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KING COUNTY  
SUPERIOR COURT CLERK  
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CASE NUMBER: 16-2-04897-8 SEA

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6 SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN THE COUNTY OF KING

7 SKITTLES PROPERTIES, LLC, a  
8 Washington limited liability company,  
9 Plaintiff,

10 v.

11 ERIN HAROLD and MAIN STREET  
12 BROKERAGE, LLC, a Washington limited  
13 liability company, d/b/a Marketplace  
Sotheby's International Realty,  
Defendants,

NO.

COMPLAINT FOR NEGLIGENT  
MISREPRESENTATION, VIOLATION  
OF RCW 18.86.030 AND VIOLATION  
OF THE CONSUMER PROTECTION  
ACT

14 Plaintiff Skittles Properties, LLC, ("Skittles") alleges the following against Defendants  
15 Erin Harold ("Ms. Harold") and Main Street Brokerage, LLC ("Sotheby's"):

16 **1. PARTIES AND JURISDICTION**

17 1. Skittles is a Washington limited liability company that is in all ways qualified  
18 to bring this action.

19 2. Erin Harold is an individual who resides in King County, Washington.

20 3. Sotheby's is a real estate brokerage operating in King County, Washington.  
21 Ms. Harold is a broker with Sotheby's.

22 4. Jurisdiction and venue are properly in this Court because the parties reside and  
23 do business in King County and the transaction at issue and the misdeeds of Defendants took  
24 place in King County.

25  
26 COMPLAINT FOR NEGLIGENT MISREPRESENTATION,  
VIOLATION OF RCW 18.86.030 AND VIOLATION OF THE  
CONSUMER PROTECTION ACT - 1

CARNEY BADLEY SPELLMAN, P.S.  
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Seattle, WA 98104-7010  
(206) 622-8020

## 2. BACKGROUND FACTS

1  
2 5. Skittles is a limited liability company that was formed for the purpose of  
3 leasing retail space and opening a restaurant. Skittles is in all ways qualified to bring this  
4 action.

5 6. Dana Hannon was an agent of Skittles. Ms. Hannon was acquainted with Ms.  
6 Harold by way of a restaurant operated by Ms. Hannon.

7 7. Ms. Hannon, on behalf of Skittles, approached Ms. Harold, a licensed real  
8 estate broker, and requested to hire Ms. Harold to assist Skittles in finding a location to open  
9 up a new restaurant. Ms. Hannon understood that Ms. Harold was a broker with Sotheby's  
10 and understood that Ms. Harold and Sotheby's would represent Skittles in finding a location  
11 for the new restaurant.

12 8. Ms. Harold, on behalf of herself and Sotheby's, agreed to the representation  
13 and informed Ms. Hannon that she had the perfect space for Skittles.

14 9. By happenstance, Ms. Harold owned and operated a salon at 3000 NW Market  
15 Street, Seattle Washington 98107 ("Premises"). Ms. Harold was interested in shutting down  
16 her business and subleasing the Premises. Ms. Harold showed the Premises to Ms. Hannon  
17 and her father David Johnson, a member of Skittles, and convinced them to either sublease the  
18 Premises, take an assignment of the current lease of the Premises, or to enter into a new lease  
19 with the owner of the Premises. Ms. Harold convinced Skittles and its agents that they could  
20 and should open up their restaurant at the Premises.

21 10. Ms. Harold assured Ms. Hannon and Mr. Johnson that the Premises were  
22 suitable for use as a restaurant. She insisted that Skittles would not need to obtain permits  
23 from the City to perform the necessary tenant improvements and that a restaurant use was  
24 permitted at the Premises. Ms. Harold insisted that the City had approved her operation of a  
25 salon and café at the Premises. In truth, Ms. Harold in fact knew that the Premises were not  
26 suitable for a restaurant, that special permits would need to be obtained and/or might not be

1 attainable, that significant tenant improvements would need to be made and that the City had  
2 never approved the operation of the café at the Premises.

3 11. Ms. Hannon and Mr. Johnson relied upon Ms. Harold's representations and  
4 began to expend time and money on negotiating a lease for the Premises and opening up a  
5 restaurant at the Premises.

6 12. Shortly after Ms. Harold convinced Ms. Hannon and Mr. Johnson to take over  
7 the Premises and open up their restaurant at the Premises, Ms. Harold verified with the City of  
8 Seattle that the Premises were not suitable for use as a restaurant and that Skittles would need  
9 to seek a change of use from the City of Seattle and would need to obtain permits to make  
10 their tenant improvements. Ms. Harold never disclosed what she verified to Ms. Hannon, Mr.  
11 Johnson or any person acting on behalf of Skittles.

12 13. Reasonably relying upon the information that Ms. Harold had provided to  
13 Skittles and its agents and reasonably relying upon Ms. Harold's non disclosures, Skittles  
14 expended in excess of \$30,000 in preparation for leasing the Premises, making improvements  
15 to the Premises and opening its business at the Premises.

16 14. After expending the above funds on preparing to open their restaurant at the  
17 Premises, Skittles and its agents learned that the Premises were never permitted or licensed  
18 for use as a restaurant or café and that Skittles would not be able to open a restaurant at the  
19 Premises without spending significant sums of money and without months and months of  
20 delays while waiting for the City to decide whether Skittles could operate a restaurant at the  
21 Premises. In fact, Skittles later learned that it was quite likely that the City would never  
22 approve a restaurant use at the Premises.

23 15. Skittles eventually ceased all efforts to lease the Premises and set about to  
24 seeking a new location to open its restaurant. However, as a result of Ms. Harold's  
25 misrepresentations, Skittles has incurred over \$60,000 in damages. Skittles spent in excess of  
26 \$30,000 and has lost profits exceeding \$30,000.

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**FIRST CAUSE OF ACTION-NEGLIGENT FAILURE TO DISCLOSE  
AND NEGLIGENT MISREPRESENTATION**

16. Plaintiff incorporates by reference the allegations of Paragraphs 1 through 14 above as if fully set forth herein.

17. Defendants had a duty to disclose that they did not know if the Premises were appropriate for a restaurant. They further had a duty not to represent that the Premises were appropriate for use as a restaurant. Moreover, once Ms. Harold verified with the City that the Premises were not appropriate for use as a restaurant, Defendants had a duty to disclose that information to Skittles and its agents. Skittles and its agents reasonably relied upon Ms. Harold's representations regarding the approved usage of the Premises.

18. Additionally, Defendants did not disclose that Ms. Harold was going to demand \$40,000 as a purchase price for her interest in the premises and her salon and did not disclose that the owner of the property intended to increase the rent by 30%. Had those disclosures been made, Defendants never would have pursued opening a restaurant at the premises and never would have incurred their damages.

18. Defendants never disclosed to Skittles and its agents that the Premises could not be used for their desired purposes, the \$40,000 purchase price and/or the rent increase. Had Ms. Harold fully disclosed the truth regarding the use of the Premises, Skittles would not have incurred damages.

19. As a result of the above failures to disclose, Skittles has suffered damages in an amount to be determined at trial but no less than \$60,000. Defendants are liable for those damages.

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**SECOND CAUSE OF ACTION-VIOLATION OF RCW 18.86.030**

20. Plaintiff incorporates by reference the allegations of Paragraphs 1 through 19 above as if fully set forth herein.

1           21.    RCW 18.86.030, among other things, obligates licensed real estate brokers to  
2 deal honestly and in good faith with all persons to whom the broker renders real estate  
3 brokerage services.

4           22.    RCW 18.86.030 further obligates licensed real estate brokers to disclose all  
5 existing material facts known by the broker and not apparent or readily ascertainable to a  
6 party.

7           23.    Defendants violated RCW 18.86.030 when Ms. Harold failed to notify Skittles  
8 and its agents that (1) she believed that the Premises could not be used as a restaurant; (2) she  
9 later confirmed that the Premises could not be used as a restaurant; (3) she intended to  
10 demand a \$40,000 purchase price; and (4) the owner of the property intended to raise the rent  
11 by 30%.

12           24.    As a result of Defendant's violation of the above statute, Skittles has suffered  
13 damages to be determined at trial but no less than \$60,000. Both Ms. Harold and Sotheby's  
14 are liable for these damages.

15           **THIRD CAUSE OF ACTION-CONSUMER PROTECTION ACT VIOLATION**

16           25.    Skittles incorporates by reference the allegations of Paragraphs 1 through 24  
17 above as if fully set forth herein.

18           26.    Ms. Harold and Sotheby's are liable to Skittles under the Consumer Protection  
19 Act.

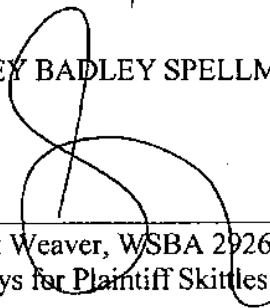
20           27.    Ms. Harold and Sotheby's failure to disclose and their misrepresentations were  
21 unfair and deceptive acts.

22           28.    Ms. Harold and Sotheby's failure to disclose occurred in the conduct of trade  
23 and/or commerce. Skittles had retained Ms. Harold and Sotheby's in their capacity as licensed  
24 real estate brokers.



DATED this 11<sup>th</sup> day of February, 2016.

CARNEY BADLEY SPELLMAN, P.S.

By   
Scott Weaver, WSBA 29267  
Attorneys for Plaintiff Skittles

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COMPLAINT FOR NEGLIGENT MISREPRESENTATION,  
VIOLATION OF RCW 18.86.030 AND VIOLATION OF THE  
CONSUMER PROTECTION ACT - 7

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