

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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RESIDENTIAL REALTY ADVISORS, INC.,	:	Index No.
	:	
Plaintiffs,	:	
	:	
-against-	:	<u>SUMMONS</u>
	:	
COMPASS INC., f/k/a URBAN COMPASS, INC.,	:	
	:	
Defendant.	:	
	:	

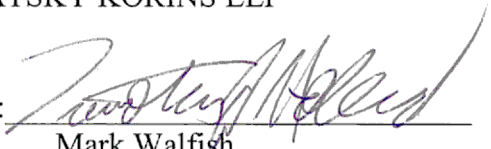
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TO: THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the complaint in this action, which is annexed hereto, and to serve a copy of your answer on the plaintiff's attorneys within 20 days after service of this summons and complaint (or within 30 days after the service is complete if this summons and complaint are not personally delivered to you within the State of New York); and in case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint

Dated: New York, New York
March 12, 2019

KATSKY KORINS LLP

By: 
Mark Walfish
Thomas M. Lopez
Timothy J. Holland
605 Third Avenue
New York, NY 10158
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Attorneys for Plaintiff

DEFENDANT:

Compass Inc.
90 Fifth Avenue, Third Floor
New York, NY 10011

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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RESIDENTIAL REALTY ADVISORS, INC.,	:	Index No.
	:	
Plaintiffs,	:	
-against-	:	<u>COMPLAINT</u>
	:	
COMPASS INC., f/k/a URBAN COMPASS, INC.,	:	
	:	
Defendant.	:	
	:	
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Plaintiff Residential Realty Advisors Inc., (“RRA” or “Plaintiff”) by its attorneys, Katsky Korins LLP, for its complaint against defendant Compass Inc., formally known as Urban Compass, Inc. (“Compass” or “Defendant”), alleges as follows:

1. Plaintiff is a New York Corporation with an office in the City and State of New York.
2. Defendant is a Delaware corporation registered to do business in New York, with its corporate headquarters located at 90 Fifth Avenue, New York, New York.

FACTS

3. For more than twenty years Steven Rockmore, the principal of RRA, worked with an entity known as The Mark Company (“TMC”) and its principals in the development, marketing and sale of numerous condominium projects in San Francisco, including the St. Regis Museum Tower Condominium, the 300 Spear Street Condominium, 140 New Montgomery, and 181 Fremont Street Condominium.
4. On all of these projects, Mr. Rockmore performed extensive services that required a substantial commitment of his time, including regular travel to San Francisco from Mr.

Rockmore's home in New York City. In exchange for these services, RRA agreed to be paid, for each project, a portion of the monthly fees received by TMC from the project's developer, as well as a percentage, ranging from 12.5% to 20%, of the total gross sales commissions received by TMC.

5. In or about the spring of 2013, TMC's principals, Alan Mark and Krysen Heathwood, asked Mr. Rockmore to join them for a meeting with the Jay Paul Company, the developer of a large office and condominium building located at 181 Freemont Street in San Francisco, at which they were going to present their ideas and proposed plans for the marketing and sales of the new, still unfinished condominium units in the hope of being retained by Jay Paul and his company to provide those services.

6. Mr. Rockmore not only attended the meeting but, as the TMC principals both readily acknowledged afterwards, his presentation to the developers during the meeting was instrumental in persuading Mr. Paul's company to retain TMC for the project.

7. Shortly after TMC was retained on the 181 Freemont project, its principals asked Mr. Rockmore what compensation he wanted for helping TMC obtain this retention as well as for performing his usual and customary work on the project. Mr. Rockmore replied that he would accept the same compensation arrangement that he and TMC had agreed to for, and which was set forth in RRA's contract in connection with, the services performed on the 300 Spear Street Condominium project ("300 Spear Street"), i.e., payment to RRA of a monthly fee and the same 16.25% of the total gross sales commissions paid to TMC from the sales of condominium units in the building.

8. TMC readily agreed to this proposal, and because of Mr. Rockmore's long term relationship with and trust in the principals of TMC, he began working on the 181 Freemont

project immediately, without waiting for TMC to send him a written agreement.

9. However, several months later, Mr. Rockmore requested that TMC set forth the agreed compensation in writing. Because both parties knew what services RRA would be providing based on their previous collaborations on other condominium projects, TMC did not write up the same detailed letter agreement itemizing the various services RRA was to provide, as it had done for 300 Spear Street and other projects with RRA. Instead, TMC sent Mr. Rockmore a brief one page document, dated August 28, 2013, which set forth the monthly fee that TMC would pay to RRA and the same percentage of the commissions that were in the 300 Spear Street agreement, as the parties had initially agreed to orally, while confirming that these terms were applicable to RRA's work on the 181 Freemont project (the "181 Freemont Agreement").

10. Thereafter, from 2013 through 2015, Mr. Rockmore and RRA spent a substantial number of hours performing services on the 181 Freemont project, just as he had done on his other projects with TMC. Among other things, Mr. Rockmore spent a considerable amount of time reviewing and commenting on architectural drawings, participating in conference calls, traveling to San Francisco at least eight times specifically for the 181 Freemont project, and devoting portions of his weekends to work on this project. This project amounted to a major commitment of time and resources for Mr. Rockmore and RRA.

11. In addition to these services, Mr. Rockmore, at the request of TMC and the developer, met in New York with Jay Paul and his team. Mr. Rockmore spent an entire day with them during which he took them to see numerous residential real properties in New York so they could observe how certain design issues and other building features were handled. He also brought them to meet a number of potential vendors of kitchens and other finishes for the

project. As a result of Mr. Rockmore's introductions, the developer entered into agreements with certain of these vendors.

12. As a result of the efforts of TMC and RRA, the 181 Freemont project has been a success and, upon information and belief, most of its condominium units have been sold.

13. Upon information and belief, at some time after entering into the 181 Freemont Agreement with RRA, in or about November 2015, TMC was purchased by and merged into Pacific Union International, Inc. ("Pacific Union"), a larger real estate broker based in California.

14. Upon information and belief, Pacific Union, in turn, was purchased by defendant Compass in or about August 2018, thereby making Compass TMC's successor-in-interest as to the 181 Freemont Agreement. Compass is a national real estate brokerage services company that, as stated above, is headquartered in New York City.

15. During 2018, after Pacific Union, which, upon information and belief, then owned TMC, had, upon information and belief, been acquired by Compass, RRA first began receiving checks for its share of the commissions then being received by Defendant for the sales of condominium units in 181 Freemont. These checks, however, reflected payments to RRA of amounts that were 100 times less than what Mr. Rockmore and TMC had agreed on. The amounts paid were less than one-six hundredth (.1625%) of the commissions received by TMC/Compass rather than the agreed upon 16.25% of such commissions, or about one-sixth thereof.

16. When Mr. Rockmore protested these improper payments, he was told by Defendant that he was only entitled to this minimal payment because the letter agreement that he and TMC had signed in 2013 actually stated .1625% rather than the agreed upon 16.25% figure.

17. Mr. Rockmore responded by stating that TMC had clearly made a mistake in the placement of the decimal point when it typed up the letter agreement. This was obviously a scrivener's error as he would never have agreed to perform such extensive services and made such a substantial commitment of time for such an absurdly low level of compensation. The percentage mistakenly typed into the agreement would make RRA's compensation from the commissions on the sales of the condominium units in 181 Freemont (at the selling prices listed) only \$8,710, rather than \$871,000 as RRA would be entitled to absent TMC's error.

18. Mr. Rockmore advised Compass that TMC had made this identical scrivener's error when it prepared the 300 Spear Street agreement. The agreed portion of the commissions that he was entitled to receive under that agreement, like here, was 16.25%, but again, TMC mistakenly placed the decimal point to make it .1625%. Quite clearly, TMC carried over that same mistake when it prepared the 181 Freemont Agreement, which, as stated above, was to contain the same percentage of commissions as had been in the 300 Spear Street agreement. Importantly, however, despite the same decimal point placement error, TMC paid RRA the full, agreed upon 16.25% share of the commissions TMC had received for the 300 Spear Street project.

19. In addition, Mr. Rockmore informed Compass that TMC had made this same decimal point placement error in yet another agreement between the two parties. RRA's May 5, 2000 agreement with TMC for work regarding the St. Regis Museum Tower project provided that TMC was to pay RRA "one-eighth, (.125%) [rather than 12.5%] of the total gross sales commissions..." Once again, TMC recognized that it had made an obvious error in typing up the agreement and paid RRA the full, agreed upon 12.5% of the commissions TMC received.

20. Despite (i) the obviously substantial amounts of time and energy RRA expended

in performing extensive, valuable services for the project; (ii) the fact that the compensation agreed upon between TMC and RRA was to be similar to or the same as the compensation in the other agreements they had entered into; (iii) that the compensation which would result from the obvious error in the 181 Freemont Agreement is absurdly low in relation to what had been agreed upon (i.e., a total of \$8,710 rather than the \$871,000 at the listed condominium prices); and (iv) the fact that TMC carried over the identical scrivener's error from two prior agreements where it had nevertheless paid RRA the actual agreed upon amount, Compass has refused to acknowledge TMC's error and to pay RRA what it plainly deserves and as had been agreed upon by TMC and RRA: 16.25% of all commissions from the 181 Freemont condominium sales.

FIRST CAUSE OF ACTION
(Reformation)

21. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 20 as though fully set forth hereat.

22. As set forth above, RRA and TMC agreed that RRA was entitled to be paid 16.25% of all commissions TMC received from the sales of condominium units at the 181 Freemont Condominium.

23. Solely due to a scrivener's error by TMC, misplacing the decimal point when typing up the 181 Freemont Agreement with RRA, the percentage of commissions that RRA was entitled to receive was incorrectly set forth as .1625% rather than 16.25%.

24. By reason of the foregoing, RRA is entitled to an order and judgment from the Court reforming the 181 Freemont Agreement to reflect the accurate and agreed upon compensation payable to RRA of 16.25% of all commissions received by Compass, as successor-in-interest to TMC, from the sales of condominium units at the 181 Freemont Condominium.

25. Plaintiff has no adequate remedy at law.

SECOND CAUSE OF ACTION
(Breach of Contract)

26. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 25 as though fully set forth hereat.

27. Upon reformation of the 181 Freemont Agreement by the Court, RRA is entitled to 16.25% of all commissions, past and forthcoming, received, or to be received, by Compass, as successor-in-interest to TMC, from the sales of condominium units at the 181 Freemont Condominium.

28. Compass has failed to pay RRA the full amount of the commissions that RRA is entitled to receive.

29. By reason of the foregoing, RRA is entitled to an award of damages in the amount of 16.25% of all commissions, past and forthcoming, received, or to be received, by Compass, as successor-in-interest to TMC, from the sales of condominium units at the 181 Freemont Condominium, an amount believed to be no less than \$871,000, less any commissions paid to RRA to date, the precise amount of which damages will be established at trial, plus interest thereon.

WHEREFORE, plaintiff demands judgment:

On Plaintiff's First Cause of Action for a judgment from this Court declaring and adjudging that the 181 Freemont Agreement is reformed to reflect that the accurate and agreed upon percentage compensation owed to RRA is 16.25% of all commissions received by Compass, as successor-in-interest to TMC, from the sales of condominium units at the 181 Freemont Condominium;

On the Second Cause of Action awarding Plaintiff damages in the amount of 16.25% of

all commissions, past and forthcoming, received, or to be received, by Compass, as successor-in-interest to TMC, from the sales of condominium units at the 181 Freemont Condominium, an amount believed to be no less than \$871,000, less any commissions paid to RRA to date, the precise amount of which will be established at trial, plus interest thereon; and

For such other and further relief as the Court may deem just and proper, including Plaintiff's costs and disbursements incurred in this action.

Dated: New York, New York
March 12, 2019

KATSKY KORINS LLP

By: 

Mark Walfish

Thomas M. Lopez

Timothy J. Holland

605 Third Avenue
New York, NY 10158
(212) 953-6000

Attorneys for Plaintiff

VERIFICATION

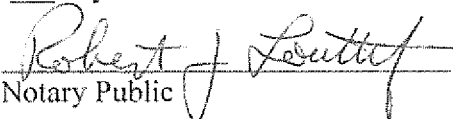
STATE OF NEW YORK)
 ss.:
COUNTY OF NEW YORK)

STEVEN ROCKMORE, being duly sworn, deposes and says:

I am the Principal of plaintiff RRA in this action. I have read the foregoing complaint and know the contents thereof, and the same are true to my own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe the content to be true.


STEVEN ROCKMORE

Sworn to before me this
12th day of March, 2019


Notary Public

ROBERT J. LOUTTIT
Notary Public, State of New York
No. 021,000,6719
Qualified in Nassau County
Commission Expires March 26, 2019