

ATTORNEY GENERAL OF THE STATE OF NEW YORK  
REAL ESTATE FINANCE BUREAU

---

In the Matter of

Assurance No. 14-194

**Investigation by ERIC T. SCHNEIDERMAN,  
Attorney General of the State of New York, of**

Joseph Scarpinito, Shiraz Sanjana, the John  
Scarpinito Trust, 110th Street Development  
LLC, 6833 Shore Road Corporation, 6833 Shore  
Road (NY) LLC, and 6833 Shore Road (Fee) LLC,

Respondents.

---

**ASSURANCE OF DISCONTINUANCE**

The New York Attorney General (“NYAG”) commenced an investigation pursuant to Executive Law § 63(12) and the Martin Act, New York General Business Law (“GBL”) § 352 *et seq.*, into the conduct of Joseph Scarpinito, Shiraz Sanjana, the John Scarpinito Trust, 110th Street Development LLC, 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC, and 6833 Shore Road (Fee) LLC (collectively, the “Respondents”) in connection with two offerings of real estate securities, one at the Mirada, located at 161-171 East 110th Street, New York, New York, and another at the Pier Pointe Condominium, located at 6833 Shore Road, Brooklyn, New York.

This Assurance of Discontinuance (“Assurance”) contains the findings of NYAG’s investigation and the relief agreed to by NYAG and the Respondents (collectively “the parties”).

**NYAG’S FINDINGS**

**A. The Respondents**

1. Joseph Scarpinito is an individual who resides in New York State, the sole trustee of the John Scarpinito Trust, and a manager of both 110th Street Development LLC and 6833

Shore Road (Fee) LLC.

2. Shiraz Sanjana is an individual who resides in New York State, and is also a manager of both 110th Street Development LLC and 6833 Shore Road (Fee) LLC.

3. The John Scarpinito Trust is a trust created by Joseph Scarpinito's father, John Scarpinito, for the benefit of Joseph Scarpinito's sons, James and Joseph. The John Scarpinito Trust has been at all times relevant here the managing member of 110th Street Development LLC.

4. 110th Street Development LLC is a New York limited liability company, and the sponsor of the offering of condominium units in the Mirada.

5. 6833 Shore Road Corporation is a New York corporation, and a member of 6833 Shore Road (NY) LLC.

6. 6833 Shore Road (NY) LLC is a New York limited liability company, and the sole member of 6833 Shore Road (Fee) LLC.

7. 6833 Shore Road (Fee) LLC is a New York limited liability company, and the sponsor of the offering of condominium units in the Pier Pointe Condominium.

**B. Respondents' Legal Obligations Under the Martin Act**

8. In New York State, the initial offer and sale of condominium units is governed by the Martin Act, and as such cannot be publicly offered for sale unless and until the offeror of the securities, known as the sponsor, has filed with NYAG an offering plan and a broker-dealer registration statement. *See* GBL §§ 352-e(1)(a), 359-e(3).

9. The offering plan must provide an adequate factual basis upon which a potential purchaser can intelligently make a decision whether to buy. Among other things, the offering plan must disclose: (i) a description of the property being offered; (ii) the names, addresses and

business backgrounds of each person or entity controlling the sponsor, each of whom is statutorily defined as a principal of the sponsor; (iii) the names, addresses and business backgrounds of those who are to participate in the property's management; and (iv) the interests and profits of the promoters, officers, directors, trustees or general partners in the promotion and management of the venture. *Id.* §§ 352-e(1)(b), 359-e(3)(a).

10. The offering plan must also disclose any felony convictions of sponsor or any of its principals, and any prior bankruptcies of the sponsor or its principals that may be material to the offering plan or an offering of securities generally, and that occurred within 15 years prior to the submission of the proposed offering plan. 13 NYCRR § 20.3(ab); *see also* GBL §352-e(6). Similarly, a sponsor's broker-dealer registration statement must disclose the sponsor's and each principal's business history including any bankruptcy filings, criminal record and educational background. *See* GBL § 359-e(1)(d).

11. To ensure that an offering plan contains the disclosures required by law, a sponsor must submit a proposed offering plan to NYAG. When a proposed offering plan is not adequate to satisfy its informational purpose, NYAG may refuse to accept it for filing, thereby preventing condominium units from being offered for sale to the public. *Id.* § 352-e(2).

12. A sponsor and its principals must certify that the offering plan is complete, current and accurate. 13 NYCRR § 20.4(b).

13. A sponsor and its principals have an ongoing obligation to amend the plan to disclose any material changes that have occurred since the plan was accepted by NYAG for filing. *Id.* § 20.5(a)(1).

14. In addition, prior to closing title to any units, the sponsor must submit, and NYAG must accept for filing, an amendment to the offering plan disclosing that the plan has

been declared “effective.” *Id.* § 20.3(q). Where a condominium consists of six or more units, the sponsor must file an amendment, known as the effectiveness amendment, stating that bona fide purchasers have signed purchase agreements for at least 15% of the units offered under the offering plan. *Id.* § 20.3(1), (3)-(4). The sponsor must include as an exhibit to the effectiveness amendment an affidavit of a principal that sets forth, *inter alia*, a list of the units being counted to declare the plan effective. *Id.* § 20.5(e)(5).

15. All proposed amendments to offering plans must be submitted to NYAG with an Amendment Filing Form, by which a principal of the sponsor certifies that the offering plan, as amended, complies with the Martin Act. *Id.* § 20.5(b).

16. The Martin Act further requires that:

[A]ll deposits, down-payments or advances made by purchasers of residential units shall be held in a special escrow account pending delivery of the **completed** apartment or unit and a deed or lease whichever is applicable, unless insurance of such funds in a form satisfactory to the attorney general has been obtained prior thereto.

GBL § 352-e(2-b) (emphasis added). In New York City, a “completed” unit for purposes of complying with GBL § 352-e(2-b) is a unit for which the City’s Department of Buildings (“DOB”) has issued a permanent certificate of occupancy (“PCO”), which specifies the legal use and occupancy of the building. *See* 13 NYCRR § 20.3(t)(13). The purpose of GBL § 352-e(2-b) is to prevent sponsors from using purchasers’ down payments for construction purposes, and to ensure that each sponsor completes its project.

17. All of purchasers’ down payments must be held in a special escrow account until a sponsor obtains a PCO for the property, or until sponsor’s engineer, architect or other qualified expert certifies that a lesser amount is needed to complete construction and obtain a PCO. 13 NYCRR § 20.3(t)(13). Based on the expert’s certification, the escrow agent may release monies

from escrow exceeding the so-certified amount. *Id.* Alternatively, a sponsor may deposit with the escrow agent an unconditional, irrevocable letter of credit or a surety bond in the so-certified amount. *Id.*

18. A purchaser's down payment continues to be that purchaser's money, and thus must be held in trust until actually employed in connection with the consummation of the securities transaction, and must not be commingled. GBL § 352-h (Trust Funds); *see also id.* § 352-e(1)(b).

**C. 110th Street Development LLC's Representations in the Offering Plan and Broker-Dealer Registration Statement Filed with NYAG**

19. Between 2006 and 2012, 110th Street Development LLC, by its attorney, Harold L. Gruber of Harold L. Gruber, P.C., submitted numerous documents to NYAG in connection with the offer and sale of condominium units in the Mirada.

20. On or about December 14, 2006, 110th Street Development LLC submitted to NYAG a proposed offering plan for the Mirada.

21. On or about March 30, 2007, 110th Street Development LLC submitted to NYAG a broker-dealer registration statement. This broker-dealer registration statement represented that 110th Street Development LLC's sole principal was Nancy Scarpinito.

22. On May 17, 2007, 110th Street Development LLC's offering plan for the Mirada was accepted by NYAG for filing.

23. The offering plan's "Identity of Parties" section represented that 110th Street Development LLC's sole principal was Nancy Scarpinito. The offering plan represented that "[t]here are no felony convictions, bankruptcies, judgments, or injunctions against either the Sponsor or its Principals [sic]."

24. The offering plan's "Rights and Obligations of Sponsor" section represented that sponsor would not close title to any unit in the Mirada before the DOB issued a temporary or permanent certificate of occupancy. The offering plan further represented that, if the first closing occurred after the issuance of a temporary certificate of occupancy ("TCO"), but prior to a PCO, sponsor would maintain all of the purchasers' down payments in a special escrow account, unless sponsor's engineer or architect certified that a lesser amount was necessary to complete construction and obtain a PCO. Based on the expert's certification, only the amount exceeding the so-certified amount would be released from escrow. Alternatively, sponsor would deposit with an escrow agent an unconditional irrevocable letter of credit or post a surety bond in the so-certified amount.

25. The offering plan's "Procedure to Purchase" section represented that, in order to purchase a residential unit in the Mirada, a purchaser must execute a purchase agreement and return it to the sponsor with a check in the amount of 10% of the purchase price, as a down payment, drawn to Harold L. Gruber, Esq., as attorney.

26. The offering plan represented that Mr. Gruber would act as 110th Street Development LLC's escrow agent, holding all of the purchasers' down payments in an escrow account at Citibank in trust for purchasers.

27. The offering plan further represented that sponsor would comply with the escrow and trust fund requirements of GBL §§ 352-e(2-b) and 352-h.

28. The offering plan's "Closing Costs and Adjustments" section represented that closings would occur at the offices of Harold L. Gruber, P.C. and purchasers were required to pay Harold L. Gruber, P.C., which was acting as sponsor's counsel, a fee for the preparation of closing documents, of \$950 per closing.

29. The offering plan also included a copy of the “Escrow Agreement for Contract Deposit” purportedly executed by Mr. Gruber and Mrs. Scarpinito as sponsor’s sole disclosed principal.

30. The escrow agreement represented that “[a] fiduciary relationship shall exist between Escrow Agent and purchasers, and Escrow Agent acknowledges its fiduciary obligations.” The escrow agreement further represented that “Sponsor agrees that it shall not interfere with Escrow Agent’s performance of its fiduciary duties and compliance with the Attorney General’s regulations.”

31. Between 2007 and 2012, 110th Street Development LLC filed with NYAG ten amendments to the offering plan. The representations made in the first, second, third, fifth, sixth and eighth amendments to the offering plan bear no impact on this Assurance.

32. On or about March 31, 2008, 110th Street Development LLC submitted to NYAG a proposed fourth amendment to the offering plan. On May 30, 2008, the fourth amendment to the offering plan was accepted by NYAG for filing. The fourth amendment declared the offering plan effective, which was a prerequisite to 110th Street Development LLC’s closing title to any unit in the Mirada.

33. On or about April 22, 2009, 110th Street Development LLC submitted to NYAG a proposed seventh amendment to the offering plan. On April 1, 2010, the seventh amendment to the offering plan was accepted by NYAG for filing. The seventh amendment represented that 110th Street Development LLC had obtained a TCO, and closed title to the first residential unit in the Mirada on August 6, 2008 at the offices of Harold L. Gruber, P.C.

34. The seventh amendment also reiterated that it is sponsor’s duty to ensure that the TCO remained current and in full force and effect until sponsor obtained a PCO.

35. On or about August 16, 2011, 110th Street Development LLC submitted to NYAG a proposed ninth amendment to the offering plan. On November 30, 2011, the ninth amendment to the offering plan was accepted by NYAG for filing. The ninth amendment reaffirmed the offering plan's representation that the "individual principal of 110th Street Development LLC is Nancy Scarpinito."

36. The ninth amendment also acknowledged that sponsor has an obligation to correct the water leaks throughout the façade of the building.

37. On or about December 8, 2011, 110th Street Development LLC submitted to NYAG a proposed tenth amendment to the offering plan. On February 16, 2012, the tenth amendment to the offering plan was accepted by NYAG for filing. The tenth amendment represents that "[t]he Sponsor recognizes that some of the repair work specified in the report prepared by the Condominium's Architect is necessary . . . Sponsor has not completed that work as of this date."

**D. The Offering Plan for the Mirada Contained False Representations**

**i. Nancy Scarpinito Was Not the Sole Principal of 110th Street Development LLC**

38. In violation of GBL §§ 352-e(1)(b) and 359-e(6), both 110th Street Development LLC's offering plan and broker-dealer registration statement misrepresented that 110th Street Development LLC's sole principal was Nancy Scarpinito.

39. In reality, the John Scarpinito Trust was at all times the managing member of 110th Street Development LLC, and Joseph Scarpinito and Shiraz Sanjana managed 110th Street Development LLC's business affairs.

40. In November of 2012, NYAG issued a *subpoena duces tecum* to Mr. Scarpinito.



In response to that subpoena, Mr. Scarpinito disclosed that the John Scarpinito Trust holds an 85% equity interest in 110th Street Development LLC. Mr. Scarpinito further disclosed that he is the sole trustee of the John Scarpinito Trust, created for the benefit of his sons, James and Joseph, by their paternal grandfather, John Scarpinito.

41. In November of 2012, NYAG issued a *subpoena duces tecum* to Mrs. Scarpinito. In response to that subpoena, Mrs. Scarpinito disclosed that she has no ownership interest in any corporation, partnership or limited liability company; that the John Scarpinito Trust holds an 85.19% ownership interest in 110th Street Development LLC; and that Joseph Scarpinito and Shiraz Sanjana manage 110th Street Development LLC's business affairs. Mrs. Scarpinito's attorney submitted an affirmation with Mrs. Scarpinito's production of information and documents. According to the attorney affirmation, Messrs. Scarpinito and Sanjana contributed to the collection and assembly of the information and documents produced.

42. In November of 2012, NYAG also issued a *subpoena ad testificandum* to Mrs. Scarpinito. Pursuant to that subpoena, in March of 2013, Mrs. Scarpinito testified under oath that she does not, nor has she ever, participated in the development, public offer or sale of any condominium units. During the examination under oath, Mrs. Scarpinito repeatedly directed inquiries about her involvement in real estate businesses to her son, Joseph Scarpinito.

43. When documents purporting to bear Mrs. Scarpinito's signature were shown to her, she testified that she did not sign the documents, and twice she stated that she suspected her signature had been forged.

44. On two occasions, when asked, Mrs. Scarpinito testified that she did not recognize the name "Harold Gruber."

45. In May of 2013, Mr. Gruber voluntarily appeared at NYAG's office for an

interview, and represented that he has not spoken to Mrs. Scarpinito in approximately eight years.

**ii. Messrs. Scarpinito and Sanjana Directed 110th Street Development LLC's Attorney to Submit to NYAG Documents that Misrepresented Mrs. Scarpinito's Role in the Mirada Offering, and Made Other Misrepresentations to Perpetuate the False Pretense that the Attorney Was Acting on Mrs. Scarpinito's Behalf**

46. In representing 110th Street Development LLC before NYAG, Mr. Gruber's client was actually Mr. Sanjana, not Mrs. Scarpinito.

47. At Mr. Sanjana's instruction, Mr. Gruber drafted 110th Street Development LLC's offering plan and its ten amendments, thereby constructing and perpetuating the false pretense that Mrs. Scarpinito was the sole person who controlled 110th Street Development LLC's offering.

48. In fact, as Mr. Gruber admitted in 2013, he had not spoken to Mrs. Scarpinito in approximately eight years.

49. Pursuant to Mr. Gruber's direction, and upon Mr. Scarpinito's written authorization in his capacity as the sole trustee of the John Scarpinito Trust, two Harold L. Gruber, P.C. employees named LaVida Dowdell and Samantha Barchitta acted as 110th Street Development LLC's agents for closing of unit sales for 65 of the 67 residential units in the Mirada.

50. In April of 2013, NYAG issued *subpoenas ad testificandum* to Ms. Barchitta and Ms. Dowdell. Both Ms. Barchitta and Ms. Dowdell testified that they have never met or spoken to Mrs. Scarpinito.

51. During an examination under oath, Mrs. Barchitta testified that Mr. Sanjana would appear at Harold L. Gruber, P.C. with documents he claimed had been "pre-signed" by

Mrs. Scarpinito, and would direct the documents be notarized, without the actual personal appearance of the purported affiant, for submission to NYAG. At Messrs. Sanjana's and Gruber's direction, Ms. Barchitta did this on several occasions.

52. During an examination, Ms. Dowdell testified that the only person she "associated" with 110th Street Development LLC was Shiraz Sanjana.

53. In all, 110th Street Development LLC's attorney drafted, fraudulently authenticated, and then knowingly submitted to NYAG at least nine sworn documents that misrepresented Mrs. Scarpinito's role in the offering, perpetuating the false pretense that the attorney was acting on Mrs. Scarpinito's behalf:

- i. In connection with the second amendment to the offering plan, an Amendment Filing Form notarized by Ms. Barchitta on November 8, 2013, without the actual, personal appearance of the purported affiant, Mrs. Scarpinito.
- ii. In connection with the third amendment to the offering plan, an Amendment Filing Form notarized by Ms. Barchitta on December 20, 2007, without the actual, personal appearance of the purported affiant, Mrs. Scarpinito.
- iii. In connection with the fourth amendment, an Amendment Filing Form notarized or caused to be notarized by Mr. Gruber on March 28, 2008, without the actual, personal appearance of the purported affiant, Mrs. Scarpinito.
- iv. In connection with the fourth amendment, an affidavit required to declare the plan effective, pursuant to 13 NYCRR § 20.5(e)(5), notarized or caused to be notarized by Mr. Gruber on March 28, 2008, without the actual, personal appearance of the purported affiant, Mrs. Scarpinito.
- v. In connection with the fourth amendment, a second affidavit required to declare the plan effective, pursuant to 13 NYCRR § 20.5(e)(6)(ii), notarized or caused to be notarized by Mr. Gruber on March 28, 2008, without the actual, personal appearance of the purported affiant, Mrs. Scarpinito.
- vi. In connection with the fifth amendment to the offering plan, an Amendment Filing Form caused to be notarized by Mr. Gruber on June 27, 2008, without the actual, personal appearance of the purported affiant, Mrs. Scarpinito.
- vii. In connection with the sixth amendment to the offering plan, an Amendment Filing Form notarized or caused to be notarized by Mr. Gruber on July 25,

2008, without the actual, personal appearance of the purported affiant, Mrs. Scarpinito.

- viii. In connection with the ninth amendment, an Amendment Filing Form notarized or caused to be notarized by Mr. Gruber on July 26, 2011 without the actual, personal appearance of the purported affiant, Mrs. Scarpinito.
- ix. In connection with the ninth amendment, an affidavit entitled “Disclsoure [sic] Statement,” notarized or caused to be notarized by Mr. Gruber on September 12, 2011, without the actual, personal appearance of the purported affiant, Mrs. Scarpinito. This disclosure statement represented that: (i) NYAG’s staff directed sponsor to make certain disclosures in an affidavit; (ii) Mrs. Scarpinito is the principal of sponsor; and that sponsor is in the process of resolving the water leaks throughout the façade of the building and the damage caused within units by water infiltration.

54. Those nine documents – six certifications and three affidavits – should have been signed by Mr. Scarpinito or Mr. Sanjana, but instead were purportedly signed by Mrs. Scarpinito, repeatedly misrepresenting to NYAG that Mrs. Scarpinito was the sole principal of 110th Street Development LLC.

**iii. Prior to 110th Street Development LLC’s Obtaining a PCO, Mr. Gruber Illegally Released All of Purchasers’ Down Payments for the Benefit of Respondents**

55. In violation of GBL § 352-e, 110th Street Development LLC failed to timely obtain a PCO for the Mirada, despite its representations in the offering plan and in the seventh amendment that it would do so.

56. The purchasers of units in the Mirada collectively paid \$3,216,697.45 in down payments that the law required to be escrowed pending completion of construction as security for procurement of the PCO.

57. In violation of GBL §§ 352-e(2-b) and 352-h, and the representations made in the offering plan, between 2008 and 2012, Mr. Gruber released these monies from the escrow account to 110th Street Development LLC prior to their obtaining a PCO, and without any

certification from an architect or engineer concerning the cost of completing construction and obtaining the PCO.

**E. 6833 Shore Road (Fee) LLC's Representations in the Offering Plan and Broker-Dealer Registration Statement Filed with the NYAG**

58. Between 2010 and 2012, 6833 Shore Road (Fee) LLC, by its attorney, Lewis Kuper, Esq., submitted numerous documents to NYAG in connection with the offer and sale of condominium units in the Pier Pointe Condominium.

59. On or around January 22, 2010, 6833 Shore Road (Fee) LLC submitted to NYAG a proposed offering plan for the Pier Pointe Condominium.

60. On or about March 10, 2010, 6833 Shore Road (Fee) LLC submitted to NYAG a broker-dealer registration statement. This broker-dealer registration statement represented that 6833 Shore Road (Fee) LLC's sole member was 6833 Shore Road (NY) LLC. The broker-dealer registration statement further represented that 6833 Shore Road (NY) LLC's members were 6833 Shore Road Corporation, the John Scarpinito Trust, Mr. Sanjana's ex-wife, Jujo U. Sanjana, and Nancy Scarpinito. The registration statement also represented that its operating manager was Nancy Scarpinito.

61. On December 28, 2010, NYAG accepted 6833 Shore Road (Fee) LLC's offering plan for the Pier Pointe Condominium for filing. In its offering plan for the Pier Pointe Condominium, 6833 Shore Road (Fee) LLC represented that its sole member is 6833 Shore Road (NY) LLC. That offering plan further represented that 6833 Shore Road (NY) LLC's members were 6833 Shore Road Corporation, the John Scarpinito Trust, Ms. Sanjana and Mrs. Scarpinito.

62. The offering plan's "Procedure to Purchase" section represented that, in order to

purchase a residential unit in the Pier Pointe Condominium, a purchaser must execute a purchase agreement and return it to the sponsor with a check in the amount of 10% of the purchase price, as a down payment, drawn to Lewis Kuper, Esq., as escrow agent.

63. The offering plan represented that Mr. Kuper would act as 6833 Shore Road (Fee) LLC's escrow agent, holding all of purchasers' down payments in an escrow account at Bank of Smithtown. The offering plan also included a copy of the "Escrow Agreement for Contract Deposit" purportedly executed by Mr. Kuper and Mrs. Scarpinito as the operating manager of 6833 Shore Road (NY) LLC, sponsor's sole member.

64. The offering plan's "Closing Costs and Adjustments" section represented that purchasers were required to pay Mr. Kuper, who was acting as sponsor's counsel, a fee for the preparation of closing documents, of \$1,500 per residential unit closing, plus \$350 if purchasing a parking unit with a residential unit.

65. Thereafter, NYAG accepted four amendments for filing. The last amendment was accepted for filing on March 26, 2012, and extended the term of the offering plan for 12 months from that date. The representations made in these four amendments bear no impact on this Assurance.

**F. The Offering Plan for the Pier Pointe Condominium Contained False Representations Concerning 6833 Shore Road (Fee) LLC's Principals**

66. In violation of GBL §§ 352-e(1)(b) and 359-e(6), both 6833 Shore Road (Fee) LLC's offering plan and broker-dealer registration statement misrepresented Nancy Scarpinito's and Jujo Sanjana's involvement in the sponsor's business affairs.

67. In reality, Joseph Scarpinito and Shiraz Sanjana managed 6833 Shore Road (Fee) LLC's business affairs not Mrs. Scarpinito or Mrs. Sanjana.

68. As previously noted above, Mrs. Scarpinito produced documents and information in response to a *subpoena duces tecum*. She produced 6833 Shore Road (Fee) LLC's operating agreement, dated April 22, 2010. That operating agreement states that Mr. Sanjana was the operating manager of 6833 Shore Road (NY) LLC, the sole member of 6833 Shore Road (Fee) LLC.

69. In response to that subpoena, Mrs. Scarpinito disclosed that Joseph Scarpinito and Shiraz Sanjana managed 6833 Shore Road (Fee) LLC's business affairs. Mrs. Scarpinito also disclosed that 6833 Shore Road (NY) LLC has three members: (1) the John Scarpinito Trust, holding a 66% equity interest; (2) Jujo Sanjana, holding a 33% equity interest; and (3) 6833 Shore Road Corporation, holding a 1% equity interest. Mrs. Scarpinito's attorney submitted an affirmation with Mrs. Scarpinito's production of documents and information. According to the attorney affirmation, Messrs. Scarpinito and Sanjana contributed to the collection and assembly of the documents and information produced.

70. As previously noted, in 2013, Mrs. Scarpinito appeared and testified at NYAG's offices, pursuant to a *subpoena ad testificandum*. During her testimony, Mrs. Scarpinito was shown 6833 Shore Road (Fee) LLC's broker-dealer registration statement, and the offering plan's "Certification by Sponsor and Sponsor's Principals Pursuant to 13 NYCRR 20.4(b)," both of which purported to bear Mrs. Scarpinito's signature. When these two documents were shown to her, she testified that she did not sign them.

71. On three occasions, when asked, Mrs. Scarpinito testified that she did not recognize the name "Lewis Kuper."

72. Pursuant to a subpoena issued to a title company, in 2013, NYAG obtained a closing file for one residential unit in the Pier Pointe Condominium that included a copy of 6833

Shore Road (NY) LLC's operating agreement. The agreement bears Mr. Scarpinito's signature, on behalf of two members, the John Scarpinito Trust and a 6833 Shore Road Corporation, and purports to bear Mrs. Sanjana's signature, as the third member of the limited liability company. Mr. Sanjana signed the agreement as operating manager.

73. Pursuant to a *subpoena ad testificandum*, in 2014, Mr. Kuper appeared and testified at NYAG's offices. Mr. Kuper testified under oath that he has not spoken to Mrs. Scarpinito since approximately 2010. Mr. Kuper further testified that, in 2012, he improperly affixed his notary stamp to an Amendment Filing Form that purported to bear Mrs. Scarpinito's signature, without her actual, personal appearance, and then submitted that document to NYAG. This document should have been signed by Mr. Scarpinito or Mr. Sanjana, but instead was purportedly signed by Mrs. Scarpinito, thus misrepresenting to NYAG that Mrs. Scarpinito was a principal of 6833 Shore Road (Fee) LLC.

**G. Mr. Scarpinito Concealed His Role in 110th Street Development LLC's and 6833 Shore Road (Fee) LLC's Offerings to Avoid Disclosing His Background**

74. In violation of GBL §§ 352-e(1)(b) and 359-e(3)(a), 110th Street Development LLC's offering plan and broker-dealer registration statement concealed the identities and business backgrounds of sponsor's actual principals, Joseph Scarpinito, Shiraz Sanjana, and the John Scarpinito Trust, including Mr. Scarpinito's personal bankruptcy and his felony bank fraud conviction.

75. In further violation of GBL §§ 352-e(1)(b) and 359-e(3)(a), 6833 Shore Road (Fee) LLC's offering plan and broker-dealer registration statement concealed the identities and business backgrounds of sponsor's actual principals, Joseph Scarpinito and Shiraz Sanjana, including Mr. Scarpinito's personal bankruptcy and his felony bank fraud conviction.



76. Messrs. Scarpinito and Sanjana thus avoided the disclosure legally required under the Martin Act and its implementing regulations.

**H. Unsold Units at the Mirada and the Pier Pointe Condominium**

77. Of the 68 residential units, two commercial units and one parking unit at the Mirada, the following units remain unsold as of the date of execution of this Assurance:

- i. unit 2I, shown on the Tax Map of New York County as lying in Manhattan, Block 1638, Lot 1010; and
- ii. a parking unit, shown on the Tax Map of New York County as lying in Manhattan, Block 1638, Lot 1071.

78. Of the 22 residential units, one commercial unit, and 12 parking units at the Pier Pointe Condominium, the following units remain unsold as of the date of execution of this Assurance:

- i. unit 1A, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1001;
- ii. unit 1B, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1002;
- iii. unit 3C, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1009;
- iv. unit 3D, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1010;
- v. unit 4C, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1013;
- vi. unit 5B, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1014;
- vii. unit 5D, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1018;
- viii. unit 6D, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1023;

- ix. unit P1, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1024;
- x. unit P2, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1025;
- xi. unit P3, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1026;
- xii. unit P4, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1027;
- xiii. unit P5, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1028;
- xiv. unit P6, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1029;
- xv. unit P7, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1030;
- xvi. unit P8, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1031;
- xvii. unit P9, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1032;
- xviii. unit P10, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1033; and
- xix. unit P11, shown on the Tax Map of New York County as lying in Brooklyn, Block 5859, Lot 1034.

79. However, on or around October 18, 2012, 6833 Shore Road (Fee) LLC contracted with an individual (the “Contract-Vendee”) to sell unit 3D in the Pier Pointe Condominium (“unit 3D”) for a total purchase price of \$630,000. At that time, the Contract-Vendee tendered to 6833 Shore Road (Fee) LLC \$31,500 as a down payment on the unit.

80. The Contract-Vendee has requested that NYAG permit the seller, 6833 Shore Road (Fee) LLC, to close title to unit 3D in the Pier Pointe Condominium, even though the

seller's principals include the John Scarpinito Trust, and Messrs. Scarpinito and Sanjana, all of whom are currently enjoined from engaging in any securities-related activity pursuant to a court order.

**I. After NYAG Brought an Investigatory Proceeding Pursuant to GBL § 354, 110th Street Development LLC Deposited Funds in Escrow with NYAG and Obtained a Permanent Certificate of Occupancy for the Mirada**

81. In December, 2013, NYAG brought an investigatory proceeding pursuant to GBL § 354 for court-ordered discovery and preliminary injunctive relief against Messrs. Scarpinito and Sanjana, the John Scarpinito Trust and 110th Street Development LLC. NYAG obtained a court order, dated December 4, 2013, in *In re the Inquiry of Eric T. Schneiderman*, Index No. 4521792/2013 (the "Order") that:

**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 . . .

82. The Order also directed Messrs. Scarpinito and Sanjana, the John Scarpinito Trust, and 110th Street Development LLC to deposit \$3,216,697.45 with the Court.

83. On or around February 7, 2014, Messrs. Scarpinito and Sanjana, the John Scarpinito Trust, 110th Street Development LLC, and NYAG entered into a Stipulation, pursuant to which \$200,000 was tendered by wire transfer to NYAG to be held in escrow until

the release of the escrowed funds is directed by: (i) an order in the GBL § 354 proceeding on consent of all the parties to the Stipulation; (ii) a final judgment in an enforcement action by NYAG against some or all of the Respondents concerning their offer and sale of residential units in the Mirada; or (iii) an Assurance of Discontinuance that is accepted by NYAG from Respondents under Executive Law § 63(15). Annexed hereto as Exhibit A is a copy of the Stipulation.

84. On March 24, 2014, 110th Street Development LLC obtained a permanent certificate of occupancy from the DOB for the Mirada.

### **PROSPECTIVE RELIEF**

WHEREAS, Respondents neither admit nor deny paragraphs 1 through 76 above of NYAG's Findings;

WHEREAS, Respondents admit paragraphs 77 through 84 above of NYAG's Findings;

WHEREAS, NYAG is willing to accept the terms of this Assurance pursuant to Executive Law § 63(15) and to discontinue its investigation as against Respondents concerning their roles in the offerings at the Mirada and at the Pier Pointe Condominium; and

WHEREAS, the parties each believe that the obligations imposed by this Assurance are prudent and appropriate;

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the parties that:

1. Except for the transactions specified below in paragraph 5 of this Assurance's Prospective Relief provisions, Respondents Joseph Scarpinito, the John Scarpinito Trust, 110th Street Development LLC, 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC and 6833 Shore Road (Fee) LLC are permanently restrained and enjoined from engaging in any securities-

related business or activity, directly or indirectly, as principal, broker or agent, or otherwise, including but not limited to: holding themselves out as anything other than a contractor in connection with any construction project to any lender, prospective purchaser, or other person or entity; negotiating loans from financial institutions for the purpose of developing, offering and selling real estate securities; serving on the board of managers of a condominium or on the board of directors of a cooperative corporation or homeowners' association; or appointing any person to serve on a board of managers of a condominium, or a board of directors of a cooperative corporation or homeowners' association on behalf of any sponsor. Nothing herein shall be construed to prohibit Respondents Joseph Scarpinito, the John Scarpinito Trust, 110th Street Development LLC, 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC and 6833 Shore Road (Fee) LLC from acting as a general contractor or subcontractor for any construction project, or managing, supervising or engaging in construction work ("construction services").

2. Except for the transactions specified below in paragraph 5 of this Assurance's Prospective Relief provisions, Respondent Shiraz Sanajana is enjoined for 16 months, from the December 4, 2013 Order to April 4, 2015, from engaging in any securities-related business or activity, directly or indirectly, as principal, broker or agent, or otherwise, including but not limited to: holding himself out as anything other than a contractor in connection with any construction project concerning real estate securities to any lender, prospective purchaser, or other person or entity; negotiating loans from financial institutions for the purpose of developing, offering and selling real estate securities; serving on the board of managers of a condominium or on the board of directors of a cooperative corporation or homeowners' association; or appointing any person to serve on a board of managers of a condominium, or a board of directors of a cooperative corporation or homeowners' association on behalf of any sponsor. Nothing herein

shall be construed to prohibit Mr. Sanjana from acting as a general contractor or subcontractor for any construction project, or managing, supervising or engaging in construction work (“construction services”).

3. Respondents are permanently restrained and enjoined from violating the Martin Act, the accompanying regulations or other laws that govern the public offer and sale of real estate securities within or from New York State, and from engaging in the fraudulent, deceptive and illegal acts alleged herein.

4. Respondents are permanently restrained and enjoined from using any person or entity to conceal a Respondent’s identity and role in any securities offering.

5. Nothing herein shall prohibit Respondents from offering and selling the one unsold residential unit and the one unsold parking unit in the Mirada, as well as the eight unsold residential units and 11 unsold parking units in the Pier Pointe Condominium, subject to the following restrictions:

- i. 110th Street Development LLC and 6833 Shore Road (Fee) LLC must supplement their respective broker-dealer registration statements to disclose all of their actual principals, and each must also submit a proposed amendment to the offering plan to NYAG within 30 days of the execution of this Assurance;
- ii. The proposed amendment shall: disclose the identities and backgrounds of sponsor’s actual principals, including Mr. Scarpinito’s personal bankruptcy and felony bank fraud conviction; contain a certification executed by sponsor’s actual principals; advise prospective purchasers that if a unit closing does not occur within the time period required by this Assurance, sponsor is prohibited from closing on the transaction and must return the purchaser’s down payment; enclose this Assurance as an Exhibit; and otherwise comply with the Martin Act and NYAG’s regulations;
- iii. No marketing or sales activity may occur prior to the acceptance of an amendment to the offering plan (for the Mirada or for the Pier Pointe Condominium) by the NYAG for filing described in paragraph 5(ii) of this Assurance’s Prospective Relief provisions, other than 6833 Shore Road (Fee)

LLC's closing of title to unit 3D to the Contract Vendee;

- iv. Notwithstanding sub-paragraphs (i), (ii) and (iii) of paragraph 5 of this Assurance's Prospective Relief provisions, 6833 Shore Road (Fee) LLC may close title to unit 3D to the Contract-Vendee no less than three business days after the Contract-Vendee executes the affidavit annexed hereto as Exhibit B in the presence of a notary public, and submits that affidavit to NYAG;
- v. Any marketing and sales activity including closings must be conducted within twelve months of the date of NYAG's letter accepting an amendment for filing, and Respondents must make a good faith effort to sell all unsold units;
- vi. 110th Street Development LLC may increase the unit prices from the price listed in the offering plan, as amended by the first through tenth amendments, and may sell any unit for a price higher than those disclosed prices;
- vii. 6833 Shore Road (Fee) LLC may increase the unit prices from the price listed in the offering plan, as amended by the first through fourth amendments, and may sell the units for a price higher than those disclosed prices;
- viii. Respondents shall not employ a real estate broker or sales person who is affiliated with or related to any of the Respondents, their members or principals, except for Warren Lewis Sotheby's International Realty;
- ix. Respondents shall sell unsold units only to bona fide purchasers, and may sell to sponsor's selling agent, managing agent, or a relative of any principal of sponsor by blood, marriage or adoption or as a business associate, an employee, a shareholder or a limited partner upon submission of proof satisfactory to NYAG establishing that the purchaser is bona fide;
- x. Respondents shall provide NYAG with a copy of each purchase agreement within ten business days of its execution;
- xi. Respondents shall submit a copy of the title company's report for each unit closing to NYAG at least five business days prior to a unit closing; and
- xii. In connection with each unit closing, the proceeds from the sale of the unit payable to any Respondent, or any of their members, principals or agents – *i.e.*, total purchase price less the closing costs identified by the title company's report for the unit closing – must be tendered to NYAG within five business days of the closing.

6. Respondents shall pay the State of New York a total of \$500,000 in civil

penalties, fees and costs, as follows:

- i. The \$200,000 that NYAG has held in escrow pursuant to the Stipulation annexed hereto as Exhibit A shall be released to the State of New York upon execution of this Assurance;
- ii. If the amount tendered to NYAG pursuant to paragraph 5(xii) of this Assurance's Prospective Relief provisions is less than \$300,000, then the amount tendered shall be deemed to be monies paid in partial satisfaction of the total amount of civil penalties, fees and costs due to the State of New York under this Assurance and, within nine months of the execution of this Assurance, Respondents shall pay the State of New York the remaining amount due and owing; and
- iii. If the amount tendered to NYAG pursuant to paragraph 5(xii) of this Assurance's Prospective Relief provisions exceeds \$300,000, then after \$300,000 has been paid to the State of New York in full satisfaction of the total amount of civil penalties, fees and costs due under this Assurance, the remaining amount shall be held by NYAG in escrow pursuant to the terms set forth in paragraphs 7 and 8 of this Assurance's Prospective Relief provisions.

7. Respondents shall execute the arbitration agreement annexed hereto as Exhibit C, the arbitrator's award shall be confirmed and judgment thereon entered in any court having jurisdiction thereof pursuant to Article 75 of the CPLR, and if the arbitrator grants judgment awarding monies in favor of the board of managers of the Mirada against any Respondent, all Respondents shall be jointly and severally liable for that award. Respondents shall comply with the terms of the arbitration agreement annexed hereto as Exhibit C and comply with the rulings and judgment of the arbitrator.

8. Respondents shall fully satisfy the arbitrator's award by payment to the board of managers for the Mirada, as follows:

- i. NYAG shall not release any of the funds held by him in escrow pursuant to paragraph 6(iii) of this Assurance's Prospective Relief provisions (other than the \$300,000 of civil penalties, fees and costs owed to the State of New York) to anyone until his receipt of notice of entry of the judgment on the confirmed arbitration award with a court of competent jurisdiction;
- ii. If the amount held in escrow by NYAG pursuant to paragraph 6(iii) of this



Assurance's Prospective Relief provisions, after \$300,000 is used to fully satisfy the payment of civil penalties, fees and costs owed to the State of New York, is less than the amount of the arbitrator's award against Respondents, then the remaining amount of funds held by NYAG, if any, shall be tendered to the attorney for the board of managers of the Mirada, and Respondents shall pay the remaining amount due and owing within three months of the date the arbitrator granted that award.

- iii. If the amount held in escrow by NYAG pursuant to paragraph 6(iii) of this Assurance's Prospective Relief provisions, after \$300,000 is used to fully satisfy the payment of civil penalties, fees and costs owed to the State of New York, is more than the amount of the arbitrator's award against Respondents, then NYAG shall release the amount of funds sufficient to fully satisfy the arbitrator's award to the board of managers for the Mirada, with the remainder returned to Respondents.

9. From the date of the arbitrator's award, going forward, Respondents shall pay the board of managers for the Mirada the monthly common charges for on 110th Street Development LLC's one unsold residential unit, and the unsold parking unit in a timely manner, for as long as a Respondent owns those units.

10. Respondents shall pay the board of managers for the Pier Pointe Condominium all unpaid common charges on 6833 Shore Road (Fee) LLC's eight unsold residential units and 11 unsold parking units within fourteen days of the execution of this Assurance, and going forward shall pay the monthly common charges for those units in a timely manner, for as long as a Respondent owns those units.

11. The parties shall execute and submit to the Court the Stipulation annexed hereto as Exhibit D, to be so-ordered in in *In re the Inquiry of Eric T. Schneiderman*, Index No. 4521792/2013.

12. Any application by Respondents Joseph Scarpinito, the John Scarpinito Trust, 110th Street Development LLC, 6833 Shore Road (NY) LLC or 6833 Shore Road (Fee) LLC to

the Court to vacate, modify or dissolve the permanent injunctions set out in paragraph 1 of this Assurance's Prospective Relief provisions, or the injunctive relief set out in the Order or in the Stipulation annexed hereto as Exhibit D: (i) must be made in accordance with the requirements set forth in GBL § 359-g(3); (ii) must include a copy of this Assurance as an exhibit; and (iii) must not be made less than five years after the execution of this Assurance.

13. Unless and until a court of competent jurisdiction vacates, modifies, or dissolves the permanent injunctive relief set out in paragraph 1 of this Assurance's Prospective Relief provisions, and the injunctive relief set out in the Order and in the Stipulation annexed hereto as Exhibit D, Respondents Joseph Scarpinito, the John Scarpinito Trust, 110th Street Development LLC, 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC and 6833 Shore Road (Fee) LLC must disclose the existence of this Assurance in any application to any government agency or public authority for work on any construction project including but not limited to proposals submitted with regard to any requests for proposals and applications for government or public financing.

14. Unless and until a court of competent jurisdiction vacates, modifies, or dissolves the injunctive relief set out in paragraph 1 of this Assurance's Prospective Relief provisions, and the injunctive relief set out in the Order and in the Stipulation annexed hereto as Exhibit D, as against Respondents Joseph Scarpinito, the John Scarpinito Trust, 110th Street Development LLC, 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC or 6833 Shore Road (Fee) LLC, those Respondents must provide written notice to NYAG of their business activities relating to construction services for any building that contains at least one residential unit in New York State, on a semi-annual basis, and such notice shall identify the address of each

construction project together with the name of the developer, and Respondent's role in the project.

15. All Respondents shall fully cooperate with the NYAG's ongoing investigation into the conduct of Lewis Kuper, Esq. in his representation of sponsors.

16. If Respondents Joseph Scarpinito, the John Scarpinito Trust, 110th Street Development LLC, 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC and 6833 Shore Road (Fee) LLC fully comply with the requirements set out in paragraphs 1 through 15 of this Assurance's Prospective Relief provisions, NYAG shall not oppose a Respondent's application to a court of competent jurisdiction to dissolve the permanent injunctions set forth in paragraph 1 of this Assurance's Prospective Relief provisions, the injunctive relief set out in the Order, and the injunctive relief set out in the Stipulation annexed hereto as Exhibit D, as against that Respondent. Nothing herein modifies NYAG's right to investigate a Respondent and the allegations of its application, or Respondent's obligation to file with the court a surety bond in the sum of \$1,000 guarantying that it will pay all costs and expenses of that investigation.

17. If a court of competent jurisdiction grants the application of Respondents Joseph Scarpinito, the John Scarpinito Trust, 110th Street Development LLC, 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC or 6833 Shore Road (Fee) LLC to dissolve permanent injunctions, as described in paragraph 12 of this Assurance's Prospective Relief provisions, and after the expiration of the 15-month injunction against Respondent Shiraz Sanjana described in paragraph 2 of this Assurance's Prospective Relief provisions, should a Respondent directly or indirectly control a sponsor of real estate securities within or from New York State, any broker-dealer statement, offering plan or no-action application submitted by that sponsor and filed with

NYAG for the offer or sale of real estate securities shall represent:

- i. the Respondent's decision-making role or equity interest in the offering, and whether that Respondent has ever been convicted of a felony; and
- ii. that NYAG had previously accepted this Assurance from the Respondent, and that the Respondent would make a copy of the Assurance available to any prospective purchaser upon request.

18. Any payments and all correspondence related to this Assurance must reference Assurance # 14-194.

19. All notices, document productions, requests, and other communications to any party pursuant to this Assurance shall be in writing and shall be directed as follows:

If to Joseph Scarpinito or the John Scarpinito Trust, to:

Maurice Sercarz, Esq.  
Sercarz & Riopelle, LLP  
810 Seventh Avenue  
New York, New York 10019

If to Shiraz Sanjana, to:

Marc M. Isaac, Esq.  
Law Office of Marc M. Isaac PLLC  
23 South Main Street, Suite 30  
Freeport, New York 11520

If to 110th Street Development LLC, 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC or 6833 Shore Road (Fee) LLC, to:

John D. Rapoport, Esq.  
John D. Rapoport, PC  
1085 Warburton Avenue # 609  
Yonkers, New York 10701

If to NYAG, to:

Serwat Farooq  
Assistant Attorney General  
Office of the Attorney General of the State of New York  
120 Broadway, 23rd Floor

New York, New York 10271

20. Monies that Respondents must tender to NYAG or the State of New York pursuant to paragraphs 5(xii) and 6(ii) of this Assurance's Prospective Relief provisions shall be sent by wire transfer to the following account:

Bank Name:  
Bank Routing No.:  
Account Title:  
Account No.:



21. Any monies that NYAG releases to the board of managers of the Mirada pursuant to paragraph 8 of this Assurance's Prospective Relief provisions shall be made by check payable to "The Board of Managers for the Mirada" and sent by first class mail to Wolf Haldenstein Adler Freeman & Herz LLP, 270 Madison Avenue, New York, New York 10016, Attn: Steven Sladkus, Esq., Attorney for the Board of Managers of the Mirada.

22. Any monies that NYAG releases to Respondents pursuant to paragraph 8 of this Assurance's Prospective Relief provisions shall be made by check payable to "Joseph Scarpinito" and sent by first class mail to Sercarz & Riopelle, LLP, 810 Seventh Avenue, New York, New York 10019, Attn: Maurice H. Sercarz, Attorney for Joseph Scarpinito.

23. NYAG has agreed to the terms of this Assurance based on, among other things, the representations made by Respondents and their counsel and NYAG's own factual investigation, as set forth in paragraphs 1 through 84 above of NYAG's Findings. To the extent that any material representations are later found to be inaccurate or misleading, this Assurance is voidable by NYAG in its sole discretion.

24. If the Assurance is voided or breached, Respondents agree that any statute of limitations or other time-related defenses applicable to the subject of the Assurance and any

claims arising from or relating thereto are tolled from and after the date of this Assurance. In the event the Assurance is voided or breached, Respondents expressly agree and acknowledge that this Assurance shall in no way bar or otherwise preclude NYAG from commencing, conducting or prosecuting any investigation, action or proceeding, however denominated, related to the Assurance, against Respondents, or from using in any way any statements, documents or other materials produced or provided by Respondents prior to or after the date of this Assurance.

25. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Respondents in agreeing to this Assurance.

26. Respondents represent and warrant, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized. The Respondents shall not take any action or make any statement denying, directly or indirectly, the propriety of this Assurance or expressing the view that this Assurance is without factual basis. Nothing in this paragraph affects the Respondents' (i) testimonial obligations or (ii) right to take legal or factual positions in defense of litigation or other legal proceedings to which NYAG is not a party. This Assurance is not intended for use by any third party in any other proceeding and is not intended, and should not be construed, as an admission of liability by the Respondents.

27. This Assurance may not be amended except by an instrument in writing signed on behalf of all the parties to this Assurance.

28. This Assurance shall be binding on and inure to the benefit of the parties to this Assurance, and their respective successors and assigns, provided that no party, other than

NYAG, may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of NYAG.

29. Paragraphs 7 through 9 of this Assurance's Prospective Relief provisions also shall inure to the benefit of the board of managers for the Mirada.

30. Paragraph 10 of this Assurance's Prospective Relief provisions also shall inure to the benefit of the board of managers for the Pier Pointe Condominium.

31. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held to be invalid, illegal, or unenforceable in any respect, in the sole discretion of NYAG such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

32. To the extent not already provided under this Assurance, the Respondents shall, upon request by NYAG, provide all documentation and information necessary for NYAG to verify compliance with this Assurance.

33. Acceptance of this Assurance by NYAG shall not be deemed approval by NYAG of any of the practices or procedures referenced herein, and the Respondents shall make no representation to the contrary.

34. Pursuant to Executive Law § 63(15), evidence of a violation of this Assurance shall constitute *prima facie* proof of violation of the applicable law in any action or proceeding thereafter commenced by NYAG.

35. If a court of competent jurisdiction finally determines that a Respondent has committed any act or omission that violates paragraphs 1 through 4 of this Assurance's Prospective Relief provisions, or the injunctive relief set out in the Order or in the Stipulation

annexed hereto as Exhibit D, that Respondents shall be liable to the State of New York in damages (actual damages being difficult or impossible to ascertain) for civil penalties in the amount of \$50,000 for each such violative act or omission and shall also pay to NYAG the cost of enforcing this Assurance, including but not limited to attorneys' fees, expenses and court costs. The civil penalties associated with each violative act or omission are intended to be cumulative.

36. If a court of competent jurisdiction finally determines that a Respondent has committed any act or omission that violated the restrictions set forth in paragraphs 5 of this Assurance's Prospective Relief provisions, NYAG shall be entitled to disgorge each Respondent's profits made from the corresponding condominium unit sale, and shall also pay to NYAG the cost of enforcing this Assurance, including but not limited to attorneys' fees, expenses and court costs.

37. If a court of competent jurisdiction finally determines that a Respondent has committed any act or omission that violates any other paragraph of this Assurance's Prospective Relief provisions, that Respondent shall pay to NYAG the cost of enforcing this Assurance, including but not limited to attorneys' fees, expenses and court costs.

38. The remedies set out in paragraphs 35 through 37 of this Assurance's Prospective Relief provisions shall supplement and be in addition to the remedies available to NYAG under Executive Law § 63(12) and the Martin Act.

39. NYAG finds the relief and agreements contained in this Assurance appropriate and in the public interest.

40. This Assurance shall be governed by the laws of the State of New York without



regard to any conflict of laws principles.

41. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

42. This Assurance may be executed in one or more counterparts, by either original signature, signature transmitted by facsimile transmission, or signature transmitted by electronic mail, and each copy so executed shall be deemed to be an original.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, this Assurance is executed by the parties hereto on the 3<sup>th</sup>  
day of October, 2014.

ERIC T. SCHNEIDERMAN  
Attorney General of the State of New York

By: Serwat Farooq  
Serwat Farooq  
Assistant Attorney General  
120 Broadway, 23rd Floor  
New York, New York 10271

SERCARZ & RIOPELLE, LLP  
*Attorney for Respondents Joseph Scarpinito  
and the John Scarpinito Trust*

By: \_\_\_\_\_  
Maurice Sercarz, Esq.  
810 Seventh Avenue  
New York, New York 10019

THE JOHN SCARPINITO TRUST

By: \_\_\_\_\_  
Joseph Scarpinito  
Sole Trustee of the John Scarpinito Trust

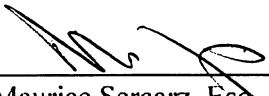
\_\_\_\_\_  
JOSEPH SCARPINITO, personally

IN WITNESS WHEREOF, this Assurance is executed by the parties hereto on the \_\_\_th day of October, 2014.


ERIC T. SCHNEIDERMAN  
Attorney General of the State of New York

By: \_\_\_\_\_  
Serwat Farooq  
Assistant Attorney General  
120 Broadway, 23rd Floor  
New York, New York 10271

SERCARZ & RIOPELLE, LLP  
*Attorney for Respondents Joseph Scarpinito  
and the John Scarpinito Trust*

By: \_\_\_\_\_  
  
Maurice Sercarz, Esq.  
810 Seventh Avenue  
New York, New York 10019

THE JOHN SCARPINITO TRUST

By: \_\_\_\_\_  
  
Joseph Scarpinito  
Sole Trustee of the John Scarpinito Trust

By: \_\_\_\_\_  
  
JOSEPH SCARPINITO, personally

LAW OFFICE OF MARC M. ISAAC P.L.L.C  
*Attorney for Shiraz Sanjana*

By: Marc M. Isaac  
Marc Isaac, Esq.  
23 South Main Street, Suite 30  
Freeport, New York 11520

Shiraz Sanjana  
SHIRAZ SANJANA, personally

JOHN D. RAPOPORT, P.C.  
*Attorney for 110th Street Development LLC, 6833 Shore  
Road Corporation, 6833 Shore Road (NY) LLC and  
6833 Shore Road (Fee) LLC*

By: John D. Rapoport  
John D. Rapoport, Esq.  
1085 Warburton Avenue, Apt. 609  
Yonkers, New York 10701

110th Street Development LLC

By: \_\_\_\_\_  
The John Scarpinito Trust, by its sole trustee,  
Joseph Scarpinito

LAW OFFICE OF MARC M. ISAAC PLLC  
*Attorney for Shiraz Sanjana*

By: \_\_\_\_\_  
Marc Isaac, Esq.  
23 South Main Street, Suite 30  
Freeport, New York 11520

\_\_\_\_\_  
SHIRAZ SANJANA, personally

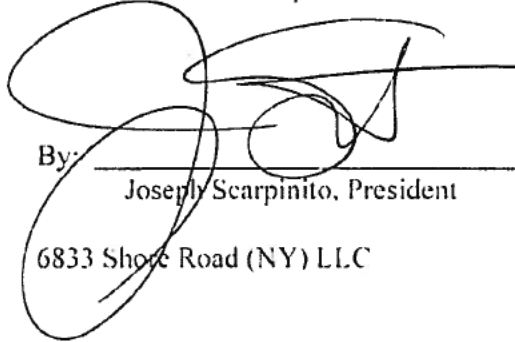
JOHN D. RAPOPORT, P.C.  
*Attorney for 110th Street Development LLC, 6833 Shore  
Road Corporation, 6833 Shore Road (NY) LLC and  
6833 Shore Road (Fee) LLC*

By: \_\_\_\_\_  
John D. Rapoport, Esq.  
1085 Warburton Avenue, Apt. 609  
Yonkers, New York 10701

110th Street Development LLC

By:  \_\_\_\_\_  
The John Scarpinito Trust, by its sole trustee,  
Joseph Scarpinito

6833 Shore Road Corporation



By: \_\_\_\_\_  
Joseph Scarpinito, President

6833 Shore Road (NY) LLC

By: \_\_\_\_\_  
Shiraz Sanjana, Operating Manager

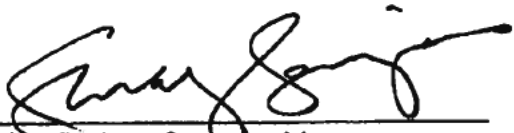
6833 Shore Road (Fee) LLC

By: \_\_\_\_\_  
Shiraz Sanjana, as Operating Manager of  
6833 Shore Road (NY) LLC, the sole  
member of 6833 Shore Road (Fee) LLC

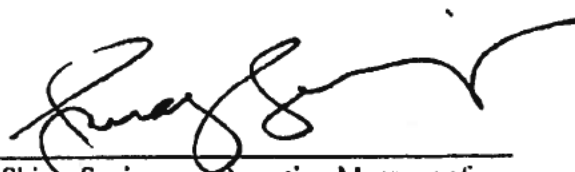
6833 Shore Road Corporation

By: \_\_\_\_\_  
Joseph Scarpinito, President

6833 Shore Road (NY) LLC

By:   
Shiraz Sanjana, Operating Manager

6833 Shore Road (Fee) LLC

By:   
Shiraz Sanjana, as Operating Manager of  
6833 Shore Road (NY) LLC, the sole  
member of 6833 Shore Road (Fee) LLC

# Exhibit A



SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: STEVEN E. LIEBMAN E-FILE
SPECIAL REFEREE Justice

PART 86

MATTER OF ERIC T. SCHNEIDERMAN

-v-

JOSEPH SCARPINTO et al.

INTERIM ORDER

INDEX NO. 452179/13
MOTION DATE FEB 10 2014
MOTION SEQ. NO.

The following papers, numbered 1 to , were read on this motion to/for

Notice of Motion/Order to Show Cause - Affidavits - Exhibits No(s).

Answering Affidavits - Exhibits No(s).

Replying Affidavits No(s).

Upon the submitted papers, it is ordered that this submitted Stipulation incorporated herein, attached hereto and made a part hereof having been so ordered this same date shall constitute the decision and order of the court.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Dated: FEB 10 2014

Signature of Steven E. Liebman
STEVEN E. LIEBMAN
SPECIAL REFEREE

- 1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER
3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

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

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 SCARPINITO, SHIRAZ SANJANA,  
THE JOHN SCARPINITO 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.

X  
: Index No. 452179/2013

:  
: Hon. Joan Lobis  
: Part 6

:  
: Hon. Steven Liebman  
: Part 86R

:  
: STIPULATION

-----X  
WHEREAS, Petitioner, New York Attorney General Eric T. Schneiderman, brought the above-captioned proceeding pursuant to New York General Business Law ("GBL") § 354 for court-ordered discovery and preliminary injunctive relief against Respondents Joseph Scarpinito, Shiraz Sanjana, The John Scarpinito Trust and 110th Street Development LLC (collectively, the "Developer-Respondents"), and others, as part of a Martin Act investigation;

WHEREAS, Petitioner seeks to sequester funds, to be held in escrow, until: (i) the Petitioner and the Developer-Respondents settle Petitioner's claims against the Developer-Respondents concerning their offer and sale of residential units in the building known as The Mirada, located at 161 East 110<sup>th</sup> Street, Manhattan, New York (the "Condominium"); or (ii) the Court issues a final Judgment in an enforcement action by Petitioner against some or all of the Developer-Respondents concerning their offer and sale of residential units in the Condominium;

WHEREAS, Petitioner obtained a Court Order, dated December 4, 2013 (the "Order"), requiring all the Respondents collectively deposit with the Court \$3,216,697.45;

WHEREAS, the Developer-Respondents have yet to deposit funds in escrow;

IT IS HEREBY CONSENTED TO, STIPULATED AND AGREED, by and between the undersigned counsel for Petitioner and the Developer-Respondents (collectively, "the parties"), as follows:

1. Upon execution of this Stipulation, the undersigned Assistant Attorney General shall provide written notice to counsel for the Developer-Respondents identifying the bank account to which they shall wire the below funds to the Petitioner.

2. Within two business days of the execution of this Stipulation, the Developer-Respondents shall tender \$200,000 by wire transfer to the Petitioner that shall be held in escrow until the release of the escrowed funds is directed by: (i) an Order in this GBL § 354 proceeding on consent of all the parties to this Stipulation; (ii) a final Judgment in an enforcement action by Petitioner against some or all of the Developer-Respondents concerning their offer and sale of residential units in the Condominium; or (iii) an Assurance of Discontinuance accepted by Petitioner from the Developer-Respondents under Executive Law § 63(15).

3. Upon confirmation of receipt of the funds specified in paragraph 2 above in the Petitioner's bank account, Petitioner waives any right to move to hold the Developer-Respondents in contempt of court concerning, or otherwise enforce, the part of the Court's Order that required all Respondents to collectively deposit \$3,216,697.45 with the Court.

4. Petitioner has agreed to the terms of this Stipulation based on, *inter alia*, the representations made by the Developer-Respondents and their counsel that the Developer-Respondents are using their best efforts to procure a permanent certificate of occupancy for the

Condominium, and that the cost of obtaining such certificate is *de minimus*. To the extent that any of these material representations are later found to be inaccurate or misleading, this Stipulation is voidable.

5. The Developer-Respondents shall provide Petitioner with a weekly report updating the status of each of the "B-Scan List of Required Items," as defined by New York City's Department of Buildings (the "DOB"), necessary for their issuance of a permanent certificate of occupancy for the Condominium, by the close of business on Friday of each week, until one of the following shall occur: (i) the DOB issues a permanent certificate of occupancy for the Condominium; (ii) the Court issues a final Judgment in an enforcement action by the Petitioner against the Developer-Respondents concerning their offer and sale of condominium units in the Condominium; or (iii) Petitioner accepts an Assurance of Discontinuance from all of the Developer-Respondents under Executive Law § 63(15).

6. Nothing in this Stipulation abrogates, amends or modifies the Developer-Respondents' obligations under the Court's Order except as expressly stated herein.

7. Nothing contained herein shall be construed as to limit the Petitioner's authority to take any enforcement action except as stated herein.

8. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Stipulation has been made to or relied upon by the Developer-Respondents in agreeing to this Stipulation.

9. Counsel for the Developer-Respondents represent and warrant, through the signatures below, that the terms and conditions of this Stipulation are duly approved, and execution of this Stipulation is duly authorized. The Developer-Respondents shall not take any action or make any statement denying, directly or indirectly, the propriety of this Stipulation or

expressing the view that this Stipulation is without factual basis.

10. This Stipulation may not be amended except by an instrument in writing signed on behalf of all the parties to this Stipulation.

11. This Stipulation shall be binding on and inure to the benefit of the parties to this Stipulation and their respective successors and assigns, provided that no party, other than Petitioner, may assign, delegate, or otherwise transfer any of its rights or obligations under this Stipulation without the prior written consent of Petitioner.

12. In the event that any one or more of the provisions contained in this Stipulation shall for any reason be held to be invalid, illegal, or unenforceable in any respect, in the sole discretion of Petitioner such invalidity, illegality, or unenforceability shall not affect any other provision of this Stipulation.

13. If the Court determines that the Developer-Respondents have breached this Stipulation, the Developer-Respondents shall pay to the Petitioner the cost, if any, of enforcing this Stipulation, including without limitation legal fees, expenses, and court costs.

14. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

15. All notices, document productions, requests, and other communications to any party pursuant to this Stipulation shall be in writing and shall be directed as follows:

If to Joseph Scarpinito or The John Scarpinito Trust, to:

Maurice Sercarz, Esq.  
Sercarz & Riopelle, LLP  
810 Seventh Avenue  
New York, New York 10019

If to Shiraz Sanjana, to:

Marc M. Isaac, Esq.  
Law Office of Marc M. Isaac PLLC  
23 South Main Street, Suite 30  
Freeport, New York 11520

If to 110th Street Development, to:

John D. Rapoport, Esq.  
John D. Rapoport, P.C.  
1085 Warburton Avenue, Apartment 609  
Yonkers, New York 10701

If to the Petitioner, to:

Serwat Farooq  
Assistant Attorney General  
Office of the Attorney General of the State of New York  
120 Broadway, 23rd Floor  
New York, New York 10271

16. A facsimile or electronic signature on this Stipulation shall be deemed an original.
17. This Stipulation may be executed in counterparts.
18. Pursuant to CPLR § 4317, Special Referee Steven Liebman shall hear and determine all issues relating to this Stipulation including but not limited to so-ordering this Stipulation.

Dated: February 10, 2014  
New York, New York

ERIC T. SCHNEIDERMAN  
Attorney General of the State of New York  
Petitioner

By: Serwat Farooq  
Serwat Farooq

Dated: February 7, 2014  
\_\_\_\_\_, New York

SERCARZ & RIOPELLE, LLP  
Attorney for Respondents Joseph Scarpinito  
and The John Scarpinito Trust

By: Maurice Sercarz  
Maurice Sercarz, Esq.

Assistant Attorney General  
120 Broadway, 23rd Floor  
New York, New York 10271

810 Seventh Avenue  
New York, New York 10019

Dated: February 7, 2014  
Freeport, New York

LAW OFFICE OF MARC M. ISAAC PLLC  
*Attorney for Respondent Shiraz Sanjana*


By: Marc M. Isaac  
Marc M. Isaac, Esq.  
23 South Main Street, Suite 30  
Freeport, New York 11520

Dated: February 7, 2014  
Yonkers, New York

JOHN D. RAPOPORT, P.C.  
*Attorney for Respondent 110th Street  
Development LLC*

By: John D. Rapoport  
John D. Rapoport, Esq.  
1085 Warburton Avenue, Apt. 609  
Yonkers, New York 10701

SO ORDERED: FEB 10 2014

SO ORDERED  
  
**STEVEN E. LIEBMAN**  
SPECIAL REFEREE

# Exhibit B



**AFFIDAVIT**

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

PATRICIA WITHEROW, being duly sworn, deposes and says:

1. I submit this affidavit in support of my application to New York Attorney General Eric T. Schneiderman (“NYAG”) to take no enforcement action against the sale of unit 3D at the Pier Pointe Condominium, located at 6833 Shore Road, Brooklyn, New York, from 6833 Shore Road (Fee) LLC to me.

2. On or around October 18, 2012, I contracted with 6833 Shore Road (Fee) LLC to buy unit 3D in the Pier Pointe Condominium for a total purchase price of \$630,000. I tendered to 6833 Shore Road (Fee) LLC \$31,500 as a down payment on the unit.

3. According to 6833 Shore Road (Fee) LLC’s offering plan for the Pier Pointe Condominium, its managing member is 6833 Shore Road (NY) LLC. The offering plan further represented that the John Scarpinito Trust, Nancy Scarpinito, and Jujo Sanjana, are members of 6833 Shore Road (NY) LLC.

4. I have been advised by 6833 Shore Road (Fee) LLC that it was under investigation by the NYAG for failure to disclose Joseph Scarpinito and Shiraz Sanjana’s roles in the offering at the Pier Pointe Condominium, and that they used Nancy Scarpinito, Mr. Scarpinito’s mother, and Jujo Sanjana, Mr. Sanjana’s ex-wife, as a front. I have learned that Mr. Scarpinito’s background includes a personal bankruptcy and a felony conviction for bank fraud.

5. I have received a copy of the Assurance of Discontinuance that the NYAG accepted from John Scarpinito Trust, Joseph Scarpinito and Shiraz Sanjana. Despite the

NYAG's Findings in that Assurance of Discontinuance, I wish to close on the sale of unit 3D at the Pier Pointe Condominium.

6. I am represented by legal counsel and have been advised of any risks associated with closing on this sale.

Dated: \_\_\_\_\_, 2014

---

PATRICIA WITHEROW

Sworn to before me this  
\_\_ day of \_\_\_\_\_, 2014.

---

NOTARY PUBLIC

# Exhibit C

## **AGREEMENT TO ARBITRATE DISPUTE**

WHEREAS, the board of managers of the Mirada brought an action, *Board of Managers of the Mirada v. 110th Street Development LLC*, Index No. 104480/2011 (Sup. Ct. N.Y. Co.) (the “Action”) claiming to be harmed by defects in the construction and design of its condominium building, which was publicly offered and sold by 110th Street Development LLC, Joseph Scarpinito, Shiraz Sanjana and the John Scarpinito Trust (together with the board of managers, “the Parties”); and

WHEREAS, the New York Attorney General (“NYAG”) commenced an investigation pursuant to Executive Law § 63(12) and the Martin Act, New York General Business Law (“GBL”) § 352 *et seq.*, into the conduct of Joseph Scarpinito, Shiraz Sanjana, the John Scarpinito Trust and 110th Street Development LLC (collectively, the “Respondents”) in connection with the offering of real estate securities at the Mirada, a newly-constructed condominium located at 161-171 East 110th Street, New York, New York; and

WHEREAS, the Parties wish to resolve their dispute through arbitration rather than through further litigation; and

WHEREAS, the NYAG has concluded his investigation of Respondents by accepting an Assurance of Discontinuance from them;

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for the Parties, as follows:

1. Upon the execution of this agreement, the Parties shall jointly move the Court pursuant to CPLR 7503 to stay the Action, pending a determination by the arbitrator concerning the board of managers’ claims against 110th Street Development LLC, Joseph Scarpinito and Shiraz Sanjana.

2. The Parties shall submit to arbitration their disputes concerning: (i) the construction and condition of the Mirada, located at 161-171 East 110th Street, New York, New York, including the board of managers' currently pending claims in the Action against 110th Street Development LLC, Joseph Scarpinito and Shiraz Sanjana; (ii) the amount of common charges due and owing from 110th Street Development LLC to the board of managers of the Mirada; and (iii) the amount of unpaid rent due and owing from the board of managers of the Mirada to 110th Street Development LLC. The arbitration award shall be confirmed and judgment thereon entered in any court having jurisdiction thereof pursuant to Article 75 of the CPLR. The arbitration award shall be final, no appeal may be taken therefrom.

3. Arbitration shall be administered by Oliver Rosengart, Esq. The parties shall comply with the terms of this arbitration agreement, and comply with the rulings and judgment of the arbitrator; an arbitration award against any Respondent must be fully satisfied within three months of the date the arbitrator granted the award, and all Respondents shall be jointly and severally liable for that award.

4. The arbitrator will not function as a representative of any of the Parties.

5. If, for any reason, Mr. Rosengart cannot complete the arbitration, within 30 days thereafter, Respondents and the board of managers of the Mirada shall each recommend three alternatives, and a replacement arbitrator shall be appointed in the discretion of NYAG.

6. The Respondents are jointly and severally responsible for the arbitrator's fees.

7. The Parties shall bear their own costs and expenses, exclusive of the arbitrator's fees.

8. In the event that the arbitrator appoints an independent third-party engineer as part of the arbitration, the Respondents shall pay 50% of that engineer's fees, and the board of managers of the Mirada shall pay 50%, of that engineer's fees.

9. At the request of any of the Parties, the arbitrator shall have the discretion to order examination of expert witnesses by deposition of witnesses by the Parties to the extent the arbitrator deems such additional discovery relevant and appropriate. Depositions shall be limited to a maximum of two against the board of managers of the Mirada, and two against the Respondents, and shall be held within 30 days of the making of a request for a deposition. Each deposition shall be limited to a maximum of six hours duration, excluding breaks. All objections are reserved for any arbitration hearing except objections based on privilege or confidential information.

10. Any award in an arbitration initiated under this agreement shall be limited to monetary damages and shall include no injunction or direction to any party other than the direction to pay a monetary amount.

11. The arbitrator's award shall be in writing, and signed by the arbitrator.

12. An arbitration award against any Respondent pursuant to the arbitration agreement must be fully satisfied within three months of the date the arbitrator granted that award.

13. In the event that the arbitration award is not fully satisfied within three months of the date the arbitrator granted that award, the board of managers of the Mirada shall be entitled to attorneys' fees for the cost of enforcing the award.

14. Counsel for the Parties represent and warrant, through the signatures below, that the terms and conditions of this Agreement are duly approved, and execution of this Agreement

is duly authorized. The Parties shall not take any action or make any statement denying, directly or indirectly, the propriety of this Agreement.

15. This Agreement shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

16. This Agreement may not be amended except by an instrument in writing signed on behalf of all the Parties to this Assurance.

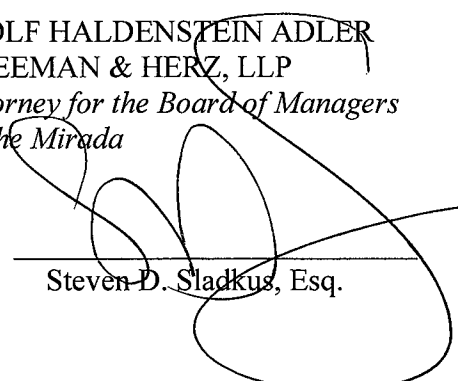
17. A facsimile or electronic signature on this Agreement shall be deemed an original.

18. This Agreement may be executed in counterparts.

Dated: October 6, 2014

WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ, LLP  
*Attorney for the Board of Managers  
of the Mirada*

JOHN D. RAPOPORT  
*Attorney for 110th Street Development LLC,  
and Shiraz Sanjana*

By:  \_\_\_\_\_  
Steven D. Sladkus, Esq.

By: \_\_\_\_\_  
John D. Rapoport, Esq.

SERCARZ & RIOPELLE, LLP  
*Attorney for Respondents Joseph Scarpinito  
and the John Scarpinito Trust*

By: \_\_\_\_\_  
Maurice Sercarz, Esq.  
810 Seventh Avenue  
New York, New York 10019

is duly authorized. The Parties shall not take any action or make any statement denying, directly or indirectly, the propriety of this Agreement.

15. This Agreement shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

16. This Agreement may not be amended except by an instrument in writing signed on behalf of all the Parties to this Assurance.

17. A facsimile or electronic signature on this Agreement shall be deemed an original.

18. This Agreement may be executed in counterparts.

Dated: October \_\_, 2014

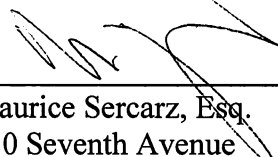
WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ, LLP  
*Attorney for the Board of Managers  
of the Mirada*

JOHN D. RAPOPORT  
*Attorney for 110th Street Development LLC,  
and Shiraz Sanjana*

By: \_\_\_\_\_  
Steven D. Sladkus, Esq.

By: \_\_\_\_\_  
John D. Rapoport, Esq.

SERCARZ & RIOPELLE, LLP  
*Attorney for Respondents Joseph Scarpinito  
and the John Scarpinito Trust*

By:  \_\_\_\_\_  
Maurice Sercarz, Esq.  
810 Seventh Avenue  
New York, New York 10019



is duly authorized. The Parties shall not take any action or make any statement denying, directly or indirectly, the propriety of this Agreement.

15. This Agreement shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

16. This Agreement may not be amended except by an instrument in writing signed on behalf of all the Parties to this Assurance.

17. A facsimile or electronic signature on this Agreement shall be deemed an original.

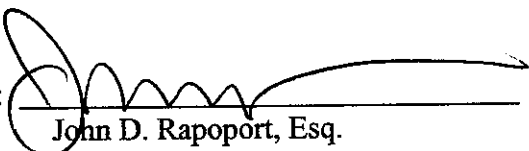
18. This Agreement may be executed in counterparts.

Dated: October \_\_, 2014

WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ, LLP  
*Attorney for the Board of Managers  
of the Mirada*

By: \_\_\_\_\_  
Steven D. Sladkus, Esq.

JOHN D. RAPOPORT  
*Attorney for 110th Street Development LLC,  
and Shiraz Sanjana*

By:  \_\_\_\_\_  
John D. Rapoport, Esq.

SERCARZ & RIOPELLE, LLP  
*Attorney for Respondents Joseph Scarpinito  
and the John Scarpinito Trust*

By: \_\_\_\_\_  
Maurice Sercarz, Esq.  
810 Seventh Avenue  
New York, New York 10019

# Exhibit D



York, New York, and another at the Pier Pointe Condominium, located at 6833 Shore Road, Brooklyn, New York;

IT IS HEREBY CONSENTED TO, STIPULATED AND AGREED, by and between the undersigned counsel for the parties, as follows:

1. Pursuant to the terms set forth in the Assurance, NYAG's investigation into the offerings of real estate securities at The Mirada and the Pier Ponte Condominium was discontinued as against Joseph Scarpinito, Shiraz Sanjana, the John Scarpinito Trust, 110th Street Development LLC, 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC and 6833 Shore Road (Fee) LLC ("Respondents"), and pursuant to the terms stated herein, this proceeding is dismissed.

2. Neither the discontinuation of NYAG's investigation nor the dismissal of this proceeding abrogates, amends or modifies the injunctive relief set out in this Court's Order, dated December 4, 2013 ("Order"), except for paragraph 5 of the Assurance's Prospective Relief provisions, and except that the part of the Order restraining all Respondents "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" shall automatically expire as against Respondent Shiraz Sanjana only on April 4, 2015.

3. 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC and 6833 Shore Road (Fee) LLC, submit to the jurisdiction of this Court, agree to be bound by the terms of this so-ordered Stipulation, and waive any right to challenge this Court's jurisdiction over them in the event any motion is made in this proceeding to enforce this the terms of this so-ordered Stipulation, though they are not named as respondents in the caption, nor previously joined as

respondents in this proceeding.

4. 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC and 6833 Shore Road (Fee) LLC, and their agents and employees are hereby permanently enjoined 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 except for transactions specified in, and made in accordance with, paragraph 5 of the Assurance's Prospective Relief provisions.

5. 6833 Shore Road Corporation, 6833 Shore Road (NY) LLC and 6833 Shore Road (Fee) LLC, and their agents and employees are also hereby restrained from violating Article 23-A of the GBL, and from engaging in fraudulent, deceptive and illegal acts alleged in the Assurance.

6. Counsel for Respondents, as well as Joseph Scarpinito and Shiraz Sanjana, represent and warrant, through the signatures below, that the terms and conditions of this Stipulation are duly approved, and execution of this Stipulation is duly authorized.

7. A facsimile or electronic signature on this Stipulation shall be deemed an original.

8. This Stipulation may be executed in counterparts.

9. Pursuant to CPLR § 4317, Special Referee Steven Liebman shall hear and determine all issues relating to this Stipulation including but not limited to so-ordering this Stipulation.

Dated: October 3, 2014  
New York, New York

ERIC T. SCHNEIDERMAN  
Attorney General of the State  
of New York  
*Petitioner*

By: Serwat Farooq  
Serwat Farooq  
Assistant Attorney General  
120 Broadway, 23rd Floor  
New York, New York 10271

Dated: October \_\_, 2014  
\_\_\_\_\_, New York

LAW OFFICE OF MARC M.  
ISAAC PLLC  
*Attorney for Respondent Shiraz  
Sanjana*

By: \_\_\_\_\_  
Marc M. Isaac, Esq.  
23 South Main Street, Suite 30  
Freeport, New York 11520

Dated: October \_\_, 2014  
\_\_\_\_\_, New York  
  
6833 SHORE ROAD (FEE) LLC

By: \_\_\_\_\_  
Shiraz Sanjana, as Operating  
Manager of 6833 Shore Road  
(NY) LLC, the sole member  
of 6833 Shore Road (Fee)  
LLC

Dated: October \_\_, 2014  
\_\_\_\_\_, New York

SERCARZ & RIOPELLE, LLP  
*Attorney for Respondents Joseph Scarpinito  
and The John Scarpinito Trust*

By: \_\_\_\_\_  
Maurice Sercarz, Esq.  
810 Seventh Avenue  
New York, New York 10019

Dated: October \_\_, 2014  
\_\_\_\_\_, New York

JOHN D. RAPOPORT, P.C.  
*Attorney for Respondent 110th Street  
Development LLC, and 6833 Shore Road  
Corporation, 6833 Shore Road (NY) LLC  
and 6833 Shore Road (Fee) LLC*

By: \_\_\_\_\_  
John D. Rapoport, Esq.  
1085 Warburton Avenue, Apt. 609  
Yonkers, New York 10701

Dated: October \_\_, 2014  
\_\_\_\_\_, New York  
  
6833 SHORE ROAD (NY) LLC

By: \_\_\_\_\_  
Shiraz Sanjana, Operating  
Manager

Dated: October \_\_, 2014  
New York, New York

ERIC T. SCHNEIDERMAN  
Attorney General of the State  
of New York  
*Petitioner*

By: \_\_\_\_\_  
Serwat Farooq  
Assistant Attorney General  
120 Broadway, 23rd Floor  
New York, New York 10271

Dated: October \_\_, 2014  
\_\_\_\_\_, New York

LAW OFFICE OF MARC M.  
ISAAC PLLC  
*Attorney for Respondent Shiraz  
Sanjana*

By: \_\_\_\_\_  
Marc M. Isaac, Esq.  
23 South Main Street, Suite 30  
Freeport, New York 11520

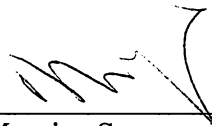
Dated: October \_\_, 2014  
\_\_\_\_\_, New York

6833 SHORE ROAD (FEE) LLC

By: \_\_\_\_\_  
Shiraz Sanjana, as Operating  
Manager of 6833 Shore Road  
(NY) LLC, the sole member  
of 6833 Shore Road (Fee)  
LLC

Dated: October \_\_, 2014  
\_\_\_\_\_, New York

SERCARZ & RIOPELLE, LLP  
*Attorney for Respondents Joseph Scarpinito  
and The John Scarpinito Trust*

By:  \_\_\_\_\_  
Maurice Sercarz, Esq.  
810 Seventh Avenue  
New York, New York 10019

Dated: October \_\_, 2014  
\_\_\_\_\_, New York

JOHN D. RAPOPORT, P.C.  
*Attorney for Respondent 110th Street  
Development LLC, and 6833 Shore Road  
Corporation, 6833 Shore Road (NY) LLC  
and 6833 Shore Road (Fee) LLC*

By: \_\_\_\_\_  
John D. Rapoport, Esq.  
1085 Warburton Avenue, Apt. 609  
Yonkers, New York 10701

Dated: October \_\_, 2014  
\_\_\_\_\_, New York

6833 SHORE ROAD (NY) LLC

By: \_\_\_\_\_  
Shiraz Sanjana, Operating  
Manager

Dated: October \_\_, 2014  
New York, New York

ERIC T. SCHNEIDERMAN  
Attorney General of the State  
of New York  
*Petitioner*

By: \_\_\_\_\_  
Serwat Farooq  
Assistant Attorney General  
120 Broadway, 23rd Floor  
New York, New York 10271

Dated: October 3, 2014  
Freeport, New York

LAW OFFICE OF MARC M.  
ISAAC PLLC  
*Attorney for Respondent Shiraz  
Sanjana*

By: Marc M. Isaac  
Marc M. Isaac, Esq.  
23 South Main Street, Suite 30  
Freeport, New York 11520

Dated: October 3, 2014  
Brooklyn, New York

6833 SHORE ROAD (FEE) LLC

By: Shiraz Sanjana  
Shiraz Sanjana, as Operating  
Manager of 6833 Shore Road  
(NY) LLC, the sole member  
of 6833 Shore Road (Fee)  
LLC

Dated: October \_\_, 2014  
\_\_\_\_\_, New York

SERCARZ & RIOPELLE, LLP  
*Attorney for Respondents Joseph Scarpinito  
and The John Scarpinito Trust*

By: \_\_\_\_\_  
Maurice Sercarz, Esq.  
810 Seventh Avenue  
New York, New York 10019

Dated: October 3, 2014  
Yonkers, New York

JOHN D. RAPOPORT, P.C.  
*Attorney for Respondent 110th Street  
Development LLC, and 6833 Shore Road  
Corporation, 6833 Shore Road (NY) LLC  
and 6833 Shore Road (Fee) LLC*

By: John D. Rapoport  
John D. Rapoport, Esq.  
1085 Warburton Avenue, Apt. 609  
Yonkers, New York 10701

Dated: October 3, 2014  
Brooklyn, New York

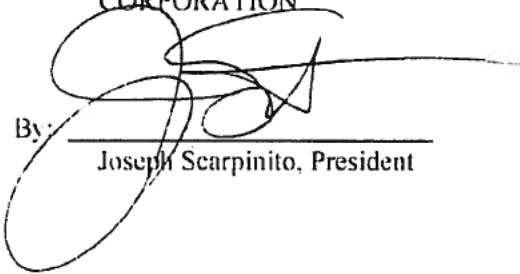
6833 SHORE ROAD (NY) LLC

By: Shiraz Sanjana  
Shiraz Sanjana, Operating  
Manager



Dated: October \_\_, 2014  
\_\_\_\_\_, New York

6833 SHORE ROAD  
CORPORATION

By:   
\_\_\_\_\_  
Joseph Scarpinito, President

SO ORDERED: \_\_\_\_\_