

One Riv. Run Acquisition, LLC v Milde

2024 NY Slip Op 30403(U)

February 5, 2024

Supreme Court, New York County

Docket Number: Index No. 653389/2022

Judge: Andrew Borrok

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 53

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ONE RIVER RUN ACQUISITION, LLC, A COLORADO
COMPANY, SHERVIN RASHIDI, RYAN GELLER, SCOTT
RUSSELL,

Plaintiff,

- v -

SIMON MILDE, STEVE LORENZ, JAMES FLOOD, LARRY
BAUCOM, PETER WITHAM, THE GREENWICH GROUP
INTERNATIONAL, LLC, A NEW YORK COMPANY

Defendant.

INDEX NO. 653389/2022

MOTION DATE 09/29/2023

MOTION SEQ. NO. 003

**DECISION + ORDER ON
MOTION**

-----X

HON. ANDREW BORROK:

The following e-filed documents, listed by NYSCEF document number (Motion 003) 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48

were read on this motion to/for DISMISSAL.

Upon the foregoing documents and for the reasons set forth on the record (1.30.24), the motion (Mtn. Seq. No. 003) is granted solely to the extent set forth below.

This is a dispute that arises out of a certain letter agreement (the **Agreement**; NYSCEF Doc. No. 33), dated as of December 7, 2020, by and between One River Run Acquisition, LLC (**ORRA**) and Greenwich Group International, LLC (**GGI**). It is not between Steve Lorenz and ORRA. Nor is it between Simon Milde and ORRA. Nor is it between James Flood (Mr. Flood, together with Mr. Milde, hereinafter, collectively, the **Individual Defendants**) and ORRA. Lastly, the Agreement is not between Richbell Capital, LLC (**Richbell**) and ORRA.

Pursuant to terms of the Agreement, ORRA and GGI agreed that they would, via a joint venture, develop a luxury condominium, hotel, and ski resort (the **Project**) (*id.* at 1, § 1). The Agreement

reflects the product of significant negotiation as to a substantial real estate project and sets out in detail each party's specific roles as well as the shared roles in the Project. GGI's specific role was that of financier, and its responsibilities included:

- Devise a capital raising plan based on comprehensive and agreed upon financial models detailing projected total costs and operating revenues and expenses for the Venture.
- Assist in financial modeling to drive all project decisions regarding development, operations, capital funding, and disposition.
- Arrange for LP equity, any acquisition/bridge debt financing, first mortgage financing, CPACE financing (as possible) in all cases, determining the optimal capital structure for the Venture.
- Such other services as ORRA and GGI mutually agree to be required or desirable for successful execution of the Venture's business plan

(*id.* § 4[a]). ORRA's role was to manage the Property, including securing entitlements and development approvals and overseeing Property development and construction:

- ORRA shall manage and oversee the process of securing entitlements and development approvals needed and assist on County related matters, the condominium sales process, and design related review
- Provide development and construction management including cost controls and adherence to timeline, management and coordination amongst all contractors and trade providers, adherence to contract specifications and quality controls, management and oversight of property lease-up and property management, and accounting and reporting

(*id.* § 4[b]). Lastly, the Agreement delineated what the parties' shared roles would be:

- Complete and maintain a working detailed spreadsheet detailing sources and uses of capital, anticipated project costs and the timing thereof, proforma of condo unit sales revenues, space absorption, capital deployment, refinancing, and hotel, F&B and Spa economics, together with loan prepayment and distribution of return of capital and return on capital, with Developer GP promote splits and hurdles.
- General Development and Construction Management responsibilities.
- Manage any expenses associated with the Venture.
- Manage the accounting and bookkeeping for the Venture.
- Manage the engagement and fees of third-party professionals.
- Manage the flow of capital from investors and lenders.
- Oversee the project management team for the development and construction of the Project.
- Work with and manage the relationship with Vail Resorts.
- Co-ordinate with architects, engineers and third-party consultants for development of design drawings, construction drawings and other documentation needed for Project development.

- Manage the detailed design phase of the projects, ensuring adherence to specifications and attention to cost management.
- Estimate construction and development budgets for individual acquisitions.
- Monitor and assure timely completion of the investment and development within the established budget, schedule and required investment returns.
- Monitor general contractor and vendor performance during construction phase.
- Review all proposals and change order requests from the Consultants, General Contractor, Suppliers, and Subcontractors.
- Participate in analyzing potential mechanical, electrical, and process piping solutions and providing constructive feedback.
- Set up, coordinate and participate all construction meetings (OAC, BIM, Subcontractor coordination etc).
- Prepare and present weekly status updates on project schedule, costs and cost projections for all contractors and scopes of work.
- Ensure that construction projects are in line with current health & safety laws and Vail Resort's requirements.
- Coordinate utility infrastructure, including construction and coordination of local utilities to site.
- Manage compliance of at all corporate and legal obligations of the Venture

(*id.* §4[c]).

The Agreement contemplated that both GGI and ORRA would invest in the Project as co-owners but anticipated additional financing via first-lien construction debt, mezzanine, or CPACE debt, and/or additional equity infusions (*id.* § 1). GGI undertook to “make best efforts to secure the most efficient capital structure for the Project” and to “use best efforts to maximize the most efficient sources of capital” (*id.*). GGI had “the exclusive right to arrange for any capital needs associated with the Venture” (*id.* § 2).

The Agreement also includes an organization chart, project budget, and schedule. Significantly, the parties did not negotiate for any personal representations to be made on behalf of any individuals (including on behalf the Individual Defendants or Mr. Lorenz), nor does it otherwise obligate any of the Individual Defendants or Mr. Lorenz to do anything in their individual capacity (including to guarantee any obligations under any circumstances), and none of the

Individual Defendants or Mr. Lorenz are otherwise identified in any of the schedules either in the organization chart or as to sources of capital.

To the contrary, **the parties expressly agreed that no individuals or affiliates would bear any liability in connection with the Agreement:**

Notwithstanding anything to the contrary contained in this Agreement or elsewhere, *no individual person* and no corporation, trust, *or other entity affiliated with a party*, as a shareholder, member, officer, director, or employee of such party, or otherwise, or who participated in the negotiation of, or preparation of this Agreement, *shall have any personal liability*, financial or otherwise, in law or equity, for any performance required herein. Without limiting the generality of the foregoing, there shall be *no personal liability on the part of the principals and employees of either party*.

(Agreement § 7 [emphasis added].) **This matters.**

The parties also agreed to a broad merger clause:

the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior writings, agreements or communications, and no amendment, alteration, modification, or waiver hereof shall be binding unless in writing and signed by both parties

(*id.*). Lastly, the parties agreed that disputes were to be arbitrated in accord with the rules of the American Arbitration Association (the **AAA**):

. . . any dispute or claim in law or equity which in any way arises out of, or is related to, either this contract, either Party's services or work performed, or any resulting transaction shall be decided by neutral arbitration in accordance with the rules of the American Arbitration Association (including AAA rules giving the arbitrator power to rule on his or her own jurisdiction, including the existence, scope or validity of the arbitration agreement and the validity and existence of the contract of which it is a part), and not by court action . . .

(*id.* § 7).

Ultimately, the joint venture did not work out as planned. Initially, the parties tried to submit their dispute to JAMS, but JAMS rejected the application on the basis that the parties had agreed to be governed by the AAA (NYSCEF Doc. Nos. 38, 46). The parties did not then go to the AAA. Instead, a series of lawsuits ensued.

The instant suit was filed by Summons with Notice on September 15, 2022 (NYSCEF Doc. No. 1). GGI then filed suit in District Court, Summit County, Colorado (the **Colorado Action**; Case Number 2022CV30113), which issued three separate decisions (NYSCEF Doc. No. 26-28). At the heart of the Colorado Action are allegations that the plaintiffs in the instant case made a number of misrepresentations to GGI amounting to fraudulent nondisclosure as well as allegations of fraud and breach of the Agreement.

The Amended Complaint (the **AC**; NYSCEF Doc. No. 32) in this lawsuit alleges that ORRA was conned into signing the Agreement and that the defendants were not competent enough and never intended to deliver on their promises.

Prior to executing the Agreement, the defendants allegedly lied about GGI and Steve Lorenz's competency and ability to deliver financing, their experience, and Mr. Lorenz's credentials (*i.e.*, whether he possessed Series 7 and Series 63 certifications, which the defendants assert was necessary to raise funding but do not in any way adequately explain how this is related to any failure to execute a non-recourse carve-out guaranty [the **Guaranty**] which Mr. Lorenz was not obligated to sign in any event, as discussed below). GGI and Lorenz allegedly misrepresented that the Individual Defendants, who possess substantial experience, expertise, and industry

contacts, would be actively involved in the Project when they would in fact play virtually no role. The AC refers to a number of website and marketing materials to support these allegations. (See, e.g., AC ¶¶ 4, 8, 113, 115, 117, 120.) Lastly, the AC alleges that GGI was a sham business that shared office space and phone numbers with another business, Richbell, which is a corporate affiliate of GGI and is alleged to be owned by the same principals (the Individual Defendants) and which would end up providing ancillary services to GGI in its performance under the Agreement. Richbell's name came up in private placement memoranda in that GGI touted its ability to "quarterback any project by tapping" into "[Richbell]'s development track record" (AC ¶ 49).

The Individual Defendants allegedly directed this entire scheme and all of these misrepresentations from the shadows. The AC asserts that the Individual Defendants "sanctioned these [various representations in written] materials" (*id.* ¶ 52) and that other fraudulent activities were carried out by Mr. Lorenz and GGI "at the direction of Milde and Flood" (*id.* ¶ 129). The AC cites their corporate affiliations and alleges Mr. Flood's presence only at meetings that *post-dated* the Agreement the plaintiffs claim they were fraudulently induced to execute (*id.* ¶ 66). The AC does not allege any other concrete activities by the Individual Defendants.

After executing the Agreement, the parties' relationship rapidly deteriorated. When the parties sought to conclude a financing with a Colorado bank early in 2021, the bank requested that Mr. Lorenz execute a Guaranty, which Mr. Lorenz and GGI refused to execute (AC ¶¶ 68-70). The plaintiffs offered to indemnify Mr. Lorenz if he signed the Guaranty, but GGI and Mr. Lorenz

still refused, citing misrepresentations that ORRA had allegedly made to the bank to induce the bank to proceed with funding they initially were not prepared to do. Mr. Lorenz, when refusing to sign, indicated that he would be personally liable for the plaintiffs' misrepresentations if he signed. (*Id.* ¶¶ 69-70.) The plaintiffs allege that this was a mere subterfuge because (i) the refusal to sign was “without any valid reason” and (ii) the refusal was in fact intentional sabotage to make the plaintiffs more desperate for funding and thus easier to extort (*id.* ¶¶ 69-73).

(Nothing alleged in the AC explains how this failure is related to Mr. Lorenz's alleged Series 7 or Series 63 credentials – or lack thereof – which the plaintiffs say was material but which otherwise appears nowhere in the Agreement and is not alleged to have caused any harm, except that the Plaintiffs allege that if they knew that Mr. Lorenz's Series 7 and 63 credentials had lapsed or otherwise were not valid they would not have signed the Agreement with GGI.)

Later in 2021, ORRA attempted to cut GGI out of the Project, asserting that the Agreement was void. GGI and Lorenz allegedly threatened to invoice and send litigation hold notices to potential stack providers. They actually did send litigation hold notices, which caused a delay in financing, caused one capital stack provider to retreat from the Project, and forced ORRA to take costly mitigation steps. (AC ¶¶ 85-91.)

The defendants move to dismiss the AC's fraud claim as against all defendants (count one), the conspiracy to commit fraud as against all defendants (count two), the fraudulent inducement claim as against all defendants (count three), the negligent misrepresentation claim as against all

defendants (count four), the tortious interference with business relations claim as against all defendants (count six) for failure to state a claim.¹

DISCUSSION

On a motion to dismiss for failure to state a claim, the allegations in the complaint are to be afforded liberal construction, and the facts alleged therein are to be accepted as true, according a plaintiff the benefit of every possible favorable inference and determining only whether the facts alleged fit within any cognizable legal theory (*Leon v Martinez*, 84 NY2d 83, 87-88 [1994]).

1. The branch of the motion to compel arbitration is denied.

Initially, the defendants argue that the Court should order the parties to arbitrate with the AAA. The argument fails. On the record before the Court, the parties have waived arbitration by actively litigating before this Court and in Colorado for well over a year and without seeking to compel arbitration with the AAA as otherwise provided for in the Agreement (*Flynn v Labor Ready, Inc.*, 6 AD3d 492, 493 [2d Dept 2004]).

2. The branch of the motion to dismiss the fraud claim (count one) is granted.

The AC fails to allege an actionable claim for fraud against GGI because the credentials it allegedly had at its disposal (*i.e.*, at least one member of GGI possessing Series 7 and Series 63 certifications) and other marketing materials (many produced after the fact) are simply not connected to the harm alleged – *i.e.*, \$72 million in miscellaneous categories of damages that appear to all stem from the *delay* associated with closing financing (*see, e.g.*, AC ¶¶ 91, 120-121)

¹ For the sake of completeness, the breach of contract cause of action as against GGI (count five of the AC) is not a subject of this motion.

not any lack of Series 7 or Series 63 certification. The AC alleges that GGI would never be allowed to collect any money due GGI under the Agreement because performance would necessarily entail violation of the 1934 Securities Exchange Act (which the AC claims the defendants did violate) but that allegation is completely unrelated to the refusal to sign the Guaranty or to the harm caused by a delay in financing such that, as pled, it suggests a defense to any claims of money due by GGI which the Court need not consider at this time.

In addition, there is no claim for fraud with respect to GGI's alleged promise that the Individual Defendants would play a prominent role in the Project. The Agreement, with highly specific provisions, negotiated at arms-length among sophisticated parties contains no key personnel provision to justify any such belief. The existence of a broad merger clause further precludes this argument. Had the parties contemplated the Individual Defendants playing such a prominent and necessary role, the parties certainly knew how to include that in the Agreement. Lastly, the AC makes no attempt to characterize this alleged promise as a misrepresentation of present fact (as opposed to a misrepresentation of future intent to perform), which further requires dismissal of this claim (*Gosmile, Inc. v Levine*, 81 AD3d 77, 81 [1st Dept 2010]; *c.f.*, *Solomon Capital, LLC v Lion Biotechnologies, Inc.*, 171 AD3d 467, 468 [1st Dept 2019] [claim properly stated where the broker/financier claimed he had ““massive investors’ lined up and ready to go, when in fact he had none”]).

The fraud allegations as against Mr. Lorenz personally fail because (i) he did not sign the Agreement in his personal capacity but as Managing Partner of GGI (Agreement at 11), (ii) GGI put him forward at all times as acting on GGI's behalf, (iii) there is no allegation that Mr. Lorenz

engaged in any of these activities outside of his capacity as a member of GGI, and (iv) he was never going to be paid under this Agreement – payment would flow to GGI.

The allegations of fraud as against the Individual Defendants because of their limited involvement in the Project is not actionable under the circumstances, and Richbell's involvement is even more attenuated. Given the fact that the Individual Defendants and Richbell are not parties to the Agreement and the Agreement includes a merger clause, there simply is no reasonable reliance or actionable fraud. At bottom, the AC alleges only in conclusory fashion that the Individual Defendants sanctioned and otherwise directed Mr. Lorenz and GGI's allegedly fraudulent activities (AC ¶¶ 52, 129). This is insufficient. Mr. Flood's presence at meetings *post-dating* the Agreement (*id.* ¶ 66) can not form a predicate for a fraudulent inducement claim. The AC also does not remedy the impermissible group pleading that this Court previously cautioned against (NYSCEF Doc. No. 43 at 59, lines 6-12). The AC likewise does not plead with particularity any of the facts and circumstances surrounding any alleged fraud perpetrated by the Individual Defendants or by Richbell (CPLR 3016; *see* AC ¶¶ 52, 129-130).

The AC's attempt to get to the Individual Defendants and to pierce the corporate veil to get to Richbell by virtue of the Individual Defendants' ownership fails. As discussed above, the AC does not sufficiently allege that the Individual Defendants were even involved in the events leading up to the instant dispute, and the AC makes only boilerplate allegations that these same defendants exercised complete dominion over GGI and Richbell to perpetrate a fraud.

The separate allegation that Richbell is liable for fraud as an alter ego of GGI fails. This argument seeks to hold Richbell accountable for GGI's breaches because Richbell (only as a corporate affiliate of GGI) was to provide ancillary services to GGI in connection with GGI's performance under the Agreement. The other allegations are simply too thin to support a theory of veil-piercing under New York law. Furthermore, and as discussed above, the Agreement was highly specific, contains a merger clause, and was negotiated at arms-length among sophisticated parties, but the Agreement does not mention Richbell, any of the Individual Defendants, or even Mr. Lorenz in their individual capacities. Not even a single time. Had the parties contemplated Richbell, any of the Individual Defendants, or Mr. Lorenz to be crucial to the development of the Project (or any certifications or skill sets including Series 7 or Series 63 licenses), the parties could easily have provided as such (*i.e.*, require in the Agreement that GGI must employ someone who maintains a Series 7 and Series 63 license throughout the Project). They did not and it is not this Court's place to re-write their agreement.

3. The branch of the motion to dismiss the conspiracy to commit fraud claim (count two) is granted.

As discussed above, the cause of action for fraud fails as against all defendants. As discussed below, the cause of action for fraudulent inducement fails as against all defendants. For that reason, the conspiracy claim also fails.

4. The branch of the motion to dismiss the fraudulent inducement claim (count three) is granted.

For the reasons stated above in connection with the dismissal of count one, this cause of action also sounding in fraud must be dismissed as against all defendants because it is a virtual carbon

copy of count one (albeit with the first several paragraphs paraphrased) and thus suffers from all of the same deficiencies, which include: (i) the lack of Series 6 and Series 73 certifications is not related to the harm alleged (you do not need a Series 7 or Series 63 to execute a recourse carve-out guaranty and there are no representations in the Agreement as to Mr. Lorenz or as to a Series 63 or 7 or otherwise), (ii) Mr. Lorenz acted on behalf of GGI at all times and not in his personal capacity, (iii) there was no reasonable expectation that the Individual Defendants would be integrally involved in the Project, given the absence of anything to that effect in the comprehensive Agreement, and (iv) the AC fails to plead with the requisite specificity any fraud by the Individual Defendants or Richbell which caused the alleged harm.

5. The branch of the motion to dismiss the negligent misrepresentation claim (count four) is granted.

A claim for negligent misrepresentation can only stand where (i) there is a special relationship of trust or confidence, which creates a duty for one party to impart correct information to another, the information given was false, and (ii) there was reasonable reliance upon the information given (*Hudson Riv. Club v Consol. Edison Co. of New York, Inc.*, 275 AD2d 218, 220 [1st Dept 2000]; *MBIA Ins. Corp. v Countrywide Home Loans, Inc.*, 87 AD3d 287, 296 [1st Dept 2011]). Where the parties have entered into a contract, New York courts look to that agreement, and if the parties do not create their own relationship of higher trust, the courts should not ordinarily elevate them to a higher level of trust (*EBC I, Inc. v Goldman, Sachs & Co.*, 5 NY3d 11, 19-20 [2005]). Accordingly, a special relationship generally does not arise out of an ordinary arm's length business transaction between two parties (87 AD3d at 296). However, fiduciary liability is not dependent solely upon contractual relation. A special relationship may be found where the pleadings allege that the parties created, outside of their contract, a relationship of higher trust

than would arise from the agreement alone (*EBC I, Inc. v Goldman, Sachs & Co.*, 5 NY3d 11, 20 [2005]). One such case is in the broker-principal relationship (*Solomon Capital, LLC v Lion Biotechnologies, Inc.*, 171 AD3d 467, 469 [1st Dept 2019]).

The parties do not dispute that there is no fiduciary duty explicitly created by the contract. The plaintiffs argue that the defendants owe a higher duty because they were tasked with securing additional financing for the joint venture (AC ¶¶ 138-139), which they argue leads to a higher duty. However, the plaintiffs have not pointed to any authority for this remarkable proposition whereby one joint venture partner who undertook to raise funds for the joint venture was found to have a broker-principal relationship with the other member of the joint venture (*Cf. Solomon Capital, LLC v Lion Biotechnologies, Inc.* (171 AD3d [1st Dept 2019] [holding that a special relationship was sufficiently alleged where a FINRA registered broker represented an unrelated enterprise in soliciting investment in that enterprise]; *see Solomon Capital, LLC v Lion Biotechnologies, Inc.*, 2018 N.Y. Slip Op. 31977[U], 2 [N.Y. Sup Ct, New York County 2018], *revd*, 2019 N.Y. Slip Op. 02621 [1st Dept 2019]).

Separately, and as discussed above, the plaintiffs fail to demonstrate that reliance upon these alleged misrepresentations on a website was reasonable under the circumstances. With regard to the Individual Defendants' involvement, for example, the AC does not in any way suggest that ORRA communicated that they were entering into the Agreement based on any understanding as to the credentials of any of the Individual Defendants or Mr. Lorenz or their involvement and, again, given the merger clause, no such pre-Agreement understanding not reflected in the Agreement would be reasonable in any event.

6. The branch of the motion to dismiss the tortious interference with business relations claim (count six) is granted.

As a final matter, the AC fails to make out a claim for tortious interference with business relations. To prevail on a cause of action for tortious interference with business relations, a plaintiff must prove that (i) it had a business relationship with a third party, (ii) that the defendant knew of that relationship and intentionally interfered with it, (iii) that the defendant's actions were motivated solely by malice or otherwise constituted illegal means, and (iv) that the defendant's interference caused injury to the plaintiff's relationship with the third party (*684 E. 222nd Realty Co., LLC v Sheehan*, 185 AD3d 879, 879-80 [2d Dept 2020]).

AC itself acknowledges that “GGI threatened legal claims *to recover commissions it believed it was owed under the [] Agreement*” (AC ¶ 86 [emphasis added]), which is an acknowledgement that the GGI’s conduct was *not* solely motivated by malice but at least in part by a belief in their entitlement to certain commissions. This dooms the claim. The plaintiffs cite two separate threats: (i) GGI “threatened to directly invoice the Project’s potential capital stack providers” and (ii) “GGI also threatened to send litigation hold notices to [] the potential capital stack providers” (AC ¶ 89). It appears that GGI followed through on the litigation hold notices threat but not in billing the potential capital stack providers (*id.*). Given the rapidly deteriorating relationship between the parties, sending litigation hold notices can not said to be motivated solely by malice. The defendants cite to no case law in any relevant context. In *Tekton Builders LLC v 1232 S. Blvd LLC* (180 AD3d 616, 617 [1st Dept 2020]), for example, the underlying misconduct supporting tortious interference consisted of purposefully delaying payment and

making false statements about the plaintiff, which is worlds apart from sending a litigation hold notice.

To the extent that the tortious interference with business relations claim appears also to be predicated upon GGI and Mr. Lorenz's refusal to sign the Guarantee, that claim is also dismissed. The AC makes no allegation that GGI or Mr. Lorenz were required to execute the Guaranty, and there is nothing in the Agreement to that effect or to the effect that GGI or Mr. Lorenz would be required to rely on ORRA's indemnification under the circumstances. Giving the AC the benefit of every favorable inference, Mr. Lorenz and GGI expressed concern that such indemnification could have exposed them to a lawsuit in connection with ORRA's putative misrepresentations (AC ¶70). Refusing to sign the Guaranty is thus not actionable tortious interference, and the fact that ORRA offered to indemnify them does not change this result. GGI and Mr. Lorenz expressed their belief that ORRA had made misrepresentations to the bank and feared being associated with those representations and should not be required to rely on what undoubtedly would have amounted to a lawsuit to enforce the indemnity if there was a dispute as to whether the representations which Mr. Lorenz was asked to backstop were in fact true. The refusal to sign documents that carry legal exposure that one never obligated oneself to sign can not be said to be motivated purely by malice.

In addition, and as discussed above, the Agreement does not reflect the expectation that either GGI or Mr. Lorenz would sign a non-recourse carve-out guaranty of any kind. GGI agreed to go out and find another partner to provide additional financing, and there is nothing in the Agreement to suggest that GGI (or Mr. Lorenz personally) would undertake to sign the Guaranty

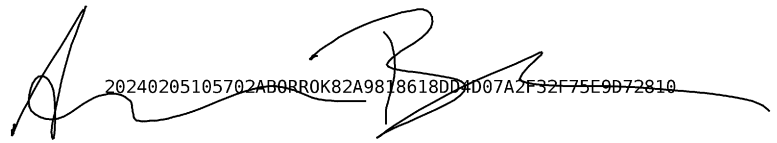
or anything like it. If anything, the expectation would be to the contrary: the operator of the Property (*i.e.*, ORRA) would sign such a Guaranty instead. There is no reasonable reliance or expectation that Mr. Lorenz or GGI would acquiesce and sign the Guaranty, under the circumstances.

The Court has considered the parties' remaining arguments and finds them unavailing.

Accordingly, it is hereby

ORDERED that the branch of the motion seeking to compel arbitration is denied; and it is further

ORDERED that the first, second, third, fourth, and sixth causes of action in the Amended Complaint are dismissed.


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2/5/2024
DATE

ANDREW BORROK, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE