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12

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF LOS ANGELES
15 WEST DISTRICT - SANTA MONICA COURTHOUSE

16 SAM HAKIM, an individual,
17 Plaintiff,

18 v.

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

24 AITAN SEGAL,
25 Plaintiff,

26 v.

27 MAURICIO UMANSKY, an individual;
28 UMRO REALTY CORPORATION, a
California corporation; MAURICIO

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

Hon. Mark H. Epstein
Department R

SECOND AMENDED COMPLAINT FOR:

- (1) BREACH OF DUTY OF HONESTY AND FAIRNESS;
- (2) BREACH OF DUTY TO DISCLOSE;
- (3) FRAUD;
- (4) NEGLIGENT MISREPRESENTATION;
- (5) INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE; AND
- (6) CONSTRUCTIVE TRUST

Complaint Filed: 09/13/2019

1 OBERFELD, an individual; 3620
2 SWEETWATER MESA, LLC, a California
3 limited liability company; and DOES 1
4 through 100, inclusive,

5
6 Defendants.

First Amended Complaint Filed: 12/11/2019
Trial Date: None Set

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1 Plaintiff Sam Hakim ("Plaintiff" or "Hakim") hereby alleges against defendants
2 Mauricio Umansky ("Umansky"), UMRO Realty Corporation ("UMRO"), Mauricio
3 Oberfeld ("Oberfeld") and 3620 Sweetwater Mesa, LLC ("Sweetwater Mesa") (collectively,
4 "Defendants") and Does 1 through 10, as follows:

5
6 **SUMMARY OF DISPUTE**

7 1. This case concerns egregious breaches of duty and other despicable conduct
8 perpetrated by celebrity real estate broker, Mauricio Umansky. In 2016, Umansky, through
9 his company UMRO Realty Corporation (which does business as "The Agency") was
10 engaged to broker the sale of a multi-million dollar estate in Malibu. The Property (as
11 defined herein) was owned by the Vice President of the Republic of Equatorial Guinea,
12 Teodoro Nguema Obiang Mangue ("Obiang"). Previously, Obiang's assets were seized by
13 the United States government as part of a criminal investigation, and the United States
14 Department of Justice ("United States DOJ") brought a forfeiture action with respect to the
15 Property. As part of the settlement of that action, Obiang agreed to engage a broker
16 (Umansky) to sell the Property and forfeit the first \$10,300,000 of the sale proceeds to the
17 United States. Any remaining funds were to be paid to a charity jointly selected by the
18 United States DOJ and Obiang, to be used for the benefit of the people of Equatorial Guinea.
19 Instead of fulfilling his duty as a broker to, among other things, obtain the highest and best
20 purchase price for his client, Umansky used his position to engage in egregious acts of self-
21 dealing. Umansky set a \$32 million "asking price" for the Property, knowing full well this
22 amount was far below the Property's true market value. Then, Umansky conspired with his
23 long-time friend and business partner, Mauricio Oberfeld, to position Oberfeld as the
24 Property's buyer. Umansky planned to (and did) surreptitiously purchase the Property in
25 partnership with Oberfeld and personally and secretly profited from the Property's purchase
26 and re-sale. Umansky and Oberfeld "flipped" the Property for almost \$70 million, \$37
27 million more than the price "Oberfeld" paid to acquire it less than a year earlier.

28

1 2. As the broker for the seller of the Property, Umansky owed all parties in the
2 transaction—including prospective purchasers like Hakim—a duty to be honest and
3 truthful, and a duty to disclose all material facts relating to the property. Umansky did
4 exactly the opposite. When Hakim made an offer that exceeded Oberfeld's offer by \$8
5 million (i.e. a \$40 million offer), Umansky told Hakim "not to put it in writing." Umansky
6 represented that the seller was not motivated by the sales price as it would not benefit from
7 any sale proceeds (since they would be forfeited to the United States and paid to a charity).
8 Hakim relied on Umansky's representations and did exactly what Umansky advised him to
9 do: refrain from providing a written offer that was more than the seller's asking price.
10 Hakim would later learn that Umansky dissuaded him from making his \$40 million offer in
11 writing because Umansky (through Oberfeld) intended to purchase the Property for himself.
12 In this regard, Umansky failed to disclose his own "stake" in the Property to Hakim—i.e.
13 the fact that Umansky planned to invest in the Property's purchase and profit from the
14 investment for his own account. But again, Hakim trusted Umansky and never
15 contemplated that Umansky was secretly competing with him to purchase the Property.
16 Because of Umansky's duplicity, Hakim lost the valuable opportunity to purchase the
17 Property and reap the profits generated from its re-development and re-sale—profits which
18 exceeded \$35 million. Hakim therefore brings this lawsuit to seek redress for Umansky's
19 shocking misconduct and egregious breaches of duty. Notably, Umansky's own client has
20 already initiated legal proceedings against him stemming from this transaction. Umansky's
21 professional liability insurer has also filed suit seeking to rescind coverage as a result of the
22 same misconduct. Umansky and his cohort Oberfeld must be punished for their
23 wrongdoing. Among other things, Umansky and Oberfeld must compensate Hakim for the
24 lost profits which were stolen from him. Hakim is informed and believes that such profits
25 exceed the sum of \$35 million, which reflects the profits that Umansky and Oberfeld
26 obtained from "flipping" the Property less than one year after they improperly acquired it.

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THE PARTIES

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3. Hakim is an individual residing in the County of Los Angeles.

4. Hakim is informed and believes, and on that basis alleges, that defendant Umansky is an individual residing in the County of Los Angeles, California. Hakim is informed and believes, and on that basis alleges, that Umansky is the Chief Executive Officer and co-owner of UMRO.

5. Hakim is informed and believes, and on that basis alleges, that defendant UMRO is a California corporation with its principal place of business in Beverly Hills, California. UMRO is a real estate brokerage firm, doing business as "The Agency."

6. Hakim is informed and believes, and on that basis alleges, that defendant Oberfeld is an individual residing in the County of Los Angeles, California.

7. Hakim is informed and believes, and on that basis alleges, that defendant Sweetwater Mesa is a California limited liability company with its principal place of business in Los Angeles, California. Hakim currently does not know the true names and capacities of the defendants sued as Does 1 through 10, inclusive, and therefore sues these defendants by fictitious names. Hakim will amend the Second Amended Complaint to add the true names and capacities of these defendants when they are ascertained. Each of the fictitiously named Doe defendants is responsible in some manner for the events and happenings alleged in this Complaint and for Hakim's damages.

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

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1 **VENUE**

2 9. Pursuant to California Code of Civil Procedure Section 395(a), venue is proper
3 in Los Angeles County, California because defendant UMRO's principal place of business
4 is located in Los Angeles County. Also, on information and belief, defendants Umansky
5 and Oberfeld reside in Los Angeles County.

6
7 **JURISDICTION**

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

10
11 **BACKGROUND FACTS**

12 **The Property**

13 11. The property that is the subject of this action is located at 3620 Sweetwater
14 Mesa, Malibu, California 90265 (the "Property"). The Property consists of a 14,995 square
15 foot residence situated on over 16 acres of land overlooking the Pacific Ocean. In 2006,
16 the Property was purchased by Obiang, the Vice President of Equatorial Guinea and son of
17 its current President. Obiang held title to the Property through Sweetwater Malibu LLC
18 ("Sweetwater").

19 12. Hakim is a Los Angeles based real estate developer. Hakim has investments
20 in and around Malibu and has been familiar with the Property for many years. Hakim had
21 long expressed an interest in acquiring the Property if it ever came on the market.

22
23 **The Action For Forfeiture Of The Property**

24 13. On or around April 28, 2011, the United States DOJ filed an action against
25 Sweetwater and Obiang in which it sought forfeiture of the Property.

26 14. Hakim is informed and believes that on or around October 10, 2014, the United
27 States DOJ entered into a Stipulation and Settlement Agreement ("Settlement Agreement")
28

1 with Obiang and Sweetwater, pursuant to which Sweetwater and Obiang agreed to liquidate
2 the Property in a manner consistent with the terms of the Settlement Agreement.

3 15. Hakim is informed and believes that pursuant to the Settlement Agreement,
4 the United States DOJ and Obiang agreed to mutually select a licensed real estate agent to
5 sell the Property. The Settlement Agreement further provided that the Property's sale
6 proceeds were to be distributed in the following manner: First, sale proceeds were to be
7 paid to expenses incurred with respect to the maintenance and sale of the Property. Second,
8 sale proceeds of \$10,300,000 were to be forfeited to the United States. Third, any and all
9 remaining funds were to be paid to a charity jointly selected by the United States DOJ and
10 Obiang with the funds to be used for the benefit of the people of Equatorial Guinea.

11
12 **Umansky/UMRO Are Retained To Sell The Property**

13 16. Hakim is informed and believes that the United States DOJ and Obiang jointly
14 selected UMRO/Umansky as their licensed real estate agent for the liquidation sale of the
15 Property.

16 17. UMRO, doing business as The Agency, touts itself as one of the largest and
17 most prestigious real estate brokerage firms in Los Angeles. As stated on Umansky's
18 biography on UMRO's website, Umansky has ranked among the top ten real estate agents
19 in the country for the past seven years, and "holds the distinction of selling the most homes
20 in the county priced above \$20M[illion]." Umansky's biography further states that he "has
21 represented some of the world's most noteworthy properties."

22 18. Hakim is informed and believes that UMRO and Sweetwater entered into a
23 Residential Listing Agreement designating UMRO as the listing agent for the Property from
24 April 18, 2015 through October 18, 2016. Pursuant to the Agreement, UMRO/Umansky
25 was to receive a 6% brokerage commission in connection with the Property's sale.

26 19. Hakim is informed and believes that Umansky did not list the Property for sale
27 on the Multiple Listing Service, but rather advertised the Property confidentially to a
28 discrete client base. This is because Umansky intended to hand pick the buyer and

1 personally and secretly profit from the transaction as an investor, as further addressed
2 herein.

3 **Hakim Agrees To Pay Sweetwater's Asking Price Based On**
4 **Representations By Umansky That He Should Not Offer More**

5 20. After learning that the Property was potentially for sale in or about May 2015,
6 Hakim engaged Aitan Segal ("Segal") of Berkshire Hathaway California Properties to act
7 as his agent in connection with the prospective purchase of the Property.

8 21. In May 2015, Segal contacted the United States DOJ to advise that Segal had
9 a pre-qualified buyer (Hakim) with verifiable funds who was interested in purchasing the
10 Property. Segal further advised that Hakim was requesting to tour the Property with the
11 intention of making an offer. Thereafter, the United States DOJ directed Segal to contact
12 Umansky with respect to the Property.

13 22. On or about May 22, 2015, Segal contacted Umansky to advise him that
14 Hakim was very interested in acquiring the Property, and wanted to schedule a tour. Segal
15 further provided Umansky with documentation concerning Hakim's proof of funds for the
16 Property's purchase. Thereafter, Umansky advised Segal that he was still "setting up" the
17 Property and had not yet received access, so Hakim would have to wait several weeks
18 before he could tour the Property.

19 23. On July 27, 2015, Umansky informed Segal that the asking price for the
20 Property was \$32 million. That same day, Segal submitted to Umansky a Residential
21 Purchase Agreement and Joint Escrow Instructions on behalf of Hakim offering to purchase
22 the Property for the full asking price of \$32 million (the "Purchase Offer"). Umansky was
23 further informed that Hakim would pay significantly more, i.e., \$40 million to \$45 million,
24 to purchase the Property. In conjunction with the Purchase Offer, Hakim again provided
25 documentation evidencing his proof of funds for the Property's purchase.

26 24. On or about August 1, 2015, Hakim and Segal met with Umansky at the
27 Property. During this meeting, Hakim and Segal reiterated to Umansky that Hakim desired
28 to acquire the Property, and they made an oral offer to purchase the Property for \$40

1 million. Umansky acknowledged this verbal offer but informed Hakim not to put it in
2 writing. He explained that the seller was not motivated by the purchase price as it would
3 not benefit from any of the sale proceeds. Nonetheless, he promised to relay their offer to
4 the seller. Based on Umansky's representations, which Hakim relied upon, Hakim did not
5 provide a formal written offer to purchase the Property for \$40 million at that time. Hakim
6 would later learn that Umansky dissuaded him from making his \$40 million offer in writing
7 because Umansky (through Oberfeld) intended to purchase the Property for himself.

8 25. On or about December 14, 2015, Umansky provided Hakim, through Segal, a
9 Seller Multiple Counter Offer No. 1 dated October 1, 2015, making a counter offer to sell
10 the Property to Hakim for the purchase price of \$33.5 million ("Counter Offer"). Umansky
11 informed Hakim once more that the seller was not motivated by the sales price because any
12 sale proceeds would not go to the seller (any sale proceeds in excess of \$10,300,000 were
13 to be paid to a charity for the benefit of the people of Equatorial Guinea). Based on
14 Umansky's representations, which Hakim relied upon, Hakim again did not provide a
15 formal written offer to purchase the Property for \$40 million at that time either. Instead, he
16 followed Umansky's instructions and accepted the \$33.5 million Counter Offer on
17 December 15, 2015, and provided the executed Counter Offer to Umansky (through Segal)
18 the same day.

19 **UMRO/Umansky And Oberfeld/3620 Sweetwater Mesa, LLC's**

20 **Scheme To Acquire The Property**

21 26. Hakim is informed and believes that at the time Umansky entered into a listing
22 agreement to act as Sweetwater's agent for the sale of the Property, Umansky realized the
23 Property could be a lucrative business opportunity from which he could personally profit.
24 Hakim is further informed and believes and thereupon alleges that Umansky contacted
25 Oberfeld/3620 Sweetwater Mesa with respect to this prospective business opportunity.
26 Umansky and Oberfeld/3620 Sweetwater Mesa thereafter developed a plan to cause
27 Oberfeld/3620 Sweetwater Mesa to purchase the Property at a price below its then current
28 market value, make slight improvements to the Property, and re-sell it for a significant profit.

1 Hakim is informed and believes that Umansky planned to, and did, invest with
2 Oberfeld/3620 Sweetwater Mesa in the purchase, development and re-sale of the Property,
3 and personally profited from his investment in the Property.

4 **UMRO/Umansky Hand Picks Oberfeld/3620 Sweetwater Mesa, LLC As The Buyer**

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

19 28. Hakim is informed and believes that Oberfeld accepted the counter offer and,
20 with Umansky's help, was approved as a buyer by the United States DOJ on or about
21 February 8, 2016. Hakim is further informed and believes that Umansky persuaded the
22 United States DOJ to approve Oberfeld as the buyer over any other prospective buyer,
23 including Hakim, because of Umansky's undisclosed business partnership with Oberfeld.

24 **Oberfeld Shares His Development Plans With Hakim**

25 29. Shortly after accepting the Counter Offer, Hakim was dismayed to learn that
26 he had not been selected as the buyer. Hakim informed Umansky that he would be willing
27 to pay the selected buyer \$8 million to obtain an assignment of the buyer's position. In
28 response, Umansky agreed to arrange a meeting between Hakim and the selected buyer.

1 30. In February 2016, Hakim and Segal met with the selected buyer, Oberfeld, at
2 Oberfeld's office. During the meeting, Oberfeld told Hakim that he intended to improve
3 the Property and showed Hakim various documents relating to his plans.

4 31. Among the documents provided to Hakim was a development plan for the
5 Property dated February 17, 2016 (the "Oberfeld Development Plan"). The Oberfeld
6 Development Plan included various details regarding the Property, including the lot size,
7 number of bedrooms and bathrooms, and multiple amenities. The Oberfeld Development
8 Plan also included several photographs of the Property, including the interior and exterior
9 of the residence.

10 32. The Oberfeld Development Plan further provided the following under the
11 heading "Description, Development Plan and Projections:"

12 "With a combined 11 bedrooms, and many additional servant's
13 quarters and service areas, the property is roomy and
14 comfortable enough for any large family or multi-generational
15 occupants. **The acquisition price is close to land value and
there is a minimal amount of work required to relist this at
a price that generates substantial returns. Product in this
class now sells over 60, even 70 million in Malibu.**"

16 33. Additionally, the Oberfeld Development Plan included projections for the
17 profits to be generated by the sale of the Property after it was redeveloped. Oberfeld
18 projected that a re-sale of the Property for \$65 million would yield a 33.8% rate of return,
19 a re-sale of \$75 million would yield a 52.3% rate of return, and a re-sale of \$85 million
20 would yield a 70.8% rate of return.

21
22 **Hakim Offers To Purchase Oberfeld's Position In**
23 **The Transaction For \$8 Million**

24 34. As confirmation of his willingness to purchase the Property for at least \$40
25 million, on or about February 20, 2016, Hakim sent Oberfeld and Umansky a letter of intent
26 with respect to the Property ("LOI"). Pursuant to the LOI, Hakim offered to pay Oberfeld
27 the sum of \$8 million to obtain an assignment of Oberfeld's position as the selected buyer.
28

1 Thus, Hakim agreed to pay the total sum of \$41.5 million (the \$33.5 million purchase price
2 to the Seller, and the \$8 million to Oberfeld) for the purchase of the Property.

3 35. On or around February 22, 2016, Umansky, on behalf of Oberfeld, responded
4 to the LOI with a counter offer demanding that Hakim agree to pay the sum of \$15 million
5 to assume Oberfeld's position in the transaction.

6 36. Hakim is informed and believes and thereupon alleges that UMRO and
7 Umansky did not disclose to Sweetwater, Obiang, or the United States DOJ the fact that
8 Hakim (i) offered to pay \$40 million to purchase the Property, (ii) was willing to pay \$41.5
9 million for the Property, or (iii) had offered to pay \$8 million to Oberfeld to assume
10 Oberfeld's position in the transaction.

11 37. Because Umansky was himself an investor in the Property, it was in
12 Umansky's best interest not to disclose this information as he wanted the Property to be sold
13 to Oberfeld, and not to Hakim.

14 38. Hakim is further informed and believes that Sweetwater remained ignorant of
15 the negotiations between Oberfeld, through UMRO and Umansky, and Hakim, through
16 Segal, to sell Oberfeld's right to purchase the Property to Hakim, and thus remained unaware
17 that Hakim was willing to pay \$41.5 million for the Property, and the \$33.5 million purchase
18 price was below fair market value in 2016. Hakim is further informed and believes and
19 based thereon alleges that had Sweetwater not been ignorant of these negotiations, that
20 Hakim would have been chosen by the seller, with the approval of the Department of Justice,
21 to be the buyer of the Property, such information and belief being based upon numerous
22 facts, including but not limited to the facts that Hakim was willing to and did offer at least
23 \$40 million to purchase the Property, and Hakim was a qualified buyer with excellent credit
24 who had no known disqualifying factors and that in a separate action brought by the seller
25 of the property (*Sweetwater Malibu CA, LLC, et al. v. Mauricio Umansky, et al.* United
26 States District Court Case No. CV 19-1848-GW-SSx), the seller alleges, at paragraph 52,
27 that had it not been for the alleged wrongful acts, the seller “would have sold the Property
28 to another buyer for millions of dollars more than Oberfeld.”

Oberfeld Purchases The Property For \$32.5 Million

1
2 39. On or about March 31, 2016, Oberfeld, through Umansky, identified certain
3 purported repair items at the Property and requested a \$1 million credit from Sweetwater,
4 effectively reducing the purchase price from \$33.5 million to \$32.5 million. Thereafter,
5 UMRO and Umansky notified Sweetwater that Oberfeld would remove all contingencies
6 required to complete the purchase of the Property if Oberfeld received the \$1 million repair
7 credit. Umansky later recommended to Sweetwater and the United States DOJ that they
8 should agree to the \$1 million repair credit in order to finalize the sale of the Property to
9 Oberfeld.

10 40. Hakim is informed and believes that Umansky did not notify Sweetwater that
11 Umansky was an investor with Oberfeld in the purchase of the Property until June 16, 2016,
12 only a few weeks before the sale was set to close. Hakim is further informed and believes
13 that had Sweetwater known of Hakim's offer to purchase the Property for \$40 million, or to
14 acquire Oberfeld's right to purchase the Property for \$8 million, that Hakim would have
15 been chosen by Sweetwater as the buyer, and would have been approved as the buyer by
16 the United States DOJ.

17 41. On or about April 8, 2016, Oberfeld registered his entity, Sweetwater Mesa,
18 as a California limited liability company. In filings with the California Secretary of State,
19 Oberfeld was listed as the agent for service of process, the organizer, and the Chief
20 Executive Officer for Sweetwater Mesa. Hakim is informed and believes that Sweetwater
21 Mesa is an entity owned and controlled by Oberfeld.

22 42. Prior to the formation of Sweetwater Mesa, all communications, negotiations
23 and other actions in connection with the Property were conducted by Oberfeld individually.
24 For instance, Hakim's LOI was addressed to Oberfeld individually, and offered to assume
25 Oberfeld's position as the buyer of the Property for \$8 million.

26 43. On or about June 30, 2016, Sweetwater consummated the sale of the Property
27 to Sweetwater Mesa for the net amount of \$32.5 million. At the time of the sale, Hakim
28 was unaware of Sweetwater Mesa's identity as the purchaser of the Property, or the final

1 sale price. Hakim was further unaware of Umansky's involvement as an investor in
2 Sweetwater Mesa's purchase of the Property. Hakim had no reason to believe Umansky
3 was an investor in Sweetwater Mesa's purchase of the Property as Umansky had never
4 disclosed that fact to Hakim or alluded to any type of partnership with Oberfeld with respect
5 to the purchase of the Property.

6
7 **Resale Of The Property For \$69.9 Million**

8 44. Hakim is informed and believes that on or around April 1, 2017, Oberfeld and
9 Umansky, along with other investors, sold the Property for \$69.9 million.
10 UMRO/Umansky was the listing agent for the resale. Thus, Umansky facilitated a sale of
11 the Property for \$37 million more than he and Oberfeld had initially paid a year earlier.

12
13 **Multiple Lawsuits Are Filed Against UMRO/Umansky**

14 **Arising From The Subject Transaction**

15 45. Hakim is informed and believes that on or about August 15, 2017, Sweetwater
16 sent a written demand letter to UMRO and Umansky, asserting a real estate brokers'
17 professional liability claim for breach of fiduciary duties, breach of statutory duties,
18 negligence, and other claims arising from UMRO's and Umansky's actions as Sweetwater's
19 real estate agent in the sale of the Property to Oberfeld. The demand letter addressed
20 UMRO/Umansky's failure to fully disclose to Sweetwater the business relationship between
21 UMRO/Umansky and Oberfeld with respect to the sale and resale of the Property, the
22 financial benefits received by UMRO and Umansky, the conflict of interest of UMRO and
23 Umansky, the recommendation to provide Oberfeld with a \$1 million repair credit, the
24 failure to disclose material information to Sweetwater regarding the value of the Property,
25 the failure to disclose the negotiations between Oberfeld and Hakim regarding Hakim's \$8
26 million offer to purchase an assignment of Oberfeld's position as the selected buyer or
27 Oberfeld's counter demand for a \$15 million assignment fee from Hakim, the profits derived
28 by UMRO and Umansky from the investment with Oberfeld in renovating and reselling the

1 Property, and other related claims ("Sweetwater Claims"). On March 13, 2019, Sweetwater
2 commenced the lawsuit styled *Sweetwater Malibu CA, LLC vs. Mauricio Umansky; UMRO*
3 *Realty Corp., dba The Agency* against Umansky and others to pursue the Sweetwater Claims
4 (the "Sweetwater Action"). The Sweetwater Action is currently pending in the United
5 States District Court – Central District, California.

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

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

15 48. Hakim was unaware of the wrongful acts of Defendants as alleged herein until
16 August 3, 2018. He could not with reasonable diligence have discovered the wrongful acts
17 before that date. Hakim discovered the wrongful acts, including Umansky's involvement
18 as an investor in the June 30, 2016 purchase by Sweetwater Mesa, and the subsequent resale
19 for \$69.9 million in August of 2018 by virtue of an online news article describing such
20 conduct. Prior to August 2018, Hakim had no reasonable basis to believe or assume that
21 UMRO/Umansky or Oberfeld/3620 Sweetwater Mesa, LLC had committed the wrongful
22 acts alleged in this Second Amended Complaint, for the following reasons:

- 23 a. Hakim, through Segal, initially contacted the DOJ to inquire into the sale of
24 the Property and was specifically told by DOJ personnel, who Hakim had no
25 reason to disbelieve and who presumably did know of the specifics and
26 conditions by which this property was to be sold (given that the fact the
27 property was to be sold in the first place had been negotiated as a result of the
28 DOJ's action against Sweetwater), that Hakim was to deal *solely* with

1 Umansky relative to any offers or other inquiries concerning the Property, as
2 Umansky was the broker mutually appointed for the Seller and approved by
3 the DOJ to oversee the process of selling the subject property. Given this
4 instruction from the DOJ to Segal, which was relayed to Hakim, Hakim knew
5 that he was only to convey offers through Umansky.

- 6 b. Neither Hakim nor Segal had ever seen, spoken with, or otherwise had any
7 access whatsoever to the Seller's principal. Hakim only knew—by virtue of
8 his broker Segal's own limited knowledge—that the Seller was some kind of
9 diplomat connected to Equatorial Guinea and that the Seller had to sell the
10 Property because of some kind of arrangement with the DOJ. He was, in all
11 respects, an “absent seller,” whose intentions and any/all communications
12 regarding the sale of the property were being directed to and disclosed by and
13 through the broker appointed by the DOJ, i.e., Umansky.
- 14 c. At all times mentioned herein, Hakim knew Umansky to be a well-known
15 celebrity real estate agent and someone with whom Hakim was told Segal had
16 a good rapport.
- 17 d. During the course of their communications regarding the transaction,
18 Umansky expressly advised Segal and Hakim that the sales price was
19 determined to be \$32 million. He further advised that the price was not the
20 primary determining factor for whether an offer would be accepted, and that
21 rather, a buyer would be chosen based upon whatever arrangements had been
22 made between Seller and the DOJ, the specifics of which Hakim and Segal
23 were unaware and which were not disclosed to them. Hakim further
24 understood that the Seller's primary concerns were who was buying the
25 Property and the buyer's background. Consistent with the foregoing,
26 Umansky made specific inquiries for Hakim's “Bio.” Umansky further
27 represented that the DOJ was overseeing the entire transaction process.
28

- 1 e. Although Hakim was of the understanding and belief that the DOJ was
2 somehow involved in this transaction and that certain undisclosed agreements
3 had been made between the Seller and the DOJ, Hakim was not privy to those
4 arrangements and had no specific knowledge regarding the conditions of sale
5 or other specific terms of any agreements or other arrangements that had been
6 made between Seller and the DOJ or which Seller was otherwise subject to
7 because of his specific circumstances.
- 8 f. Umansky, as the Seller's DOJ-appointed representative, represented that he
9 would convey to the Seller Hakim's offer to purchase the Property for the sum
10 of \$40 million, presumably to confirm that it would make no difference to the
11 Seller.
- 12 g. After Hakim learned of Seller's acceptance of the offer by Oberfeld, Hakim
13 inquired to Umansky, through Segal, as to why Oberfeld's offer had been
14 accepted over Hakim's. Umansky affirmatively induced Segal and Hakim into
15 believing that there was no untoward intent involved, by reiterating that price
16 was not the deciding factor with respect to this particular transaction. He
17 specifically stated that Oberfeld had the "right" answers regarding the needs
18 of this particular transaction and that Hakim's offer was "very close" and "just
19 missed" being the accepted offer. Thus, by making these representations to
20 Segal, whom Umansky knew was Hakim's agent and would therefore relay the
21 statements to Hakim, Umansky himself affirmatively induced Hakim to
22 believe that there was nothing underhanded or illegal or wrongful about his
23 actions. Hakim relied on Umansky's representations in assuming that there
24 was, in fact, nothing underhanded, illegal, or wrongful about his actions.
- 25 h. Hakim understood that Umansky as a licensed broker was subject to ethical
26 guidelines. He thus expected and believed that Umansky, a well-known,
27 highly publicized, very successful broker appointed and overseen by the DOJ,
28 was following the law and his ethical responsibilities. Based on the

1 information known to Hakim at the time, Hakim believed that if Umansky was
2 advising that price was not the deciding factor with respect to the sale of the
3 Property, there must be something Umansky knew, from his unique inside
4 position, that served as a valid reason for his statements. Therefore, rather
5 than conduct themselves in a manner directly adverse to that instructed by the
6 only avenue of communication to the Seller, i.e., Umansky (with whom the
7 DOJ had instructed Hakim to work directly with respect to negotiations over
8 the Property), Hakim and Segal relied on Umansky's instructions and
9 proceeded accordingly.

- 10 i. Hakim understood that a residential broker like Umansky—particularly one
11 who held himself out as a top-of-the-line, celebrity broker of luxury residential
12 properties—was likely to have far more knowledge and experience than
13 Hakim, and Hakim thus had no basis on which to doubt Umansky's
14 instructions or representations regarding the residential negotiation process or
15 as to what was important to the Seller.
- 16 j. Hakim was aware that sellers of commercial real estate often choose buyers
17 based on a host of factors, of which a potential buyer's proposed price is just
18 one of several that are considered. These reasons by no means are limited to
19 those that would put a prospective buyer on notice that there was some kind
20 of secret intent by the listing broker to steer the sale to a secret buyer who
21 thereafter would partner with said broker for purposes of obtaining a secret
22 profit for themselves. Such reasons could include, but are not necessarily
23 limited to, tax purposes, insurance purposes, appraisal purposes, purposes
24 related to comparative market analyses, financing purposes, preferable terms
25 of sale, the condition of the property or, in a matter such as this, some
26 confidential, behind the scenes, unique and confidential arrangement between
27 an absent foreign dignitary and the Department of Justice that the "outside"
28 prospective buyers and their brokers could not possibly or reasonably know of

1 or be privy to. As but one example, there are sellers who well realize that once
2 the proposed purchase price exceeds a certain amount, the odds of escrow
3 timely closing becomes diminished (as the buyer may come to believe the
4 offer was too high, or a lender may disapprove the loan, or the buyer may
5 conclude that the higher price, in conjunction with the need for repairs to the
6 property, far exceeds the value of the property). Such conclusions will often
7 lead to aggressive negotiating tactics, failed contingencies and delayed and/or
8 cancelled escrows, and the need to begin the process all over again with a
9 backup or other prospective buyer and possible loss of the sale and a missed
10 opportunity to exit the property as may be required. Hakim has also been made
11 aware of situations where higher offers, particularly those that stand out well
12 above all other offers, have been rejected by sellers because they are
13 considered as “bluster” for the purpose of enabling the higher offeror to be
14 chosen only so he or she can then aggressively seek to bargain the seller down
15 to a price and terms less favorable than the other lesser offers. A significant
16 risk of “jumping” at the higher offer is the loss of other serious buyers who,
17 upon their initial rejection, do not care to hang around as backups while the
18 seller chases after the insincere higher offeror. It was Hakim’s
19 understanding—based on his discussions with Segal and as strongly
20 confirmed by Umansky—that the Seller of this particular property was being
21 forced to sell it under significant time constraints and subject to a private
22 agreement (as between the seller and the DOJ, the specific terms of which
23 were not disclosed to or known to Hakim) that was presumed to be based upon
24 an appraisal and/or Comparative Market Analysis prepared by the Seller’s
25 broker and approved by the Seller and Seller’s representatives, as well as the
26 DOJ, and an established price based on that appraisal. Umansky’s
27 representation that price was not important to the Seller thus did not strike
28 Hakim as being out of the ordinary.

1 k. Hakim had no reason to assume that the highly experienced DOJ-appointed
2 broker, Umansky, who has claimed to be a top agent, “with decades of
3 experience and accolades to his name” and who was the founder and owner of
4 “a highly regarded, award-winning real estate brokerage that specializes in
5 luxury real estate” was not, on his own, legitimately “screening” or otherwise
6 filtering the formal offers to be presented to his client, a foreign dignitary,
7 whose incentives could not have been known by Hakim and who would not
8 be expected to have known anything (or to have cared) about the ins and outs
9 of effectuating the prompt closing of a high end Malibu, California property
10 that was being sold under the auspices of the DOJ. Hakim had no reason to
11 assume that Umansky was seeking to defraud his client or anyone else.

12 1. Hakim had no knowledge that Umansky had partnered up with the buyer to
13 whom Umansky steered the Seller, until he read about that in the news article
14 of August 3, 2018. Until that time, Hakim did not and could not have known
15 or even suspected that Umansky would have had anything to gain from
16 directing his absent client, the Seller, to any one or more specific buyers.

17 49. The August 2018 online news article thus put Hakim on notice for the first
18 time that Umansky, with Oberfeld's assistance, had concealed and misrepresented
19 important information from Hakim during the negotiations to purchase the Property.
20 Around that time, Hakim also learned of the recently-filed lawsuit by Western World
21 against UMRO and Umansky, which further described Umansky's misrepresentations,
22 concealments and other misconduct. For instance, the Western World lawsuit alleged that
23 UMRO and Umansky failed to disclose to Sweetwater or the United States DOJ that Hakim
24 had offered to pay \$8 million to Oberfeld for an assignment of Oberfeld's right to purchase
25 the Property from Sweetwater.

26 50. Hakim was unable to discover Defendants' wrongdoing prior to August of
27 2018, as Hakim was unaware of Umansky's business relationship with Oberfeld, as well as
28 Umansky's involvement as an investor in the purchase of the Property in June of 2016.

1 Umansky never disclosed his involvement as an investor in the purchase of the Property to
2 Hakim. Nor did he disclose his business relationship with Oberfeld at any time.

3
4 **FIRST CAUSE OF ACTION**

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

6 51. Hakim repeats and re-alleges the allegations set forth in paragraphs 1 through
7 50 above as though fully set forth herein.

8 52. As a real estate broker for Oberfeld and Sweetwater, Umansky and UMRO
9 owed a duty of honesty and fairness to all parties to the transaction, including Hakim.

10 53. Umansky and UMRO breached their duty of honesty and fairness to Hakim
11 by engaging in the acts and omissions discussed hereinabove, including, without limitation,
12 (i) informing Hakim and Segal that Hakim should refrain from providing a written offer to
13 purchase the Property for \$40 million in writing, (ii) entertaining Hakim's offer to pay
14 Oberfeld \$8 million to assume Oberfeld's position in the transaction, after initially telling
15 Hakim that he should refrain from making such an offer in writing to Sweetwater, because
16 the excess proceeds would personally benefit Oberfeld and Umansky as his co-investor,
17 and (iii) failing to inform Sweetwater and the United States DOJ that Hakim had offered
18 \$40 million to purchase the Property, and was later willing to purchase the Property for
19 \$41.5 million.

20 54. As a result of Umansky's and UMRO's breach of their duty of honesty and
21 fairness to Hakim, Hakim has sustained monetary and other damages in an amount that is
22 in excess of the jurisdictional minimum of this court, and that is subject to proof at time of
23 trial.

24 55. In undertaking the actions and conduct described above, UMRO and Umansky
25 acted with the intention to deceive and defraud Hakim and were guilty of fraud, oppression
26 and malice. In addition to actual damages, Hakim is entitled to an award of exemplary and
27 punitive damages against UMRO and Umansky in an amount to be determined at trial.

28

1 **SECOND CAUSE OF ACTION**

2 **(Breach of Duty To Disclose Against Umansky and UMRO)**

3 56. Hakim repeats and re-alleges the allegations set forth in paragraphs 1 through
4 55 above as though fully set forth herein.

5 57. As a real estate broker for Oberfeld and Sweetwater, Umansky and UMRO
6 had the duty to disclose all material facts concerning the Property.

7 58. Umansky and UMRO breached their duty to disclose to Hakim by engaging
8 in the acts and omissions discussed hereinabove, including, without limitation, (i) failing to
9 disclose to Hakim the fact that Umansky was competing with Hakim for the Property
10 through Umansky's involvement as an investor and/or business partner with Oberfeld; and
11 (ii) failing to disclose Umansky's involvement as an investor and/or business partner with
12 Oberfeld, and the fact that Umansky was working to position Oberfeld as the Property's
13 buyer for a price below its fair market value so that Umansky could personally and secretly
14 profit from the transaction.

15 59. As a result of Umansky's and UMRO's breach of the duty to disclose to Hakim,
16 Hakim has sustained monetary and other damages in an amount that is in excess of the
17 jurisdictional minimum of this court, and that is subject to proof at time of trial.

18 60. In undertaking the actions and conduct described above, UMRO and Umansky
19 acted with the intention to deceive and defraud Hakim and were guilty of fraud, oppression
20 and malice. In addition to actual damages, Hakim is entitled to an award of exemplary and
21 punitive damages against UMRO and Umansky in an amount to be determined at trial.

22 **THIRD CAUSE OF ACTION**

23 **(Fraud Against All Defendants)**

24 61. Hakim repeats and re-alleges the allegations set forth in paragraphs 1 through
25 60 above as though fully set forth herein.

26 62. As set forth above, Umansky represented to Hakim that Hakim should refrain
27 from providing a written offer to purchase the Property for the sum of \$40 million, and
28 should only offer to pay the asking price. Umansky further informed Hakim that

1 Sweetwater, the seller of the Property, would not care if Hakim offered more than asking
2 price, because the sale proceeds would not benefit Sweetwater.

3 63. Umansky's statements were false. At the time Umansky made these
4 statements to Hakim, Umansky knew they were false, or made them recklessly without
5 regard for their truth. In actuality, Sweetwater would have cared if Hakim made a \$40
6 million offer, and had Hakim provided to Sweetwater a \$40 million written offer to
7 purchase the Property, Sweetwater would have selected Hakim as the buyer over Oberfeld.
8 However, Umansky made these statements and concealed the truth fully intending to induce
9 Hakim not to provide such an offer in writing, because Umansky wanted Oberfeld to be
10 selected as the buyer so that Umansky could profit from the transaction as Oberfeld's
11 business partner/co-investor.

12 64. Hakim relied on Umansky's representations and inducements to his detriment.
13 As a result of Umansky's representations, Hakim did not provide a written offer to purchase
14 the Property for \$40 million and, at Umansky's direction, provided an offer for \$32 million
15 initially, and then accepted the Counter Offer for the sum of \$33.5 million.

16 65. At the time Umansky made the foregoing misrepresentations, Hakim did not
17 know that the representations were false, but believed them to be true and reasonably relied
18 on them. Hakim did not know or have reason to know Umansky's statements were false,
19 and believed them to be true based on Umansky's position as a broker. Nor did Hakim
20 know or have reason to know Umansky was concealing the true nature of the circumstances
21 surrounding Hakim's offer for \$40 million.

22 66. At all times described in this Second Amended Complaint, Umansky was
23 acting as Oberfeld's agent and within his actual or apparent authority as such. By virtue of
24 Umansky's actions, as alleged herein, he gained an advantage for both Umansky and
25 Oberfeld, including the purchase and sale of the subject Property and the significant profits
26 derived as a result thereof, and Oberfeld/3620 Sweetwater Mesa, LLC has accepted and
27 retained the benefits of Umansky's wrongful actions, which accrued from the subject
28 transaction.

1 67. As described herein, Umansky and Oberfeld together knowingly and willingly
2 conspired and agreed among themselves to cause the Property to be sold to Oberfeld, either
3 in his individual name or in the name of 3620 Sweetwater Mesa, LLC, at a price below its
4 then-current market value, make slight improvements to the Property, and re-sell it for a
5 significant profit, while excluding and concealing Hakim and his higher offer from
6 consideration by the Seller. Hakim is informed and believes, and based thereon alleges,
7 that Umansky planned to, and did in fact, invest in the purchase, development and re-sale
8 of the Property with Oberfeld and 3620 Sweetwater Mesa LLC and all defendants
9 personally profited therefrom.

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

21 69. The actions of Umansky and Oberfeld, in steering the sale of the Property to
22 Oberfeld and ultimately selling the Property at a significant profit, were all pursuant to, and
23 in furtherance of, the aforesaid conspiracy and agreement.

24 70. Oberfeld cooperated and did lend aid and encouragement to Umansky's
25 wrongful acts by accepting his status as the chosen buyer for the Property and by accepting
26 Umansky as a co-investor and recipient of the proceeds of the resale of the Property and by
27 jointly developing and reselling the Property at a significant profit, which profit was
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1 retained and accepted by both Umansky and Oberfeld, notwithstanding Umansky's
2 wrongful actions.

3 71. Hakim is informed and believes that the last overt act in pursuit of the above-
4 described conspiracy occurred on or about April 1, 2017, when Defendants, and each of
5 them, resold the Property at a significant profit and collected the proceeds thereof.

6 72. Hakim has been damaged by Defendants' false and deceitful conduct in an
7 amount that is in excess of the jurisdictional minimum of this court, and that is subject to
8 proof at time of trial.

9 73. In undertaking the actions and conduct described above, Defendants acted
10 with the intention to deceive and defraud Hakim and were guilty of fraud, oppression and
11 malice. In addition to actual damages, Hakim is entitled to an award of exemplary and
12 punitive damages against Umansky and Oberfeld in an amount to be determined at trial.

13 14 **FOURTH CAUSE OF ACTION**

15 **(Negligent Misrepresentation Against All Defendants)**

16 74. Hakim repeats and re-alleges the allegations set forth in paragraphs 1 through
17 73 above as though fully set forth herein.

18 75. As addressed above, Umansky represented to Hakim that Hakim should
19 refrain from providing a written offer to purchase the Property for the sum of \$40 million,
20 and should only offer to pay the asking price. Umansky further informed Hakim that the
21 seller of the Property, would not care if Hakim offered more than the asking price, because
22 the sale proceeds were not going to benefit the seller. Umansky made the foregoing
23 representations without a reasonable basis for those beliefs.

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

27 77. At the time Umansky made the foregoing misrepresentations, Hakim did not
28 know that the representations were false, but believed them to be true and reasonably relied

1 on them. Hakim did not know or have reason to know Umansky's statements were false,
2 and believed them to be true based on Umansky's position as a broker.

3 78. At all times described in this Second Amended Complaint, Umansky was
4 acting as Oberfeld's agent and within his actual or apparent authority as such. By virtue of
5 Umansky's actions, as alleged herein, he gained an advantage for both Umansky and
6 Oberfeld, including the purchase and sale of the subject Property and the significant profits
7 derived as a result thereof, and Oberfeld/3620 Sweetwater Mesa, LLC has accepted and
8 retained the benefits of Umansky's wrongful actions, which accrued from the subject
9 transaction.

10 79. As described herein, Umansky and Oberfeld together knowingly and willingly
11 conspired and agreed among themselves to cause the Property to be sold to Oberfeld, either
12 in his individual name or in the name of 3620 Sweetwater Mesa, LLC, at a price below its
13 then-current market value, make slight improvements to the Property, and re-sell it for a
14 significant profit, while excluding and concealing Hakim and his higher offer from
15 consideration by the Seller. Hakim is informed and believes, and based thereon alleges,
16 that Umansky planned to, and did in fact, invest in the purchase, development and re-sale
17 of the Property with Oberfeld and the 3620 Sweetwater Mesa LLC and all defendants
18 personally profited therefrom.

19 80. Hakim is informed and believes that Oberfeld knew that Umansky was
20 concealing from the Seller Umansky's and Oberfeld's true intentions of acquiring the
21 Property for their own benefit, including that of Umansky, that Umansky was falsely
22 rejecting Hakim's good faith and higher offers for purchase of the Property, that Umansky
23 was actively dissuading Hakim from presenting his proposed written offers for significantly
24 higher than the actual acquisition price so that the lesser offer of Oberfeld/3620 Sweetwater
25 Mesa, LLC would be accepted by the Seller; that Umansky was failing to convey Hakim's
26 offer to the Seller; that Umansky was violating his duties owed to Hakim; as well as by
27 further acts that Hakim believes will be developed through the course of discovery, all for
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1 the purpose of benefitting Oberfeld/3620 Sweetwater Mesa, LLC and UMRO/Umansky as
2 his co-investor.

3 81. The actions of Umansky and Oberfeld, in steering the sale of the Property to
4 Oberfeld and ultimately selling the Property at a significant profit, were all pursuant to, and
5 in furtherance of, the aforesaid conspiracy and agreement.

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

12 83. Hakim is informed and believes that the last overt act in pursuit of the above-
13 described conspiracy occurred on or about April 1, 2017, when defendants, and each of
14 them, resold the Property at a significant profit and collected the proceeds thereof.

15 84. Hakim has been damaged by Defendants' false and deceitful conduct in an
16 amount that is in excess of the jurisdictional minimum of this court, and that is subject to
17 proof at time of trial.

18 85. Hakim has been damaged by Defendants' false and deceitful conduct in an
19 amount that is in excess of the jurisdictional minimum of this court, and that is subject to
20 proof at time of trial.

21
22 **FIFTH CAUSE OF ACTION**

23 **(Intentional Interference with Prospective Economic Advantage**

24 **Against All Defendants)**

25 86. Hakim repeats and re-alleges the allegations set forth in paragraphs 1 through
26 85 above as though fully set forth herein.

27 87. Defendants intentionally interfered with an economic relationship between
28 Hakim and Sweetwater, which relationship would have resulted in an economic benefit to

1 Hakim.

2 88. As the broker for both Oberfeld and Sweetwater, Umansky and UMRO were
3 aware that Hakim was in an economic relationship with Sweetwater, as Hakim was
4 negotiating to purchase the Property, which would have resulted in an economic benefit to
5 Hakim. Oberfeld was aware of Hakim's economic relationship with Sweetwater, as Hakim
6 was negotiating with Oberfeld to acquire Oberfeld's right to purchase the Property.

7 89. Defendants intended to disrupt the relationship between Hakim and
8 Sweetwater by engaging in wrongful conduct, as more fully described above, including
9 inducing Hakim not to provide a written offer for the purchase of the Property that was
10 above the seller's asking price, fraudulently concealing Umansky's personal involvement
11 and interest in Oberfeld's right to purchase the Property, as well as concealing Hakim's oral
12 \$40 million offer from Sweetwater.

13 90. As a result of Defendants' wrongful actions, Hakim was unable to purchase
14 the Property and lost the opportunity to develop and resell the Property for a profit and/or
15 benefit from the appreciation in the Property's value. Defendants' actions were a substantial
16 factor in causing harm to Hakim.

17 91. Further, at all times described in this Second Amended Complaint, Umansky
18 was acting as Oberfeld's agent and within his actual or apparent authority as such. By
19 virtue of Umansky's actions, as alleged herein, he gained an advantage for both Umansky
20 and Oberfeld, including the purchase and sale of the subject Property and the significant
21 profits derived as a result thereof, and Oberfeld/3620 Sweetwater Mesa, LLC has accepted
22 and retained the benefits of Umansky's wrongful actions, which accrued from the subject
23 transaction.

24 92. As described herein, Umansky and Oberfeld together knowingly and willingly
25 conspired and agreed among themselves to cause the Property to be sold to Oberfeld, either
26 in his individual name or in the name of 3620 Sweetwater Mesa, LLC, at a price below its
27 then-current market value, make slight improvements to the Property, and re-sell it for a
28 significant profit, while excluding and concealing Hakim and his higher offer from

1 consideration by the Seller. Hakim is informed and believes, and based thereon alleges,
2 that Umansky planned to, and did in fact, invest in the purchase, development and re-sale
3 of the Property with Oberfeld and the 3620 Sweetwater Mesa LLC and all defendants
4 personally profited therefrom.

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

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

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

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

27 97. Hakim has been damaged by Umansky's false and deceitful conduct in an
28 amount that is in excess of the jurisdictional minimum of this court, and that is subject to

1 proof at time of trial.

2 98. Defendants' wrongful actions have damaged Hakim in an amount subject to
3 proof at trial.

4 99. In undertaking the actions and conduct described above, Defendants acted
5 with the intention to deceive and defraud Hakim and were guilty of fraud, oppression and
6 malice. In addition to actual damages, Hakim is entitled to an award of exemplary and
7 punitive damages against Defendants in an amount to be determined at trial.

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SIXTH CAUSE OF ACTION

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(Constructive Trust Against All Defendants)

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100. Hakim repeats and re-alleges the allegations set forth in paragraphs 1 through
99 above as though fully set forth herein.

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101. Through their actions described herein, Umansky and Oberfeld have made a
profit which Hakim is informed and thereupon alleges exceeds the sum of \$35 million.
Because Defendants have obtained these profits wrongfully, including as a result of the
fraud and breaches of duty detailed herein, Defendants are involuntary trustees holding the
profits in constructive trust for Hakim. Defendants have a duty to re-convey these sums,
and any profit made from such sums, to Hakim.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment on the Complaint as follows:

1. For damages, according to proof, in an amount no less than \$35 million;
2. For punitive damages sufficient to punish Defendants and deter others from engaging in such wrongdoing;
3. For the imposition of a constructive trust upon the profits wrongfully made by Defendants in connection with the re-sale of the Property;
4. For interest on the damages at the prevailing per annum legal percentage rate;

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- 5. For costs of suit incurred herein; and
- 6. For such other and further relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

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

Dated: October 8, 2020

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
ALAN D. HEARTY
JENNIFER C. SHAKOURI
ANDREW A. WOOD

By: /s/ Alan D. Hearty
ALAN D. HEARTY
Attorneys for Plaintiff
SAM HAKIM

1 **PROOF OF SERVICE**

2 Sam Hakim v. Mauricio Umansky, et al.
3 LASC Case No. 19SMCV01619

4 I am employed in the County of Los Angeles, State of California. I am over the age
5 of eighteen (18) and am not a party to this action. My business address is 1901 Avenue of
6 the Stars, Suite 1800, Los Angeles, California 90067-6019.

7 On October 8, 2020, I served the within document(s) described as:

8 SECOND AMENDED COMPLAINT FOR: (1) BREACH OF DUTY OF HONESTY
9 AND FAIRNESS; (2) BREACH OF DUTY TO DISCLOSE; (3) FRAUD;
10 (4) NEGLIGENT MISREPRESENTATION; (5) INTENTIONAL INTERFERENCE
11 WITH PROSPECTIVE ECONOMIC ADVANTAGE; AND (6) CONSTRUCTIVE
12 TRUST

13 on the interested parties in this action as stated below:

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BY ELECTRONIC SERVICE VIA SERVICE PROVIDER LEGAL CONNECT (FIRST LEGAL): Based on and in accordance with a court order or agreement of the parties to accept service by e-mail or electronic transmission I submitted an electronic version of the document(s) to service provider, Legal Connect, through the user interface www.firstlegal.com to be sent to the persons at the corresponding electronic address as indicated above on the above-mentioned date. My electronic notification address is fzaidi@allenmatkins.com.

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 Los Angeles, California.

Farida A. Zaidi

(Type or print name)

farida zaidi

(Signature of Declarant)