

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

-----x Index No.:

UNIVERSE ANTIQUES INC.
RAFAEL COLLECTION, LTD.

Plaintiff,

VERIFIED COMPLAINT

-against-

SUSAN SILLS
LONGINES REALTY, INC.
JOAN M. GRALLA

Defendants

APR 20 2010

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FILED

COUNTY CLERK'S OFFICE
NEW YORK

The plaintiffs Universe Antiques, Inc. and Rafael Collection, Ltd. as and for their
Verified Complaint by their attorneys Greener & Novar, herein allege as follows:

FIRST: That the plaintiff Universe Antiques Inc. was and at all times hereinafter mentioned, still is a domestic corporation with its office at 833 Broadway Street, in the County, City and State of New York.

SECOND: That plaintiff Rafael Collection, Ltd. was and at all times hereinafter mentioned is a resident of the State of New York and is actually doing business in the State of New York.

THIRD: That defendant Joan M. Gralla was and at all times hereinafter mentioned is a resident of the State of New York with an address of 225 East 74th Street, NY, NY.

FOURTH: That the defendant, Susan Sills was and at all times hereinafter mentioned is a resident of the State of New York and is actually doing business in the State of New York.

FIFTH: That the defendant, Longines Realty, Inc., with an office at 185 Canal Street, New York, New York was and at all times hereinafter mentioned is New York Corporation and is actually doing business in the State of New York.

SIXTH: That Susan Sills was an employee of Longines Realty, Inc. at all times alleged herein, and was acting both on her own and on behalf of Longines Realty, Inc.

SEVENTH: That the defendants, Susan Sills and Longines Realty, Inc. were well acquainted with the principal of the plaintiffs and defendant and introduced Universe Antiques Inc. to Joan M. Gralla.

AS FOR A FIRST CAUSE OF ACTION FOR FRAUD

EIGHTH: That Susan Sills and Longines Realty, Inc. conspired with Joan Gralla to defraud Universe Antiques.

NINTH: That Susan Sills and Longines Realty, Inc.'s role in the conspiracy was in the introduction of Joan Gralla to Universe Antiques and in making false representations to Universe Antiques for the purpose of inducing Universe Antiques to purchase a stolen Degas bronze sculpture.

TENTH: That having been working with the principal of Universe Antiques on several multi-million dollar real estate transactions, Longines Realty, Inc. and Susan Sills had established their bona fides and credibility with the principal of Universe Antiques and thereby their introduction to Joan M. Galla vouched for her credibility as a reputable person to do business with.

ELEVENTH: That Joan M. Gralla, through Susan Sills and Longines Realty, Inc., represented to Universe Antiques that Gralla rightfully owned a bronze Sculpture by Edgar Degas, titled the 'Danseuse regardant la plante de son pied droit', 1896-1911, sized 18.7 x 0 in./ 47.6 x 0 c.m. (the "Sculpture").

TWELFTH: That on or about December 20, 2004, Susan Sills, from her office at Longines Realty and during the work day, sent a fax to Jack Shaoul, owner of Universe Antiques, offering the Sculpture for sale.

THIRTEENTH: That on or about December 20, 2004, after receiving the fax from Susan Sills, Jack Shaoul called Susan Sills at Longines Realty during the work day expressing interest in the Sculpture and inquiring about it.

FOURTEENTH: That in that conversation on or about December 20, 2004, Susan Sills told Jack Shaoul that Joan Gralla had inherited the Sculpture from an uncle in New Jersey and now wanted to sell it.

FIFTEENTH: That based upon Susan Sills false representations, on or about December 21, 2004, Susan Sills and Jack Shaoul went to the apartment of Joan Gralla at 225 East 74th Street, NY, NY to view the Sculpture.

SIXTEENTH: That on or about December 21, 2004, Joan Gralla was in the apartment at the time of the viewing of the Sculpture.

SEVENTEENTH: That at the viewing of the Sculpture on or about December 21,

2004, Jack Shaoul asked a number of questions to Susan Sills about the Sculpture, and instead of asking Joan Gralla, the questions directly, Susan Sills went to a street pay phone and called a third party for information necessary to answer Jack Shaoul's questions.

EIGHTEENTH: That at the viewing of the Sculpture on or about December 21, 2004, upon information and belief, Susan Sills called Thomas Doyle, Joan Gralla's boyfriend for information about the Sculpture to answer Jack Shaoul's questions.

NINETEENTH: That at the viewing of the Sculpture on or about December 21, 2004, Jack Shaoul offered Susan Sills his cell phone to make her calls to gather information about the Sculpture, but, upon information and belief, Susan Sills did not want Jack Shaoul to overhear the conversation or have the phone number of the person, Thomas Doyle, that she was calling and declined the offer.

TWENTIETH: That at the viewing of the Sculpture on or about December 21, 2004, based on the fraudulent representations of Susan Sills, on behalf of Longines Realty, herself and Joan Gralla, Jack Shaoul, on behalf of his company, Universe Antiques, decided to pursue the purchase the Sculpture from Gralla for Two Hundred Twenty-Five Thousand Dollars (\$225,000).

TWENTY-FIRST: That on or about December 21, 2004, at the viewing, Joan Gralla created a "Bill of Sale" setting forth the details of the transaction including the identification and address of the parties, a description of the Sculpture, the price, the payment terms and the following warranty which includes a false representation about her uncle, Sotheby's and Christies whereby she intended to defraud and cause harm to the plaintiff Universe Antiques:

"The Seller warrants that the above described bronze is authentic and cast with the artists permission and during his lifetime. Several experts including Sotheby's and Christies have inspected this bronze for her deceased uncle and have determined it to be authentic."

TWENTY-SECOND: That prior to committing to the purchase and making payment thereon, Jack Shaoul required from Joan Gralla, communicated through Susan Sills, a written statement of provenance and title of the Sculpture memorializing what Susan Sills had been telling him that Joan Gralla had said.

TWENTY-THIRD: That this was agreed to by Joan Gralla who added a hand written addition to the "Bill of Sale" which she signed and was relied upon by plaintiff

Universe Antiques.

TWENTY-FOURTH: That based upon the Bill of Sale and the fraudulent representations of Joan Gralla that she agreed to memorialize in a writing, whereby she intended to and did defraud and intentionally cause harm to plaintiff Universe Antiques, Universe Antiques made an initial payment by wire transfer to Joan Gralla's Chase Manhattan bank account of One Hundred Thirty Thousand Dollars (\$130,000) on or about December 22, 2004.

TWENTY-FIFTH: That on or about January 6, 2005, by a written "Addendum to bill of Sale" created and signed by Joan Gralla pursuant to the agreement to memorialize her and Susan Sills' representations, Joan Gralla wrote the following false representation whereby she further perpetuated her fraud to intentionally harm of Universe Antiques:

"Therefore, let it be known to all concerned that the above mentioned Degas bronze upon final payment by Universe Antiques to Joan Gralla shall pass with clear title having no liens, loans or encumbrances. That Joan Gralla inherited the bronze from a relative in Saddle River, New Jersey who shall be referred to as a private collector. But in the interest of provenance Ms. Gralla would submit that all of the important art in this collection was purchased from Perls Gallery New York and would therefore attest that this is the provenance."

TWENTY-SIXTH: That upon receiving the "Addendum to Bill of Sale" from Joan Gralla, which was delivered to Universe Antiques on January 6, 2005 by Moonlite Courier Worldwide, and in reliance on the written representations therein confirming Gralla's earlier oral representations, as relayed by Susan Sills, that Gralla had good title to the Sculpture and that title would pass free and clear, Universe Antiques, on or about January 10, 2005, made a wire transfer of the balance owed of Ninety-Five Thousand Dollar (\$95,000) to Joan Gralla's Chase Manhattan bank account.

TWENTY-SEVENTH: That upon information and belief, Susan Sills and Longines Realty, Inc. financially benefited from the aforesaid fraud.

TWENTY-EIGHTH: That the physical possession of the Sculpture was transferred to Universe Antiques.

TWENTY-NINTH: That the true title holder of the Sculpture was Norman Alexander, not Joan M. Gralla and Norman Alexander never gave authorization to Joan Gralla to represent his interest in, possess or sell the Sculpture.

THIRTIETH: That Norman Alexander commenced suit in Supreme Court,

New York County, Index No. 105535/2007, against Universe Antiques and other defendants which resulted in a court determination on September 18, 2008, affirmed by the Appellate Division, First Department (leave to appeal to New York Court of Appeals denied October 22, 2009) that the Sculpture had to be returned to Norman Alexander because title to the Sculpture never properly passed from him to any subsequent possessor.

THIRTY-FIRST: That a Thomas A. Doyle III was Joan Gralla's boyfriend.

THIRTY-SECOND: That the court found that Thomas Doyle had come into possession of the Sculpture by offering authentication services to Norman Alexander and that he pled guilty to a crime associated with his coming into possession of and the sale of the Sculpture.

THIRTY-THIRD: That he is presently incarcerated after a plea to charges by the New York District Attorney's Office of Grand Larceny in the Second Degree and Criminal Possession of Stolen Property in the Second Degree relating to the Sculpture.

THIRTY-FOURTH: That for full value plaintiff Universe Antiques, Inc. sold a half interest in the Sculpture to plaintiff Rafael Collection, Ltd. who then became equal partners with plaintiff Universe Antiques, Inc. in any profits or losses.

THIRTY-FIFTH: That Universe Antiques and Rafael Collection, Ltd. consigned the Sculpture to the Spanierman Gallery LLC ("Spanierman") for Three Hundred Forty-Eight Thousand Dollars (\$348,000).

THIRTY-SIXTH: That Spanierman sold the Sculpture for Four Hundred Fifty Thousand Dollars (\$450,000) to a customer named Buckley.

THIRTY-SEVENTH: That Spanierman paid Universe Antiques and Rafael Collection, Ltd. Three Hundred Forty-Eight Thousand Dollars (\$348,000).

THIRTY-EIGHTH: That upon the rendering of the court decision by the Supreme Court, New York County, Appellate Term, Index No. 105535/2007, Spanierman returned to its customer, Buckley, the purchase price of Four Hundred Fifty Thousand Dollars (\$450,000) and Universe Antiques and Rafael Collection Ltd. made good to the Spanierman their loss of Four Hundred Fifty Thousand Dollars (\$450,000) and thereby plaintiff's themselves realized an additional loss of One Hundred Two Thousand Dollars (\$102,000)

and plaintiffs paid directly to Buckley Twenty-Seven Thousand Dollars (\$27,000) in interest on the Four Hundred Fifty Thousand Dollars (\$450,000) for the time period between when the Appellate Term made it's ruling and when the Four Hundred Fifty Thousand Dollars (\$450,000) was actually returned to Buckley.

THIRTY-NINTH: That plaintiffs regained possession of the Sculpture and transferred it to Norman Alexander, pursuant to court order.

FOURTIETH: That as a consequence of defendants' wrongful actions, plaintiffs lost the profit rightfully due them of One hundred Twenty-Tree Thousand Dollars (\$123,000) for which plaintiffs demand judgment with interest, legal fees and costs.

FORTY-FIRST: That as a result of the defendants' fraud and their acts to intentionally harm plaintiffs and due to plaintiff's reasonable reliance thereon plaintiffs suffered a loss of the Two Hundred Twenty-Five Thousand Dollars (\$225,000) that was paid for the Sculpture for which plaintiffs demand judgment with interest, legal fees and costs.

FORTY-SECOND: That in addition to the loss of the purchase price, based upon defendants fraudulent misrepresentations, and in reasonable reliance thereon, plaintiffs have incurred legal fees in an attempt to defend the title to the Sculpture in an amount in excess of Two Hundred Thousand Dollars (\$200,000) for which plaintiffs demand judgment with interest, legal fees and costs.

FORTY-THIRD: That defendant's are liable to plaintiffs for damages in the additional amounts of One hundred Twenty-Tree Thousand Dollars (\$123,000), One Hundred Two Thousand Dollars (\$102,000) and Twenty-Seven Thousand Dollars (\$27,000) for a total of Two Hundred Fifty Two Thousand (\$252,000).

FORTY-FOURTH: That due to defendants fraud and intentional harm that was maliciously calculated to and actually did cause great harm to defendants, defendants are liable to plaintiffs for punitive damages in an amount of One Millions Dollars (\$1,000,000) for which plaintiffs demand judgment with interest, legal fees and costs.

**AS FOR A SECOND CAUSE OF ACTION
FOR UNJUST ENRICHMENT**

FORTY-FIFTH: That plaintiffs repeat and reallege the allegations set forth in

paragraphs 1 through 45 as if they were fully set forth here at length.

FORTY-SIXTH: That Joan Gralla was unjustly enriched by her fraud in an amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000) for which plaintiffs demand judgment with interest, legal fees and costs.

FORTY-SEVENTH: That Susan Sills and Longines Realty, Inc. were unjustly enriched by their fraud in an amount to be determined.

FORTY-EIGHTH: That plaintiffs demand judgment disgorging the defendants of their unjust enrichment, with interest, legal fees and costs.

**AS FOR A THIRD CAUSE OF ACTION
FOR INDEMNIFICATION**

FORTY-NINTH: That plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 49 as if they were fully set forth here at length.

FIFTIETH: That Spanierman's client Buckley claims she has suffered a loss based upon the amount of lost interest earned over a five year period on the moneys paid to Spanierman in an amount exceeding Two Hundred Thousand Dollars (\$200,000).

FIFTY-FIRST: That Spanierman's client Buckley has filed a cross claim in pending case, Index No. 105535/2007 in the Supreme Court, New York County, against Spanierman and it's owner Ira Spaniermain (together "Spanierman") for compensation of this loss.

FIFTY-SECOND: That plaintiffs have indemnified, are holding harmless and are defending Spanierman in this action from all losses, awards, judgments, settlements, costs and fees all of which would be solely caused by and a result of defendants intentional acts.

FIFTY- THIRD: That but for defendants intentionally wrongful actions no such loss to plaintiffs, to Spanierman or Spanierman's customer Buckley would have occurred and the defendants are solely responsible for all such losses and are liable to plaintiffs for Spanierman's legal defense and for indemnification against any award, judgment or settlement in the action against Spanierman by Buckley, and therefore for all of Buckley's losses, for which plaintiffs demand judgment along

with interest, costs and legal fees in an amount to be determined but in excess of Three Hundred Thousand Dollars (\$300,000).

WHEREFORE, Plaintiffs respectfully requests that judgment be rendered in it's favor and against defendants, decreeing as follows:

On The First Cause of Action:

- a. A money judgment in the amount of \$225,000 in compensatory damages for purchase of the Sculpture with interest, legal fees and costs.
- b. A judgment in the amount of \$200,000 in compensatory damages incurred defending title to the Sculpture with interest, legal fees and costs.
- c. A money judgment in the amount of \$123,000 in compensatory damages with interest, legal fees and costs.
- d. A money judgment in the amount of \$102,000 in compensatory damages with interest, legal fees and costs.
- e. A money judgment in the amount of \$27,000 in compensatory damages with interest, legal fees and costs.
- f. A money judgment in the amount of \$1,000,000 in punitive damages with interest, legal fees and costs.
- g. A money judgment for legal fees, costs and expenses in an amount not less than \$100,000
- h. Such other and further relief that the court consider just and fair.

On The Second Cause of Action:

- a. A money judgment in the amount of \$225,000.00 in compensatory damages with interest, legal fees and costs.
- b. A money judgment in the amount of earned by Susan Sills and Longines Realty, LLC with interest, legal fees and costs.
- c. A money judgment for legal fees, costs and expenses in an amount not less than \$100,000
- d. Such other and further relief that the court consider just and fair.

On The Third Cause of Action:

- e. A money judgment in the amount of necessary to compensate Spanierman's customer Buckley for her losses in an amount in excess of \$200,000, with interest, legal fees and costs.
- f. A money judgment in the amount necessary to compensate plaintiffs for their legal fees in defending the cross claim/suit against from Spanierman and Ira Spanierman from their customer with interest and costs.
- g. A money judgment in the amount of necessary to hold Spanierman, Ira Spanierman and plaintiffs harmless for all losses, fees, judgments, settlements, associated with or resulting from Buckley's cross claim lawsuit against Spanierman, Ira Spanierman in an amount to be determined but in excess of Three Hundred Thousand Dollars (\$300,000) with interest, legal fees and costs.
- h. A money judgment for legal fees, costs and expenses in an amount not less than \$150,000
- i. Such other and further relief that the court consider just and fair.

Dated: March 18, 2010
New York, New York



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