

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS


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|----------------------------------|---|-----------------------------------|-------|
| -----X | : | Index No. | /2017 |
| RAQUEL WOLF, as Executrix of the | : | | |
| ESTATE OF HIRSCH WOLF, | : | Date Purchased: February 22, 2017 | |
| | : | | |
| Plaintiff, | : | <u>SUMMONS</u> | |
| | : | | |
| - against - | : | Plaintiff's Address: | |
| | : | 1501 Coney Island Avenue | |
| NATHANIEL SHAPIRO, | : | Brooklyn, New York 11230 | |
| | : | | |
| Defendant. | : | Venue is based on | |
| | : | Plaintiff's Residence | |
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To the above-named Defendant:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiff's attorney within twenty (20) days after the service of this summons, exclusive of the day of service, or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York; and in case of your failure to appear or answer, Judgment will be taken against you by default for the relief demanded herein.

Dated: Brooklyn, New York
February 22, 2017

LAW OFFICE OF DANIEL FRIEDMAN

By: 
Daniel Friedman, Esq.
Attorney for Plaintiff
5417 18th Avenue
Brooklyn, New York 11204
(917) 406-8568

Defendant's Addresses:
1562 East 26th Street
Brooklyn, New York 11229

39 Broadway, 37th floor
New York, New York 10006

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| RAQUEL WOLF, as Executrix of the | : | | |
| ESTATE OF HIRSCH WOLF, | : | Index No. | /2017 |
| | : | | |
| Plaintiff,, | : | | |
| | : | | |
| - against - | : | <u>COMPLAINT</u> | |
| | : | | |
| NATHANIEL SHAPIRO, | : | | |
| | : | | |
| Defendant. | : | | |
| | : | | |
| -----X | | | |

Plaintiff, RAQUEL WOLF, as Executrix of the ESTATE OF HIRSCH WOLF, by her attorneys, LAW OFFICE OF DANIEL FRIEDMAN, complaining of defendant, NATHANIEL SHAPIRO, alleges as follows:

NATURE OF THE ACTION

1. Defendant, NATHANIEL SHAPIRO, an attorney, took advantage of a widow, who he formerly represented together with her late husband for well more than 15 years, by knowingly assisting, facilitating, aiding and abetting, and colluding with, the co-owner of an LLC, which owned a building, in breaching the co-owner's fiduciary duties and contractual obligations to plaintiff by fraudulently inducing her to sell her 49% interest in the LLC for \$2.75 million. At the same time, behind her back, that co-owner, represented by defendant NATHANIEL SHAPIRO, simultaneously sold the property for \$8.9 million without disclosing to her that they had surreptitiously made an agreement to sell it at the higher price. While her rightful 49% share should have been \$4.361 million, they only paid her \$2.75 million, intentionally defrauding her of \$1.611 million. The morally reprehensible nature of defendant's

fraudulent conduct, in flagrant breach of defendant's fiduciary obligations, and attorney's ethical and professional responsibilities, warrants punitive damages at least equal to, or exceeding, the actual compensatory damages.

2. Accordingly, by this action, asserting claims based upon fraud, aiding and abetting thereof and breaches of fiduciary duty and attorney's ethical professional responsibilities, plaintiff seeks to recover actual compensatory damages of \$1.611 million, plus interest, and punitive damages of no less than an additional \$1.611 million.

PARTIES

3. Plaintiff is RAQUEL WOLF, as Executrix of the ESTATE OF HIRSCH WOLF. RAQUEL WOLF. The ESTATE OF HIRSCH WOLF is an Estate domiciled in the State and City of New York, County of Kings. RAQUEL WOLF, who resides in the State and City of New York, County of Kings, is the widow of HIRSCH WOLF, and the Executrix of the ESTATE OF HIRSCH WOLF.

4. Defendant, NATHANIEL SHAPIRO, is a resident of the State and City of New York, County of Kings.

5. Defendant is an attorney who represented HIRSCH WOLF and RAQUEL WOLF, and subsequently the ESTATE OF HIRSCH WOLF, in various matters, for a total of well more than 15 years, acquiring their trust and confidence.

JURISDICTION AND VENUE

6. The causes of action alleged herein arose in the State and City of New York, County of Kings.

7. Venue is designated in the State and City of New York, County of Kings, based on the residence of plaintiff, as well as defendant.

ALLEGATIONS COMMON TO ALL CLAIMS

8. Among the many matters that defendant worked on for HIRSCH WOLF and RAQUEL WOLF, and subsequently the ESTATE OF HIRSCH WOLF, was the acquisition of a 49% ownership interest in RICHMOND PROPERTIES LLC, a domestic limited liability corporation, which was formed in 1999 and dissolved on June 15, 2015.

9. The sole asset of RICHMOND PROPERTIES LLC was the building and property located at 1145 Broadway, New York, New York, a five-story, commercial use loft building located between 26th and West 27th Streets in Manhattan, housing two retail spaces and 4 office units (referred to herein as the “Real Property”).

10. Defendant prepared the Operating Agreement for RICHMOND PROPERTIES LLC in or about March 2000.

11. Pursuant to that Operating Agreement, HIRSCH WOLF and SOL WAHBA were the co-owners and members of RICHMOND PROPERTIES LLC

12. SOL WAHBA, who was the Managing Member and designated Manager of RICHMOND PROPERTIES LLC, owned 51% of the LLC, and HIRSCH WOLF owned 49%. However, the Operating Agreement provided that HIRSCH WOLF and SOL WAHBA would each have 50% voting rights and, further, that the Manager shall not sell the Real Property without the consent of 51% of the voting interests. It also provided for specific procedures for written notification upon the receipt by either member of a bona fide offer to purchase the Real Property.

13. HIRSCH WOLF passed away in June 2011, and the ESTATE OF HIRSCH WOLF succeeded to his interest.

14. At all relevant times, SOL WAHBA and/or his son, MICHAEL WAHBA, managed the Real Property.

15. MICHAEL WAHBA, who was not a member of RICHMOND PROPERTIES LLC, or a party to its operating agreement, actively managed the premises, and signed leases on behalf of the LLC.

16. In 2014, discussions were had between the parties regarding the potential sale of Real Property, or the sale of the ESTATE OF HIRSCH WOLF's interest to SOL WAHBA and/or MICHAEL WAHBA.

17. In connection therewith, SOL WAHBA stated on several occasions that he had no intention of ever selling the Real Property.

18. In April 2014, MICHAEL WAHBA, as Managing Member of United Equity Investments, offered to purchase the Real Property for \$4.5 million.

19. Thereafter, a Real Estate Appraisal was obtained by the ESTATE OF HIRSCH WOLF valuing the Real Property at \$6 million as of July 29, 2014.

20. SOL and MICHAEL WAHBA offered \$2.5 million for the ESTATE OF HIRSCH WOLF's 49% interest.

21. The ESTATE OF HIRSCH WOLF eventually compromised, in good faith, on a price of \$2.75 million for the sale of its interest, in a written agreement, dated December 31, 2014.

The December 31, 2014 Membership Interest Purchase Agreement

22. On December 31, 2014, the Membership Interest Purchase Agreement was made by and among RICHMOND PROPERTIES LLC, ESTATE OF HIRSCH WOLF, SOL

WAHBA and SIGULA 1145 BROADWAY LLC, with MICHAEL WAHBA as Managing Member (herein the "December 31, 2014 MIPA").

23. The December 31, 2014 MIPA provided for the sale of ESTATE OF HIRSCH WOLF's 49% interest in RICHMOND PROPERTIES LLC to SIGULA 1145 BROADWAY LLC, an LLC owned by MICHAEL WAHBA, for a purchase price of \$2.75 million, to be paid with a \$100,000 deposit, which was made; and for the \$2.65 million balance to be paid at closing, to be set in 90 days.

24. The December 31, 2014 MIPA was prepared by defendant, NATHANIEL SHAPIRO, on behalf of the WAHBA's designated purchaser of the ESTATE OF HIRSCH WOLF's 49% interest in RICHMOND PROPERTIES LLC; while the ESTATE OF HIRSCH WOLF retained new counsel for the transaction.

25. While there was no formal closing, defendant remitted payment for the purported balance on April 16, 2015, on the WAHBA's behalf, by personally hand delivering a cashier's check in the sum of \$2,657,196.93, which included certain adjustments for rent, taxes and other such items. However, that was not the final figure actually due, as the adjustments were still subject to review and, in fact, contained errors.

26. In the interim, the signed Assignment of Interest of RAQUEL WOLF, as Executor of the ESTATE OF HIRSCH WOLF, was not yet transmitted.

27. An \$11,428.54 adjustment was subsequently agreed upon, and a check in that sum was received by the ESTATE OF HIRSCH WOLF on May 13, 2015.

28. On that date, May 13, 2015, the signed Assignment of Interest of RAQUEL WOLF, as Executor of the ESTATE OF HIRSCH WOLF, was transmitted to counsel for MICHAEL WAHBA.

29. At MICHAEL WAHBA's counsel's request, the Assignment was made directly to MICHAEL WAHBA rather than SIGULAR 1145 BROADWAY LLC, which, upon information and belief, remains a shell corporation.

The Surreptitious Sale of the Real Property

30. In or about August 2015, an attorney representing of the ESTATE OF HIRSCH WOLF discovered, via perusal on the ACRIS website, which is the official New York City Department of Finance, Office of City Register, Real Property Automated City Register Information System, that the Real Property was sold for \$8.9 million, via a Deed dated and recorded on April 16, 2015.

31. The filing with ACRIS showed that the Deed, dated April 16, 2015 and recorded on that same date, was signed by MICHAEL WAHBA, as "member" of RICHMOND PROPERTIES LLC; and that, the Real Property was sold for \$8.9 million to 1145 NOMAD PARTNERS LLC, a subsidiary or affiliate of Pan Brother Associates, which was represented on the transaction by Edward D. Fusco, Esq.

32. That was the same date, April 16, 2015, that defendant NATHANIEL SHAPIRO, as WAHBA's counsel hand delivered the cashier's check to purchase plaintiff's interest in RICHMOND PROPERTIES LLC, albeit subject to adjustments and the later May 13, 2015 transmittal of the Assignment of Interest.

33. However, at no time did either SOL or MICHAEL WAHBA, or defendant herein, disclose that they had a better offer or agreement to sell the Real Property.

34. Unbeknownst to RACQUEL WOLF or THE ESTATE OF HIRSCH WOLF, this deal for the sale of the Real Property was apparently in the works for quite some time.

35. The filing with ACRIS also contained the Title Report number L586334MZ, and showed that the Title Insurance Company was Ridge Abstract Corp., of Brooklyn, New York.

36. It was subsequently discovered that, on November 18, 2014, some 6 weeks before the December 31, 2014 MIPA, the law office of Edward D. Fusco, Esq., attorney for purchaser 1145 NOMAD PARTNERS LLC, contacted Ridge Abstract Corp. and ordered a Title Report on the Real Property.

37. It was also subsequently discovered that, on December 18, 2014, a wire transfer was made from the attorney escrow account at HSBC Bank of Edward D. Fusco, Esq. attorney for purchaser 1145 NOMAD PARTNERS LLC, to the JPMorgan Chase attorney escrow account of defendant, NATHANIEL SHAPIRO, who was acting as attorney for the WAHBAs, in the sum of \$890,000.00, representing the 10% contract deposit on the \$8.9 million contract for the sale of the Real Property to 1145 NOMAD PARTNERS LLC.

38. This wire transfer of the contract deposit was received some two (2) weeks prior to the signing of the December 31, 2014 MIPA.

39. Thus, defendant was fully aware of the contract to sell the Real Property to 1145 NOMAD PARTNERS LLC for \$8.9 million well in advance of the December 31, 2014 MIPA, and defendant was the attorney who represented the WAHBAs and their designated entity on that transaction.

40. Yet, at no time, prior to the making of the December 31, 2014 MIPA, nor subsequent thereto, did either SOL WAHBA, MICHAEL WAHBA or defendant NATHANIEL SHAPIRO ever disclose to RAQUEL WOLF or the ESTATE OF HIRSCH WOLF that they had an offer or agreement to sell the Real Property.

41. That discovery was only made long after the sale was consummated.

42. The offer and agreement to sell the Real Property to 1145 NOMAD PARTNERS LLC for \$8.9 million, which existed well before the December 31, 2014 MIPA, should have been disclosed to plaintiff.

43. Upon information and belief, 1145 NOMAD PARTNERS LLC, SOL WAHBA and MICHAEL WAHBA had an offer or agreement to sell the Real Property, of which defendant was aware of, which triggered fiduciary and/or contractual obligations to disclose same to plaintiff.

44. SOL WAHBA had a fiduciary and contractual obligation to plaintiff as a co-member of the RICHMOND PROPERTIES LLC to disclose a bona fide offer or agreement to sell the Real Property, and fraudulently concealed that information to induce and facilitate the sale of plaintiff's interest.

45. MICHAEL WAHBA aided and abetted SOL WAHBA, and also had a fiduciary obligation, as de facto Manager of the LLC and its Real Property, to disclose a bona fide offer or agreement to sell the Real Property, and fraudulently concealed that information to induce and facilitate the sale of plaintiff's interest.

46. SOL WAHBA AND MICHAEL WAHBA were fiduciaries, with a duty to disclose the subject offer or agreement, until the moment the buy-out transaction closed, and the plaintiff's interest in the LLC was assigned.

47. Defendant, NATHANIEL SHAPIRO, also had fiduciary obligations, and attorney's ethical and professional responsibilities, towards plaintiff, as her long standing attorney, particularly inasmuch as he was knowingly involved in facilitating and advancing the fraud committed against plaintiff well before the December 31, 2014 MIPA was signed.

48. Under applicable rules of professional conduct, defendant, as a lawyer, was prohibited from assisting a client in conduct that the lawyer knows is fraudulent.

49. Defendant violated the foregoing prohibition in contravention of the applicable rules of professional conduct.

50. Under applicable rules of professional conduct, defendant, as a lawyer, was prohibited from representing another client in the same or related matter in which that client's interests were materially adverse to the interest of an existing or former client without a written waiver of the conflict, provided upon full disclosure, so as to constitute informed consent.

51. Defendant failed to comply with the obligation to provide the full disclosure necessary to constitute informed consent, as defendant was duty bound to disclose to plaintiff the flagrant fraud and breaches of fiduciary duties and contractual obligations that were taking place in advance of the signing of the December 31, 2014 MIPA drafted by defendant which contained a purported waiver of conflicts provision stating that each party "hereby irrevocably waives any and all of NS' conflicts of interest."

52. Proper full disclosure so as to constitute informed consent was not provided by defendant in advance of the signing of the December 31, 2014 MIPA.

53. Defendant was duty bound to disclose to plaintiff the flagrant fraud and breaches of fiduciary duties and contractual obligations that were taking place.

54. Truly informed consent under those circumstances mandated such disclosure, in the absence of which, at the very least, defendant should never have undertaken to represent adverse interests.

55. Defendant, well aware of the egregious fraud, and breaches of fiduciary duties and contractual obligations that were being perpetrated with his help and collusion, failed to

provide sufficient disclosure to constitute informed consent by plaintiff before she signed the December 31, 2014 MIPA purporting to “hereby” waive conflicts of interest.

56. A person who knowingly assists a fiduciary in committing a breach of trust is himself guilty of tortuous conduct and is liable for the harm caused thereby.

57. Where, as here, fraud, collusion, malice or bad faith exists, an attorney is liable to third parties for actions taken in his role as counsel.

58. SOL WAHBA, MICHAEL WAHBA, with the knowing aid and assistance, fraud, collusion, bad faith, facilitation and participation of defendant herein, took advantage of plaintiff by fraudulently inducing the sale of its 49% interest in RICHMOND PROPERTIES LLC for \$2.75 million, while they secretly sold the Real Property for \$8.9 million without disclosing that they had surreptitiously made an agreement to sell it at that higher price.

59. While plaintiff’s rightful 49% share should have been \$4.361 million, they only paid \$2.75 million, intentionally defrauding plaintiff of \$1.611 million.

60. Furthermore, the morally reprehensible nature of defendant NATHANIEL SHAPIRO’s fraudulent conduct, in flagrant breach of defendant’s fiduciary obligations, and attorney’s ethical and professional responsibilities, warrants punitive damages at least equal to, or exceeding, the actual compensatory damages.

FIRST CAUSE OF ACTION

61. Plaintiff repeats and re-alleges each of the foregoing allegations as if fully set forth herein at length.

62. Defendant, NATHANIEL SHAPIRO, breached fiduciary obligations, and attorney’s ethical and professional responsibilities, towards plaintiff, particularly inasmuch as he was knowingly involved in facilitating and advancing the fraud and breaches of fiduciary duties

and contractual obligations committed against plaintiff, and colluded with the WAHBAS in bad faith, well before the December 31, 2014 MIPA was signed.

63. The failure to disclose the existence of an offer or agreement to sell the Real Property was a material omission of fact, which induced plaintiff to make and enter into the December 31, 2014 MIPA, and continued to induce plaintiff to complete performance thereunder.

64. The WAHBAs and defendant knew and concealed that material omission of fact, knowingly inducing plaintiff to make and enter into the December 31, 2014 MIPA, and to complete performance thereunder.

65. The WAHBAs and defendant thus deceived plaintiff into selling her 49% interest in RICHMOND PROPERTIES LLC for \$2.75 million, which defendant orchestrated to enable the WAHBAs to secretly profit on the undisclosed offer or agreement for the sale of the Real Property for \$8.9 million.

66. Plaintiff would not have made the December 31, 2014 MIPA, and would not have proceeded to complete performance thereunder, if the offer or agreement to purchase the Real Property had been disclosed.

67. Plaintiff justifiably relied upon, and was deceived by, the material omission of fact, and was injured as result.

68. Defendant, NATHANIEL SHAPIRO, is liable to plaintiff for inducing, colluding and/or participating in the WAHBA's breaches of fiduciary duty.

69. While plaintiff's rightful 49% share should have been \$4.361 million, they only paid \$2.75 million, intentionally defrauding plaintiff of \$1.611 million.

70. By virtue of the foregoing, and by reason of the morally reprehensible nature of defendant, NATHANIEL SHAPIRO's conduct, plaintiff is entitled to a judgment against of actual compensatory damages in the sum of \$1.611 million, plus interest, and punitive damages of no less than an additional \$1.611 million, for total of no less than \$3,222,000.00.

SECOND CAUSE OF ACTION

71. Plaintiff repeats and re-alleges each of the foregoing allegations as if fully set forth herein at length.

72. SOL WAHBA had a fiduciary obligation to plaintiff as a co-member of the RICHMOND PROPERTIES LLC to disclose a bona fide offer or agreement to sell the Real Property, and fraudulently concealed that information to induce and facilitate the sale of plaintiff's interest.

73. MICHAEL WAHBA aided and abetted SOL WAHBA, and also had a fiduciary obligation as de facto Manager of the LLC and its Real Property to disclose a bona fide offer or agreement to sell the Real Property, and fraudulently concealed that information to induce and facilitate the sale of plaintiff's interest.

74. SOL WAHBA AND MICHAEL WAHBA were fiduciaries, with a duty to disclose the subject offer or agreement, until the moment the buy-out transaction closed, and the plaintiff's interest in the LLC was assigned.

75. Defendant, NATHANIEL SHAPIRO, breached fiduciary obligations, and attorney's ethical and professional responsibilities, towards plaintiff, particularly inasmuch as he was knowingly involved in facilitating and advancing the fraud and breaches of fiduciary duties and contractual obligations committed against plaintiff, and colluded with the WAHBAs in bad faith, well before the December 31, 2014 MIPA was signed.

76. Defendant, NATHANIEL SHAPIRO, is liable to plaintiff for inducing, colluding and/or participating in the WAHBA's breaches of fiduciary duty.

77. By virtue of the foregoing, and by reason of the morally reprehensible nature of defendant, NATHANIEL SHAPIRO's conduct, plaintiff is entitled to a judgment against, of actual compensatory damages in the sum of \$1.611 million, plus interest, and punitive damages of no less than an additional \$1.611 million, for total of no less than \$3,222,000.00.

THIRD CAUSE OF ACTION

78. Plaintiff repeats and re-alleges each of the foregoing allegations as if fully set forth herein at length.

79. SOL WAHBA had a contractual obligation to plaintiff as a co-member of the RICHMOND PROPERTIES LLC to disclose a bona fide offer or agreement to sell the Real Property, and concealed that information to induce and facilitate the sale of plaintiff's interest.

80. That obligation existed until the moment the buy-out transaction closed, and the plaintiff's interest in the LLC was assigned.

81. MICHAEL WAHBA aided and abetted SOL WAHBA, in concealing that information to induce and facilitate the sale of plaintiff's interest.

82. Defendant, NATHANIEL SHAPIRO, who drafted the Operating Agreement as well as the December 31, 2014 MIPA, knew of the foregoing and wrongfully failed to disclose same, all the while providing knowing aid and assistance, and colluding in bad faith in the fraud being perpetrated, taking unfair advantage of plaintiff herein.

83. By virtue of the foregoing, and by reason of the morally reprehensible nature of defendant NATHANIEL SHAPIRO's conduct, plaintiff is entitled to a judgment against defendant of actual compensatory damages in the sum of \$1.611 million, plus interest, and

punitive damages of no less than an additional \$1.611 million, for total of no less than \$3,222,000.00.

WHEREFORE, plaintiff, RAQUEL WOLF, as Executrix of the ESTATE OF HIRSCH WOLF, respectfully demands Judgment as against defendant, NATHANIEL SHAPIRO:

A. On the First Cause of Action, for \$1.611 million, plus interest, and punitive damages of no less than an additional \$1.611 million, for total of no less than \$3,222,000.00.

B. On the Second Cause of Action, for \$1.611 million, plus interest, and punitive damages of no less than an additional \$1.611 million, for total of no less than \$3,222,000.00.

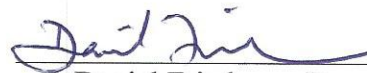
C. On the Third Cause of Action, for \$1.611 million, plus interest, and punitive damages of no less than an additional \$1.611 million, for total of no less than \$3,222,000.00.

D. Such other relief as the Court may deem just and proper.

Dated: Brooklyn, New York
February 22, 2017

LAW OFFICE OF DANIEL FRIEDMAN

By:



Daniel Friedman, Esq.

Attorney for Plaintiff

5417 18th Avenue
Brooklyn, New York 11204
(917) 406-8568

**SUPREME COURT OF THE STATE OF NEW YORK
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**RAQUEL WOLF, as Executrix of the
ESTATE OF HIRSCH WOLF,**

Index No. /2017

Plaintiff,

- against -

NATHANIEL SHAPIRO,

Defendant.

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SUMMONS AND COMPLAINT

LAW OFFICE OF DANIEL FRIEDMAN
Attorney for Plaintiff
RAQUEL WOLF, as Executrix of the ESTATE OF HIRSCH WOLF
5417 18th Avenue
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