwater Mesa, LLC and Sweetwater,
24 as well as by virtue of Umansky/UMRO's agreement with Segal/BHHS, as alleged above,
25 Umansky and UMRO had the duty to disclose all material facts concerning the Property, to all
26 parties to the transaction, including third parties who stood to receive an economic benefit from
27 the sale of the Property, including but not limited to Segal and BHHS.

28

1 57. Umansky and UMRO breached their duty to disclose to Segal and BHHS, among
2 others, by engaging in the acts and omissions discussed hereinabove, including, without
3 limitation, (i) failing to disclose to Segal the fact that Umansky was competing with Segal's client,
4 Hakim, for the Property through Umansky's involvement as an investor and/or business partner
5 with Oberfeld/3620 Sweetwater Mesa, LLC; and (ii) failing to disclose to Segal, Umansky's
6 involvement as an investor and/or business partner with Oberfeld/3620 Sweetwater Mesa, LLC,
7 and the fact that Umansky was working to position Oberfeld/3620 Sweetwater Mesa, LLC as the
8 Property's buyer for a price below its fair market value so that Umansky could personally and
9 secretly profit from the transaction/venture; and (iii) failing to disclose that Hakim, through Segal,
10 was being told to minimize his intended offer, based on Umansky and UMRO's ulterior motive
11 of enabling them (and Oberfeld/3620 Sweetwater Mesa, LLC) to purchase the Property in lieu of
12 Hakim.

13 58. As a result of Umansky's and UMRO's breach of the duty to disclose to Segal, Segal
14 detrimentally relied on Umansky and UMRO's actions by taking action that included but is not
15 limited to expending time, energy and resources on pursuing the proposed purchase by Hakim
16 and has sustained damages, including but not limited to commissions that would have otherwise
17 been earned and paid to him and BHHS, relative to the purchase and sale of the Property by
18 Hakim, in an amount that is believed to be in excess of four million five hundred thousand dollars
19 (\$4,500,000.00), plus interest at the legal rate, subject to proof at the time of trial.

20 59. In undertaking the actions and conduct described above, UMRO and Umansky
21 acted with the intention to deceive and defraud, among others, Segal and BHHS and were guilty
22 of fraud, oppression and malice. In addition to actual damages, Segal is therefore entitled to an
23 award of exemplary and punitive damages against UMRO and Umansky in an amount to be
24 determined at trial.

25 60. Segal is informed and believes and thereon alleges that at all times herein
26 mentioned, and in doing all of the acts alleged herein, Umansky was acting as an officer, director,
27 or managing agent of UMRO, and, at all times herein mentioned, Umansky was the principal
28 actor relative to the alleged wrongful conduct and therefore, Segal is entitled to an award of

1 exemplary and punitive damages against UMRO, in an amount to be determined at trial.

2 **FOURTH CAUSE OF ACTION**

3 **(Fraud Against All Defendants)**

4 61. Segal repeats and re-alleges the allegations set forth in paragraphs 1 through 43
5 above as though fully set forth herein.

6 62. As set forth above, Defendants, and each of them, by and through the acts of
7 Umansky, represented to Segal and Hakim that Hakim should refrain from providing a written
8 offer to purchase the Property for the sum of \$40 million, and should only offer to pay the asking
9 price. Umansky further informed Segal and Hakim that Sweetwater, the seller of the Property,
10 would not care if Hakim offered more than asking price, because the sale proceeds were not going
11 to Sweetwater.

12 63. Umansky's statements were false. At the time Umansky made these statements to
13 Hakim, Defendants, and each of them, knew they were false, or made them recklessly without
14 regard for their truth. Plaintiff is informed and believes and thereon alleges that, in actuality,
15 Sweetwater would have cared if Hakim made a \$40 million offer, and had Hakim provided to
16 Sweetwater a \$40 million written offer to purchase the Property, Sweetwater would have selected
17 Hakim as the Property buyer over Oberfeld/3620 Sweetwater Mesa, LLC as Hakim was willing
18 to offer significantly more money and Hakim fulfilled the seller's and the DOJ's other desires,
19 including his creditworthiness and intentions regarding his plans for the property. However,
20 Umansky made these statements and concealed the truth fully intending to induce Segal and
21 Hakim not to provide such an offer in writing, because Umansky wanted Oberfeld/3620
22 Sweetwater Mesa, LLC to be selected as the Property's buyer so that Umansky could profit from
23 the transaction as Oberfeld/3620 Sweetwater Mesa, LLC's business partner/co-investor.

24 64. Segal and Hakim relied on Umansky's representations and inducements to their
25 detriment. As a result of Umansky's representations, Hakim did not provide a written offer to
26 purchase the Property for \$40 million and, at Umansky's direction, provided an offer for \$32
27 million initially, and then accepted the Counter Offer for the sum of \$33.5 million.

28 65. At the time Umansky made the foregoing misrepresentations, neither Segal nor

1 Hakim knew that the representations were false but believed them to be true and reasonably relied
2 on them in that, as aforesaid, Umansky had made a series of representations to Segal which
3 reasonably explained the supposed basis for Umansky's and Oberfeld's actions, and the sale of
4 the Property to Oberfeld, including but not limited to representations that the seller (and DOJ)
5 was not concerned solely with the proposed purchase price but with other more subjective factors,
6 as alleged. As a result thereof, neither Hakim nor Segal had reason to know or suspect that
7 Umansky was concealing the true nature of the circumstances surrounding Hakim's offer for \$40
8 million and the seller's wishes and intentions.

9 66. Plaintiff is informed and believes and thereon alleges that at all times herein
10 relevant Umansky was acting as the agent for Oberfeld and within his actual or apparent authority
11 as such. That by virtue of Umansky's actions, as alleged herein, he gained an advantage for both
12 Umansky and Oberfeld, including the purchase and sale of the subject Property and the significant
13 profits derived as a result thereof, and Oberfeld/3620 Sweetwater Mesa, LLC has accepted and
14 retained the benefits of Umansky's wrongful actions, which accrued from the subject transaction.

15 67. That, as aforesaid, Umansky and Oberfeld together knowingly and willingly
16 conspired and agreed among themselves to cause the Property to be sold to Oberfeld, either in his
17 individual name and/or in the name of the 3620 Sweetwater Mesa LLC, at a price below its then
18 current market value, make slight improvements to the Property, and re-sell it for a significant
19 profit, while excluding and concealing Hakim and his proposed higher proposed offer from
20 consideration by the Seller. Segal is informed and believes that Umansky planned to, and did in
21 fact invest in the purchase, development and re-sale of the Property with Oberfeld and the 3620
22 Sweetwater Mesa LLC and all defendants personally profited therefrom.

23 68. Segal is informed and believes that Oberfeld knew that Umansky was concealing
24 from the seller and Plaintiff his and Oberfeld's true intention of acquiring the Property for their
25 own benefit, including that of Umansky; that Umansky was falsely rejecting Hakim's good faith
26 and higher offers for purchase of the Property; that Umansky was actively dissuading Hakim from
27 presenting his proposed written offers for significantly higher than the actual acquisition price so
28 that the lesser offer of Oberfeld/3620 Sweetwater Mesa, LLC would be accepted by the seller;

1 that Umansky was failing to convey Hakim's intentions to the seller with respect to the proposed
2 purchase of the Property; that Umansky was violating his duties owed to Segal; as well as by
3 further acts that Plaintiff believes will be developed through the course of discovery, all for the
4 purpose of benefitting Oberfeld/3620 Sweetwater Mesa, LLC and UMRO/Umansky as his co-
5 investor.

6 69. That the actions of Umansky and Oberfeld, in steering the sale of the Property to
7 Oberfeld and ultimately selling the Property at a significant profit, were all pursuant to, and in
8 furtherance of, the aforesaid conspiracy and agreement.

9 70. That Oberfeld cooperated and did lend aid and encouragement to Umansky's
10 wrongful acts by accepting his status as the chosen buyer for the Property and by accepting
11 Umansky as a co-investor and recipient of the proceeds of the resale of the Property and by jointly
12 developing and reselling the Property at a significant profit, which profit was retained and
13 accepted by both Umansky and Oberfeld, notwithstanding Umansky's wrongful actions.

14 71. Plaintiff is informed and believes that the last overt act in pursuance of the above-
15 described conspiracy occurred on or about April 1, 2017 when defendants, and each of them,
16 resold the Property at a significant profit and collected the proceeds thereof.

17 72. Segal has been damaged by the false and deceitful conduct of Defendants, and each
18 of them, in an amount including but not limited to commissions that would have otherwise been
19 earned and paid to him and BHHS, relative to the purchase and sale of the Property by Hakim, in
20 an amount that is believed to be in excess of four million five hundred thousand dollars
21 (\$4,500,000.00), plus interest at the legal rate, subject to proof at the time of trial.

22 73. In undertaking the actions and conduct described above, Defendants, and each of
23 them, acted with the intention to deceive and defraud Segal and Hakim and were guilty of fraud,
24 oppression and malice. In addition to actual damages, Segal is entitled to an award of exemplary
25 and punitive damages against Defendants in an amount to be determined at trial.

26 74. Segal is informed and believes and thereon alleges that at all times herein
27 mentioned, and in doing all of the acts alleged herein, Umansky and Oberfeld were acting as
28 officers, directors, or managing agents of UMRO and the 3620 Sweetwater LLC, respectively,

1 and, at all times herein mentioned, Umansky and Oberfeld were the principal actors relative to
2 the alleged wrongful conduct and therefore, Segal is entitled to an award of exemplary and
3 punitive damages against UMRO and the 3620 Sweetwater LLC, in an amount to be determined
4 at trial.

5 **FIFTH CAUSE OF ACTION**

6 **(Negligent Interference with Prospective Economic Relations v. All Defendants)**

7 75. Segal repeats and re-alleges the allegations set forth in paragraphs 1 through 43
8 above as though fully set forth herein.

9 76. That at all times herein mentioned, Segal, Hakim and Umansky were in an
10 economic relationship, i.e., that of potential buyer and real estate agent/broker, and cooperating
11 and listing broker, that probably would have resulted in an economic benefit to Segal, by virtue
12 of the commissions that he stood to earn for the sale of the Property to Hakim.

13 77. That at all times herein relevant, Defendants, and each of them, knew or should
14 have known of the relationship as aforesaid, as Segal was communicating with all Defendants
15 concerning Hakim's desire to purchase the Property.

16 78. Defendants, and each of them, knew or should have known that by conducting
17 themselves as hereinabove alleged, disruption of the economic relationship between Segal and
18 Hakim and Umansky was certain or substantially certain to occur and did in fact occur.

19 79. That at all times herein mentioned Umansky was acting as the agent for Oberfeld
20 and within his actual or apparent authority as such. That by virtue of Umansky's actions, as
21 alleged herein, he gained an advantage for both Umansky and Oberfeld, including the purchase
22 and sale of the subject Property and the significant profits derived as a result thereof, and
23 Oberfeld/3620 Sweetwater Mesa, LLC has accepted and retained the benefits of Umansky's
24 wrongful actions, which accrued from the subject transaction.

25 80. That, as aforesaid, Umansky and Oberfeld together knowingly and willingly
26 conspired and agreed among themselves to cause the Property to be sold to Oberfeld, either in his
27 individual name and/or in the name of the 3620 Sweetwater Mesa LLC, at a price below its then
28 current market value, make slight improvements to the Property, and re-sell it for a significant

1 profit, while excluding and concealing Hakim and his proposed higher proposed offer from
2 consideration by the Seller. Segal is informed and believes that Umansky planned to, and did in
3 fact invest in the purchase, development and re-sale of the Property with Oberfeld and the 3620
4 Sweetwater Mesa LLC and all defendants personally profited therefrom.

5 81. Segal is informed and believes that Oberfeld knew that Umansky was concealing
6 from the seller his and Oberfeld's true intention of acquiring the Property for their own benefit,
7 including that of Umansky; that Umansky was falsely rejecting Hakim's good faith and higher
8 offers for purchase of the Property; that Umansky was actively dissuading Hakim from presenting
9 his proposed written offers for significantly higher than the actual acquisition price so that the
10 lesser offer of Oberfeld/3620 Sweetwater Mesa, LLC would be accepted by the seller; that
11 Umansky was failing to convey Hakim's intentions to the seller with respect to the proposed
12 purchase of the Property; that Umansky was violating his duties owed to Segal; as well as by
13 further acts that Plaintiff believes will be developed through the course of discovery, all for the
14 purpose of benefitting Oberfeld/3620 Sweetwater Mesa, LLC and UMRO/Umansky as his co-
15 investor.

16 82. That the actions of Umansky and Oberfeld, in steering the sale of the Property to
17 Oberfeld and ultimately selling the Property at a significant profit, were all pursuant to, and in
18 furtherance of, the aforesaid conspiracy and agreement.

19 83. That Oberfeld cooperated and did lend aid and encouragement to Umansky's
20 wrongful acts by accepting his status as the chosen buyer for the Property and by accepting
21 Umansky as a co-investor and recipient of the proceeds of the resale of the Property and by jointly
22 developing and reselling the Property at a significant profit, which profit was retained and
23 accepted by both Umansky and Oberfeld, notwithstanding Umansky's wrongful actions.

24 84. Plaintiff is informed and believes that the last overt act in pursuance of the above-
25 described conspiracy occurred on or about April 1, 2017 when defendants, and each of them,
26 resold the Property at a significant profit and collected the proceeds thereof.

27 85. That by virtue of their actions, as hereinabove alleged, defendants, and each of
28 them, so carelessly and negligently conducted themselves that Hakim was unable to purchase the

1 Property and lost the opportunity of developing and reselling the Property for a profit and/or the
2 benefit of the appreciation in the Property, all thereby directly and proximately causing the
3 damages alleged by Segal herein. Defendants' actions were a substantial factor in causing harm
4 to Segal.

5 86. Segal has been damaged by Defendants' wrongful conduct in an amount including
6 but not limited to commissions that would have otherwise been earned and paid to him and BHHS,
7 relative to the purchase and sale of the Property by Hakim in an amount that is believed to be in
8 excess of four million five hundred thousand dollars (\$4,500,000.00), plus interest at the legal
9 rate, subject to proof at the time of trial.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Segal prays for judgment on the Second Amended Complaint as follows:

12 **ON ALL CAUSES OF ACTION, AS TO THE RESPECTIVE DEFENDANTS:**

- 13 1. For damages, according to proof, in an amount no less than four million five
14 hundred thousand dollars (\$4,500,000.00);
15 2. For interest on the damages at the legal rate of 10% per annum;
16 3. For costs of suit incurred herein; and
17 4. For such other and further relief as the Court deems just and proper.

18 **ON THE SECOND, THIRD AND FOURTH CAUSES OF ACTION, AS TO THE**
19 **RESPECTIVE DEFENDANTS:**

- 20 1. For punitive damages sufficient to punish Defendants and deter others from
21 engaging in such wrongdoing, in a sum according to proof, at the time of trial.

22 **DEMAND FOR TRIAL BY JURY**

23 Segal hereby demands a trial by jury in the above-captioned matter.

24 Dated: October 8, 2020

COHEN & COHEN, LLP

25
26 By: /s/ Barry L. Cohen
27 Barry L. Cohen
28 Kerry A. Cohen
Attorney for Plaintiff Aitan Segal

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PROOF OF SERVICE

Re: Sam Hakim v. Mauricio Umansky, et al.
Los Angeles Superior Court Case No.: 19SMCV01619 (Lead)
Aitan Segal v. Mauricio Umansky, et al.
Los Angeles Superior Court Case No.: 19SMCV01720

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 16130 Ventura Boulevard, Suite 140, Encino, CA 91436.

On October 8, 2020, I served copies of the following documents described as **AITAN SEGAL’S SECOND AMENDED COMPLAINT** on the interested parties in this action as stated below by placing a true copy the original thereof in a sealed envelope addressed as follows:

SEE ATTACHED RECIPIENT/MAILING LIST

- BY MAIL:** I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Encino, County of Los Angeles, California. I am “readily familiar” with the firm’s practice of collecting and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on the same day in the ordinary course of business, with postage thereon fully prepaid at Encino, California. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- BY EXPRESS MAIL/OVERNIGHT DELIVERY:** I enclosed the documents in an envelope provided by an overnight delivery carrier and addressed to the persons at the address(es) listed above or on the attached Recipient/Mailing list. I placed the envelope for collection and overnight delivery at a regularly utilized drop box of the overnight delivery, with delivery fees fully prepaid or provided for.
- BY FACSIMILE:** Based on an agreement of the parties to accept service by fax transmission, I faxed the document to the addressee(s) listed above or on the attached Recipient/Mailing list, at the fax numbers listed. No error was reported by the machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- BY PERSONAL SERVICE:** I delivered such envelope by hand to the addressee(s) listed above or on the attached Recipient/Mailing List.
- BY ELECTRONIC SERVICE/EMAIL:** My electronic service address is kerry@cohenlaw.net. I electronically served the above stated document(s) on the addressee(s) listed above or on the attached Recipient/Mailing List, at his/her/their electronic service address. I received no error message from my electronic mail service provider with regard to this electronic service. I transmitted the document(s) listed above to the email address(es) of the addressee(s) listed above or on the attached Recipient/Mailing List through Ace Attorney Service, an electronic filing service provider.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 8, 2020, at Encino, California.

/s/ Kerry A. Cohen

Kerry A. Cohen

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RECIPIENT/MAILING LIST

Re: Sam Hakim v. Mauricio Umansky, et al.
Los Angeles Superior Court Case No.: 19SMCV01619 (Lead)
Aitan Segal v. Mauricio Umansky, et al.
Los Angeles Superior Court Case No.: 19SMCV01720

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