

EXPANSE MOTION OFFICE

At the 1A S. Part
of the Supreme Court of the
State of New York, 60 Centre
Street, City and State of New
York on the 4th day of
December, 2013.

Present: **JOAN B. LOBIS**

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

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In the Matter of an Inquiry by ERIC T.
SCHNEIDERMAN, Attorney General of the
State of New York,

Petitioner,

Pursuant to Article 23-A of the New York General
Business Law in regard to the acts and practices of

JOSEPH SCARPINATO, SHIRAZ SANJANA,
THE JOHN SCARPINATO TRUST, 110TH STREET
DEVELOPMENT LLC, HAROLD L. GRUBER, and
HAROLD L. GRUBER, P.C.,

Respondents,

in promoting the issuance, distribution, exchange,
advertisement, negotiation, purchase, investment advice
or sale of securities in or from New York State.
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: **ORDER PURSUANT TO**
: **GENERAL BUSINESS LAW**
: **§ 354**

: **Index No. 452179/13**

: **Date Filed:**

Upon reading and filing the annexed affirmation of Serwat Farooq, Assistant Attorney
General, dated December 3, 2013, with exhibits, the annexed affirmation of Marissa Piesman,
Special Counsel to the Real Estate Finance Bureau of the Office of the Attorney General, dated
December 3, 2013, and the accompanying memorandum of law, dated December 3, 2013; and
upon the application of ERIC T. SCHNEIDERMAN, Attorney General of the State of New
York, for an order pursuant to General Business Law ("GBL") § 354;

IT BEING SHOWN that the New York Attorney General has determined to commence

an action under Article 23-A of the GBL against the above-captioned Respondents and that, upon information and belief, certain Respondents' testimony, and production of certain books and records is material and necessary to the New York Attorney General's investigation; and

IT BEING SHOWN therefrom that it is this Court's duty to grant the New York Attorney General's application for an order, pursuant to GBL § 354, directing the persons mentioned in the application to appear before the Justice of the Supreme Court or referee designated in such order and answer such questions as may be put to them or to any of them, or to produce such papers, documents and books; it is hereby

ORDERED that "document" is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced or stored (manually, mechanically, electronically or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail (e-mail), instant messages, text messages, Blackberry or other wireless device messages, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices and summaries; that any non-identical version of a document constitutes a separate document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, or any other alteration of any kind resulting in any difference between two or more otherwise identical documents; and

that in the case of documents bearing any notation or other marking made by highlighting ink, the term document means the original version bearing the highlighting ink; and it is

ORDERED that Respondent Harold L. Gruber, P.C., by its Custodian of Records, appear before the Honorable , Justice of the Supreme Court, or any other Justice or Referee of this Court as may be directed, in Room 315, at the courthouse located at 60 Centre Street, New York, New York, or at any other place as this Court may direct, as follows: on the 11th of December, 2013, at 10³⁰ a.m./p.m., and on any adjourned date and time thereafter, to testify under oath, and answer such questions as may be put to them by the New York Attorney General or a designated Assistant Attorney General, concerning the authenticity or location of certain documents; and to turn over originals, wherever located, whether in their possession or control, or if the originals are unavailable, copies of:

- (i) All documents relating to any and all property and monies derived by Harold L. Gruber, P.C., its officers, directors, shareholders and current and former employees in connection with the sale of residential units in The Mirada, including but not limited to a list identifying any bank, savings and loan association or other financial depository at which such property is maintained or was deposited and the corresponding account numbers and titles;
- (ii) Any retainer agreement or other document establishing Respondent Harold L. Gruber, P.C.'s representation of Respondent 110th Street Development LLC ("Sponsor") before the Office of the Attorney General for purposes of filing an offering plan and amendments for The Mirada;
- (iii) All documents relating to the closings to title to the residential units in The Mirada, including purchase agreements, mortgage commitments by financial institutions to purchasers, and checks issued or drawn in connection with such closings;
- (iv) Any and all other documents that may be requested by the New York Attorney General or a designated Assistant Attorney General during the course of this investigation;
- (v) Any and all tax returns – federal, state and local – of Harold L. Gruber, P.C. for years 2007 to 2012; and it is further

ORDERED that Sponsor, Respondent 110th Street Development LLC, by its Custodian of Records, appear before the Honorable _____, Justice of the Supreme Court, or any other Justice or Referee of this Court as may be directed, in Room 315, at the courthouse located at 60 Centre Street, New York, New York, or at any other place as this Court may direct, as follows: on the 11th of Dec. 2013 ~~January~~, 2014, at 10 a.m./p.m., and on any adjourned date and time thereafter, to testify under oath, and answer such questions as may be put to them by the New York Attorney General or a designated Assistant Attorney General, concerning the authenticity or location of certain documents; and to turn over originals, wherever located, whether in their possession or control, or if the originals are unavailable, copies of:

- (i) All documents relating to any and all property and monies derived by Sponsor and its principals, members, agents, salespersons and attorney in connection with sale of residential units in The Mirada, including but not limited to a list identifying any bank, savings and loan association or other financial depository at which such property is maintained or was deposited and the corresponding account numbers and titles;
- (ii) All Sponsor's operational documents including minutes of all meetings, resolutions, and all agreements or declarations by, between or among Sponsor, its members and principals;
- (iii) Any retainer agreement or other document establishing Respondent Harold L. Gruber, P.C.'s representation of Sponsor before the Office of the Attorney General for purposes of filing an offering plan or amendments for The Mirada;
- (iv) All documents relating to Mr. Gruber's release of purchasers' down-payments, deposits and advances from any escrow account to Sponsor, any Respondent or any other person or entity;
- (v) All documents relating to Sponsor's obtaining a permanent, or final, certificate of occupancy for The Mirada;
- (vi) All bank, financial or asset statements and documents for all accounts in Sponsor's name;
- (vii) All compensation agreements and documents including but not limited to Sponsor's policies for monetary and other payments, tangible or intangible, including salaries, commissions, bonuses and options, to officers, directors,

owners, principals, salespersons, employees, independent contractors or agents;

- (viii) All corporate or business statements, balance sheets, cash flow statements, income statements, journals, ledgers, working papers, accountant statements, evidences of wire transfers, external and internal electronic mail transmissions and similar documents; and
- (ix) Any and all other documents that may be requested by the New York Attorney General or a designated Assistant Attorney General during the course of this investigation;
- (x) Any and all tax returns – federal, state and local – of Sponsor for years 2007 to 2012; and it is further

ORDERED that Respondent The John Scarpinito Trust, by its Custodian of Records, appear before the Honorable [Signature], Justice of the Supreme Court, or any other Justice or Referee of this Court as may be directed, in Room 315, at the courthouse located at 60 Centre Street, New York, New York, or at any other place as this Court may direct, as follows: on the 11th of Dec 2013 2013, at 10 a.m. p.m., and on any adjourned date and time thereafter, to testify under oath, and answer such questions as may be put to them by the New York Attorney General or a designated Assistant Attorney General, concerning the authenticity or location of certain documents; and to turn over originals, wherever located, whether in their possession or control, or if the originals are unavailable, copies of:

- (i) All documents relating to any and all property or monies derived by The John Scarpinito Trust in connection with sale of residential units in The Mirada, including but not limited to a list identifying any bank, savings and loan association or other financial depository at which such property is maintained or was deposited and the corresponding account numbers and titles;
- (ii) All bank, financial or asset statements and documents for all accounts in The John Scarpinito Trust's name;
- (iii) All compensation agreements and documents including but not limited to The John Scarpinito Trust's policies for monetary and other payments, tangible or intangible, including salaries, commissions, bonuses and options, to its trustee, any independent contractors or agents;

- (iv) All corporate or business statements, balance sheets, cash flow statements, income statements, journals, ledgers, working papers, accountant statements, evidences of wire transfers, external and internal electronic mail transmissions and similar documents; and
- (v) Any and all other documents that may be requested by the New York Attorney General or a designated Assistant Attorney General during the course of this investigation;
- (vi) Any and all tax returns – federal, state and local – of The John Scarpinito Trust for years 2007 and 2011 to 2012; and it is further

ORDERED that Respondent Joseph Scarpinito appear before the Honorable _____, Justice of the Supreme Court, or any other Justice or Referee of this Court as may be directed, in Room 315, at the courthouse located at 60 Centre Street, New York, New York, or at any other place as this Court may direct, as follows: on the 11th of ~~January~~ Dec. 2013, at 10 a.m./p.m., and on any adjourned date and time thereafter, to testify under oath, and answer such questions as may be put to them by the New York Attorney General or a designated Assistant Attorney General, concerning the alleged fraudulent practices of Respondents and others acting on Respondents' behalf in the public offer and sale of residential condominium units in The Mirada; and it is further

ORDERED that Respondent Shiraz Sanjana appear before the Honorable _____, Justice of the Supreme Court, or any other Justice or Referee of this Court as may be directed, in Room 315, at the courthouse located at 60 Centre Street, New York, New York, or at any other place as this Court may direct, as follows: on the 11th of ~~January~~ Dec. 2013, at 10 a.m./p.m., and on any adjourned date and time thereafter, to testify under oath, and answer such questions as may be put to them by the New York Attorney General or a designated Assistant Attorney General, concerning the alleged fraudulent practices of Respondents and others acting on Respondents' behalf in the public offer and sale of residential

condominium units in The Mirada.

AND IT FURTHER APPEARING by the Affirmation of Assistant Attorney General Serwat Farooq, with exhibits, the Affirmation of Marissa Piesman and the Memorandum of Law that it is expedient and proper to grant certain preliminary injunctive relief against Respondents, pursuant to General Business Law § 354, because the alleged fraudulent practices threaten continued, immediate and irreparable injury to the purchasing public, and that the potential dissipation of Respondents' assets would render a judgment directing restitution ineffectual; it is

ORDERED that all Respondents, their agents and employees are hereby restrained from violating Article 23-A of the GBL, and from engaging in the fraudulent, deceptive and illegal acts alleged herein; and it is further

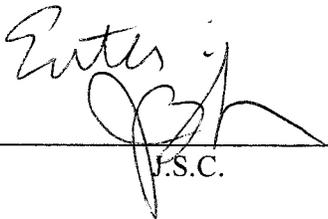
ORDERED that all Respondents, and their agents and employees, are hereby restrained from engaging in any act directly or indirectly relating to the offer, purchase, sale, issuance, advertisement, marketing, promotion, distribution, negotiation, exchange or transfer of securities in or from New York State, including without limitation, submitting, or causing to be submitted, to the New York Attorney General any documents relating to securities including, without limitation, broker-dealer registration statements, proposed offering plans, proposed amendments, no-action applications and tax opinions, except that within two business days after service of this Order, Respondents Harold L. Gruber, P.C. and Harold L. Gruber, Esq. shall submit the documents that are legally required to withdraw as a sponsors' attorney for all pending submissions, and except that nothing in this Order shall prohibit Harold L. Gruber from transferring purchasers' down-payments from a special escrow account held by Mr. Gruber to a successor escrow agent; and it is further

ORDERED that within five business days after service of this Order, Respondents

collectively deposit with the Court \$3,216,697.45, reflecting the total amount of all purchasers' down-payments that the law required be escrowed pending completion of construction as security for procurement of a permanent certificate of occupancy for The Mirada; and it is further

ORDERED that Respondents Joseph Scarpinito, Shiraz Sanjana and Harold L. Gruber each turn over a list that identifies all assets for the Respondent, and the names and addresses of all banks, savings and loan associations and other financial depositories located inside and outside New York at which Respondent maintains any account(s), together with the account numbers and titles; and it is further

ORDERED that service by delivery and leaving with each Respondent a certified copy of this Order together with the papers upon which it was granted, on or before the 6th of December, 2013, be deemed sufficient service thereof.



J.S.C.