

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JILL SCHWARTZ
JILL SCHWARTZ GROUP, LLC *

Plaintiffs *

v. * Case No.: 1:19-cv-00340-CJN

URBAN COMPASS, INC. *
90 5th Avenue, 3rd Floor *
New York, New York 10011 *

Serve: *
Corporation Service Company *
1090 Vermont Ave., NW *
Washington, DC 2005 *

& *
RAY FERRARA *
1232 31st St., NW *
Washington, DC 20007 *

& *
ALEXANDRA THOMAS SCHWARTZ *
1232 31st St., NW *
Washington, DC 20007 *

& *
DANIELLE SPIRA *
1232 31st St, NW *
Washington, DC 20007 *

Defendants *

FIRST AMENDED COMPLAINT

COMES NOW the Plaintiff, Jill Schwartz and Jill Schwartz Group, LLC (collectively, “Plaintiff”), by counsel, and hereby files this claim against the above-named Defendants and in support thereof, states as follows:

PARTIES

1. Plaintiff Jill Schwartz (“Jill Schwartz”) is a resident of the State of Maryland. She is a licensed and practicing real estate agent in Washington, D.C., Maryland and Delaware. She is the owner of the co-plaintiff, Jill Schwartz Group, LLC (“the Jill Schwartz Group”), which is a limited liability company organized in the State of Maryland.

2. Defendant Ray Ferrara (“Ferrara”) is a licensed real estate agent in the District of Columbia and resides in the District of Columbia.

3. Defendant Alexandra Thomas Schwartz f/k/a Alexandra Thomas (“Thomas”) is a licensed real estate agent in the District of Columbia and resides in the District of Columbia.

4. Defendant Danielle Spira (“Spira”) is a licensed real estate agent in the District of Columbia and resides in the District of Columbia.

5. Defendant Urban Compass, Inc. (“Compass”) Delaware corporation with its principal office in the State of New York. It operates real estate brokerage services in the District of Columbia and employs several hundred real estate agents in Washington, D.C., and thousands of agents nationwide.

JURISDICTION AND VENUE

6. Subject matter jurisdiction exists as diversity of citizenship exists between the parties. *See* 28 U.S.C. § 1332.

7. Venue is appropriate as Defendants reside in the District of Columbia and the operative acts occurred here. *See* 28 U.S.C. § 1391.

STATEMENT OF FACTS

8. In August 2016, Jill Schwartz joined Compass, a real estate brokerage licensed in the State of Maryland and the District of Columbia. As part of joining Compass, Plaintiff

entered into an Independent Contractor Agreement (“ICA”). This ICA governed the relationship between Jill Schwartz and Compass. At all relevant times, Holly Worthington was the managing broker of record for the Maryland, Virginia and District of Columbia Compass offices.

9. From August 2016 forward, Jill Schwartz managed a real estate practice – the Jill Schwartz Group – working from the Compass offices located at 5471 Wisconsin Avenue, Suite 300, Chevy Chase, MD 20815. She later moved the business to the Georgetown Office (“the Georgetown Office”) located at 1232 31st Street, NW, Washington, DC.

10. At all times relevant hereto, Jill Schwartz has worked to develop and expand the Jill Schwartz Group into a unique, specialized brand for high-end real estate services. While at Compass, she was part of the Sports and Entertainment Division, an elite, “by-invitation-and-membership-only” group; Plaintiff was 1 of 35 founding members nationwide. Jill Schwartz was also a Compass resource for piloting third party software that interfaces with Compass proprietary software.

11. Jill Schwartz focused her business on developing and cultivating relationships with builders, contractors and developers, and maintaining involvement throughout the new construction process. In this regard, she developed a proven methodology and templates to serve builders and developers for the entire life cycle of a project. She also developed custom marketing materials for developers and used them to aggressively seek new opportunities for builders, buyers and sellers alike.

12. During the time that Jill Schwartz worked with Compass, in 2017, Jill Schwartz Group was awarded “Compass Top Team Award Fourth Place.” In 2018 Jill Schwartz Group was awarded “Compass 2018 Top Team.” Both of these awards were presented in front of all

Compass agents and managers in the DC Metro region and established the Jill Schwartz Group as Top Team at Compass.

13. Members of the public have come to associate Jill Schwartz and the Jill Schwartz Group as one of the most esteemed, respected and successful Top Producing team, as evidenced by the following awards and accolades:

- a) The prestigious Washingtonian Top Producer Award seal for the last five years;
- b) Bethesda Magazine's "Face of Luxury Real Estate"
- c) Jill Schwartz; District Home magazine's elite realtor award;
- d) The Capitol Files "A" List.
- e) In 2015, Plaintiff earned the highest honors as the Number 1 Top Producing Individual Agent at the Long & Foster's Top-Producing Office.
- f) Plaintiff listed and sold one of the highest priced speculative new construction homes in Bethesda, Maryland.

Hiring the Defendants

14. In November 2017, Defendant Ferrara agreed to work as a "team member" under Jill Schwartz Group, pursuant to a written contract that he drafted. Jill Schwartz has not been able to locate a signed copy of that contract; regardless, the written agreement controlled their business relationship.

15. In February 2017, Defendant Thomas entered a written contract to work as a senior vice president for the Jill Schwartz Group. From that point forward, Thomas worked as a "team member" for Plaintiff.

16. In July 2017, Defendant Spira (who was a brand-new licensee) entered a written contract to work as the senior vice president for the Jill Schwartz Group, and she thereafter worked as a “team member” for Plaintiff.

17. In entering these agreements, Plaintiff had assembled a team of dedicated real estate agents. It was the intention that Jill Schwartz together with Ferrara, Thomas and Spira (hereinafter, “Team Members”) would work as “a team.”

18. In accordance with the oral and written agreements between Plaintiff and her Team Members as referenced above, they specifically agreed as follows:

- a) That each would work on behalf of Jill Schwartz.
- b) That each would be able to utilize her custom digital intellectual property assets, Jill Schwartz custom-brand marketing material, a menu of services, technology, apps, and other tools to enable the agent to perform his/her job as a successful real estate agent. In addition, Jill Schwartz provided the Defendant Team Members with a desk and conference table within the private offices in Chevy Chase, Maryland. In addition, Defendant Ray Ferrara was provided with a key fob to pay for parking at the Chevy Chase office (worth \$150.00 per month).
- c) That each agent would work under Jill Schwartz, who would share commissions with Ferrara, Thomas, and Spira based on a set fee schedule, ranging from 50%-50% to 75%-25% determined from the prior year’s volume.
- d) That all contracts would include the Jill Schwartz name as the Team Leader broker and/or representative.
- e) That the team members would use their best efforts on Plaintiff’s behalf.
- f) That the team members owed a duty of loyalty to Plaintiff.

g) That the team members were permitted to use Plaintiff's tools, technology and material only for Plaintiff's customers/clients, and for no other purpose.

19. Jill Schwartz fulfilled all her obligations under these agreements. She has a custom-designed, video-enabled, high-end custom website known as JillSchwartzGroup.com. The website included professional digital photographs, biographic information, and past transactions. Plaintiff spent thousands of dollars to integrate the custom website with Compass and Jill Schwartz Group Brand standards and technology, so as to promote the Jill Schwartz Group and Team Members to the general public.

20. Jill Schwartz paid thousands of dollars to pilot two different platforms with Compass-preferred vendors and the Compass Marketing Department. She spent \$500 per month for social media on Instagram promoting the Defendants. Also, Jill Schwartz paid for all Search Engine Optimization, digital and print marketing material, to the direct benefit of all the team members.

21. Jill Schwartz also enabled the Team Members to begin their own practice. For example, she provided Defendant Ray Ferrara with over ten (10) listings and buyers to begin his business.

22. For two years at Compass, Jill Schwartz and her Team worked together as a powerhouse real estate team in Washington, DC, Maryland and Virginia. Spira was on the Compass team for only one year. Ferrara had been working with Jill Schwartz since Plaintiff's time at Long and Foster.

23. In April 2018, Jill Schwartz assisted a developer with the design selection for the renovation of a listing at 5123 45th Street, NW, Washington, DC. During that process, Plaintiff worked directly with Ferrara and developers to secure the listings on the back end of purchases;

these transactions were ratified and settled with the written expectation in the original ratified contract that Jill Schwartz would be the Listing Agent after the renovations were complete.

24. In June 2018, Jill Schwartz personally met with the CEO of Paramount Builders and successfully secured the back-end listings for the following properties: (1) 1516 44th St., NW, Washington, DC, a single-family residence renovation; and (2) 1418 Meridian Place, NW, Washington, DC, a condo conversion.

25. Plaintiff secured these listings after Defendant Ferrara was not able to do so. Currently, upon information and belief, Defendants Thomas and Spira are the listing agents for these properties.

Team Members Turn on Jill Schwartz

26. On information and belief, the Team Members met and conspired with one another in the summer of 2018 to steal the business of Plaintiff. Among other things, the Defendant team members entered into Buyer Agency Agreements and Sales Contracts with Buyers and Sellers without placing Jill Schwartz's name on the contracts. The Team Members intentionally withheld secured listings within ratified contracts from Jill Schwartz by failing to upload the addendums within the contracts to the website (i.e. listing for 710 E Street SE, Washington DC).

27. In addition, Team Members entered into listing agreements directly with real estate developers with whom Plaintiff had pre-existing agreements that she would be assigned to list their properties (7537 12th Street NW, Washington, DC), (1516 44th Street NW, Washington, DC), (1418 Meridian Place NW, Washington, DC), (1232 Hamlin Street NE, Washington, DC), (5123 45th Street NW, Washington DC). Furthermore, Team Member rewrote

existing Buyer Agency Agreements written for the Jill Schwartz Group to remove Plaintiff. (i.e. 6315 Broad Branch Road, Chevy Chase, MD)

28. On or about August 27, 2018, the Defendants downloaded, without authorization, the Plaintiff's proprietary database referencing the data for each of the Team Members. This database contained proprietary information concerning clients, prospective clients, builders, contractors, and other persons critical to the successful operation of the Plaintiff's business and was owned solely by Jill Schwartz and the Jill Schwartz Group.

a) Immediately upon receiving notification of the unauthorized downloading of database, Plaintiff determined that the files were downloaded from an IP address located in neighborhood in the District of Columbia named Hillandale in Georgetown.

b) Defendant Thomas resides in the Hillandale neighborhood.

c) Upon information and belief, this confidential and proprietary database continues to be used by each of the Defendants and still resides within the Compass information technology network.

29. On or about August 31, 2018, Thomas, Spira and Ferrara, as a group, advised Jill Schwartz that the Defendants had formed a "new team without [Jill Schwartz] as the team leader."

30. In forming a new team and shutting out Jill Schwartz, the Defendant Team Members fully intended to steal and overtake Plaintiff's business. Their intent is shown by Co-Defendant Spira asking Jill Schwartz on September 6, 2018 for permission to take over Plaintiff's Costar license for herself and her "new team," i.e. Thomas and Ferrara. The Costar license is Plaintiff's own proprietary work product that the Plaintiff and her team members had used throughout 2017 and 2018.

31. The actions of Team Members were in direct contravention of their written and oral agreements, as well as their statutory and common law duties of loyalty to Jill Schwartz.

**Team Members Steal Actual and Prospective Clients
from Jill Schwartz**

32. Plaintiff and Ferrara had been the original primary points of contact for the 12th Street Property. In 2017, it was Plaintiff who secured the listing in the original sales contract on the property. Defendant Thomas was not involved in securing the listing with the developer.

33. Notwithstanding the foregoing, Thomas then created confusion (as expressed by both developers – Paramount Builders and Urban Edge) by not informing the developers of the Plaintiff's ouster and then transferring the following four (4) listing agreements in her own name:

- (1) 7537 12th Street (valued at \$1,200,000);
- (2) 1516 44th Street, NW (valued at \$1,380,000);
- (3) 5123 45th Street, NW (valued at \$1,773,000); and
- (4) 1418 Meridian Place, NW, Washington, DC (value TBD).

34. The Team Members used Jill Schwartz's prior record of success, integrity, and awards in obtaining these listings.

35. Jill Schwartz Group was cast into complete havoc amid the prime Fall Real Estate Market as a direct consequence of the actions of the Defendant team members. Plaintiff sustained a catastrophic destruction of her livelihood when she was ousted by the Defendants.

36. The Team Members still enjoy the business connections, real estate commissions and the Compass technology and services that would not be available to them, but for the efforts of Jill Schwartz.

37. The actions of the Defendants have been done willfully, wantonly and with reckless disregard for any consequences that would be inflicted upon other persons, specifically, Jill Schwartz and her company.

Compass's Failure to Protect Commissions

38. On September 6, 2018, Jill Schwartz emailed the broker, Ms. Worthington, and advised her that Compass needed to protect Plaintiff's commission on existing contracts.

39. On September 13, 2018, Ms. Worthington, on behalf of Compass, sent Plaintiff a listing of the properties for which Plaintiff was entitled to Commission. Compass (through its broker, Ms. Worthington, and its General Manager and In-House General Counsel, Kimberly Harris) promised that Compass would ensure that Plaintiff would receive all fee commissions she was owed (including those on the September 13, 2018 email).

40. Plaintiff is entitled to commissions and fees on the following properties:

a) 1418 Meridian Place, NW, Washington, DC

Plaintiff met with Paragon Construction Group (Chi Perrus, CEO) in order to obtain a listing on this property. The Jill Schwartz Group acquired the exclusive right to market the property after the builder (Paragon Construction Group) completes the renovation. Plaintiff has not received compensation for this commission.

b) 1516 44th St., NW, Washington, DC

Plaintiff and Ray Ferrara acquired the listing for this property in July 2018. The developer is Paragon Construction Group. Neither Thomas nor Spira were involved at all in the procurement of the listing. Defendants Thomas and Spira should have never been the listing agents on this property nor received any commissions. The property

settled for \$1,330,000.00 and Plaintiff was paid based off the team split rather the commission amount she was entitled to.

c) 710 E Street, SE, Washington, DC

Upon information and belief, Plaintiff and Ferrara were the seller's agent on this property while Plaintiff and Spira were the buyer's agent on the property. The Jill Schwartz Group then acquired the exclusive right to market the property after the builder (JC Development, LLC) completed improvements. The listing agreement is now in the name of Spira. Plaintiff is entitled to share in the commission in accordance with their prior fee sharing agreement as her team members.

d) 7537 12th Street, Washington, DC

This property sold for \$1,200,000 with a 2.5% commission. Plaintiff originally worked with Ferrara and the developer to secure the listing for this property after development. Defendant Thomas sent a listing agreement to the builder and Compass in her name while still working under the Jill Schwartz Group. Plaintiff has not been paid full amount due to her for this listing.

e) 723 Lamont Street, NW, Washington, DC

This property sold for \$2,350,000. Compass paid the commission to Thomas. Clients were a referral by the Boston office of Compass to Plaintiff. Plaintiff showed multiple properties to the buyer and consulted with buyers about a row house renovation project. Based on the prior fee-sharing agreement between Plaintiff and her team members, Plaintiff is entitled to a fee from the purchase of this property.

f) 5123 45th Street, NW Washington

Plaintiff and Ferrara acquired this property listing in August 2017. The developer is Alchemist. The Jill Schwartz Group had acquired the exclusive right to market the property after the builder (Alchemist) completed improvements. Defendants Thomas and Spira should have never been the listing agents on this property nor received any commissions. The property settled for \$1,650,000.00. Plaintiff is entitled to share the commission in accordance with their prior fee sharing agreement as her team members.

g) 1232 Hamlin St., NE, Washington, DC

Plaintiff and Ferrara acquired the listing to this property in approximately June 2018. The developer is Daisy Properties. It is currently listed by Thomas for approximately \$1.1 million dollars. The listing for this property was lost by Defendant Thomas and Plaintiff is entitled to compensation for their lost commission on this property.

h) 6007 Bradley Blvd., Bethesda, Maryland

Danielle Spira of the Jill Schwartz Group had a buyer agency agreement in place. Plaintiff performed work on behalf of the buyer (including showing properties to the buyer, introducing the buyer to builders, showing floor plans and designs to the buyer). Plaintiff is entitled to be paid a commission on this \$835,000 new construction property purchase price, based on the prior fee-sharing agreement between the Plaintiff and Defendant Spira as well as the Buyer Agency Agreement.

i) 6315 Broad Branch Road, Chevy Chase, Maryland

This property was sold in October 2018 for \$1,200,000. Compass paid the commission to Thomas and Spira. Plaintiff performed a significant amount of work

on behalf of the buyers. On information and belief, there were multiple buyer's agency agreements with Jill Schwartz Group, as Plaintiff prepared four prior offers for the clients (on homes that they did not ratify). Based on the prior fee-sharing agreement between Plaintiff and her team members, Plaintiff is entitled to the fee from the purchase of this property.

41. To this Date, several of the commissions owed to Jill Schwartz remain unpaid, including ones listed in the September 13, 2018 email by Ms. Worthington. Compass has failed to enforce payment of multiple commissions owed to Plaintiff in violation of the ICA.

COUNT I – Breach of Contract

Defendant Compass

42. Plaintiff incorporates and restates the allegations of Paragraphs 1-41 as if fully set forth herein.

43. From August 2016 to October 2018, Plaintiff was a real estate agent for Defendant Compass. Plaintiff worked for Compass pursuant to an independent contractor agreement (“ICA”). This agreement constituted a valid and binding agreement that governed the relationship between Plaintiff and Defendant Compass.¹

44. As mutual parties to the contract, each party owed a duty of loyalty, a duty of good faith and a duty of fair dealing with one another.

45. The ICA provided that Compass would be paid a commission of 15% of all sales (which would be separate and apart from all monies that were due to agents), with Plaintiff to receive the remainder as her share. Compass owed a duty to protect Plaintiff's interest in her fees

¹ The ICA contains a dispute resolution clause for all conflicts between Compass and Jill Schwartz. As Plaintiff has stated in her Opposition to Defendant Compass' Motion to Compel Arbitration and Motion to Dismiss, Plaintiff concedes that the arbitration clause applies to this Count of the Amended Complaint and requests that the Court enforce arbitration on this specific claim against Compass only.

and commission.

46. In September 2018, Compass' broker of record, Holly Worthington, promised Plaintiff that she would be paid outstanding commission on all real estate deals that she had procured (either personally or through Plaintiff's team).

47. In direct contravention of the promises made to Plaintiff by Compass managers and brokers, Compass has failed to protect Plaintiff and/or pay her commissions on properties described in the September 13, 2018 or listed in paragraph 40.

48. As a direct and proximate result of the Defendants' actions, Plaintiff has suffered, and will continue to suffer loss of past and future income, lost profits and lost commissions.

WHEREFORE, Plaintiff is entitled to the following recovery herein against Defendant Compass for breach of contract: compensatory damages in the amount of not less than \$500,000.00; prejudgment interest; and such other relief as the Court might deem equitable or necessary.

COUNT II – Breach of Contract

Defendants Thomas, Spira and Ferrara

49. Plaintiff incorporates and restates the allegations of Paragraphs 1-48 as if fully set forth herein.

50. The Agreements between the Plaintiff and the Defendants Thomas, Spira, and Ferrara are all valid and enforceable contracts.

51. Plaintiff fully complied with the contracts by (among other things) providing all marketing tools, websites, customer leads (and the like) to enable the Defendants to perform their jobs as real estate agents.

52. Defendants Ferrara, Spira, and Thomas failed to abide by the terms of the contracts. Specifically, the Defendants did not include Plaintiff on all of the real estate contracts that they entered, and diverted business to themselves individually. Also, Defendants siphoned business away from Plaintiff to themselves. Defendants Ferrara and Spira even approved commissions directly through the Compass Finance Department, bypassing Plaintiff.

53. As a direct and proximate result of the Defendants' actions, Plaintiff has suffered, and will continue to suffer loss of business, loss of past and future income, lost profits and lost commissions. Plaintiff had endured irreparable harm to her person, reputation, and career.

WHEREFORE, Plaintiff is entitled to the following recovery herein against Defendants Ferrara, Spira, and Thomas (jointly and severally) for breach of contract: compensatory damages in the amount of not less than \$500,000.00; prejudgment interest; and such other relief as the Court might deem equitable or necessary.

COUNT III – Conspiracy

Defendants Alexandra Schwartz, Spira and Ferrara

54. Plaintiff incorporates and restates the allegations of Paragraphs 1-53 as if fully set forth herein.

55. In and around 2018, Defendants Ferrara, Thomas, and Spira entered into an unlawful agreement. The sum and substance of the agreement was that the Defendant team members would act surreptitiously in violation of their respective agreements with Plaintiff; and that they would continue to utilize Plaintiff's technology, tools, apps, website, customer base, and leads.

56. The Defendants acted in concert and as part of a coordinated plan, motivated by greed and self-interest, and in direct contravention of their duty of loyalty, and their duty to use their best efforts on behalf of Plaintiff.

57. Thereafter, the Defendants entered agreements with customers (buyers, sellers, and developers) without disclosing their business relationship with Plaintiff. Defendants did not independently sever ties with Plaintiff. Rather, they continued to develop business connections and exploit the marketing efforts of Jill Schwartz while working against her interests. As examples, the Defendants did not include Plaintiff's name on all contracts, did not upload existing contracts, did not include Plaintiff on the commission fee schedule and did not upload Buyer Agency Agreements. All these acts were done with the intention of harming the business of Jill Schwartz.

58. As a direct and proximate result of the Defendants' actions, Plaintiff has suffered, and will continue to suffer loss of business, loss of past and future income, lost profits and lost commissions. In addition, Plaintiff has suffered stress, anxiety, embarrassment, anger, shame, vilification, exposure, and scandal.

WHEREFORE, Plaintiff is entitled to the following recovery herein against Defendants Ferrara, Spira, and Thomas (jointly and severally) for Civil Conspiracy: compensatory damages in the amount of not less than \$500,000.00; prejudgment interest; and such other relief as the Court might deem equitable or necessary.

COUNT IV– Breach of Fiduciary Duty

Defendants Thomas, Spira and Ferrara

59. Plaintiff incorporates and restates the allegations of Paragraphs 1-58 as if fully set forth herein.

60. The Defendants owed a Fiduciary duty to the Plaintiff under the terms of their employment agreements, as well as common-law concepts of agency.

61. Defendants breached this duty by entering into agreements that excluded that Plaintiff, modifying agreements to lower compensation received by the Plaintiff and directly competing with Plaintiff's business before termination of their agreements.

62. Defendants removed information from the Plaintiff's database and continue to use resources paid for by Plaintiff to this day to continue to carry out their business.

63. As a direct and proximate result of the Defendants' actions, Plaintiff lost her business, suffered, and will continue to suffer loss of past and future income, lost profits and lost commissions.

WHEREFORE, Plaintiff is entitled to the following recovery herein against Defendants Ferrara, Spira, and Thomas (jointly and severally) for breach of Fiduciary Duty: compensatory damages in the amount of not less than \$500,000.00; prejudgment interest; and such other relief as the Court might deem equitable or necessary.

COUNT V – Tortious Interference with Contract

Defendants Thomas, Spira and Ferrara

64. Plaintiff incorporates and restates the allegations of Paragraphs 1-63 as if fully set forth herein.

65. As part of her Real Estate business, Plaintiff held contracts with brokers, developers, and homeowners.

66. As agents of the Plaintiff, Defendants were aware of the existence of these contracts.

67. Defendants sought out to interfere with Plaintiff's contracts by intentionally modifying contracts to exclude Plaintiff, entering into contracts with Plaintiff's customers without her knowledge or involvement, seeking to take over Plaintiff's business without her consent, and ousting her as Team Leader of the Jill Schwartz Group.

68. Defendant's actions caused Plaintiff to lose multiple contracts and the resulting compensation. Plaintiff has also taken a leave of absence from Compass after it was made clear by the broker that she no longer possessed the sufficient volume of contracts to continue at the brokerage.

69. As a direct and proximate result of the Defendants' actions, Plaintiff lost her business, suffered, and will continue to suffer loss of past and future income, lost profits and lost commissions.

WHEREFORE, Plaintiff is entitled to the following recovery herein against Defendants Ferrara, Spira, and Thomas Schwartz (jointly and severally) for Tortious Interference: compensatory damages in the amount of not less than \$500,000.00; prejudgment interest; and such other relief as the Court might deem equitable or necessary.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all claims on which they have the right to trial by jury.

Respectfully Submitted,

By: /s/ J. Chapman Petersen

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