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Date: August 18, 2022

To: Margerat Sandercock
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From: Ed Olmsted CIH CSP

Subject: Review of Affirmation prepared by David Skaller
Christian Gray vs American Packing
97 Green Street Brooklyn NY

I have provided below a response to the affirmation prepared by David Skaller in the above-referenced matter. I have provided my impressions below:

The affirmation is replete with misleading and incorrect statements from Counsel Skaller, Candice Kowalewski and Jack Glass to the degree that it brings into question the veracity of the entire document.

The following provide some of the more important incorrect and misleading statements made in the affirmation:

1. In referring to the Bard case opinion Counsel Skaller states “Olmsted conducted a post-remediation inspection by cutting the ceiling to inspect above.” He repeatedly alleges that I improperly cut holes, which is not true (*Bard v Mautner-Glick et al.*, Index No. 2266/2016 (Civ. Ct., NY County 2022) (Hon. Jack Stoller). The Bard decision states very clearly that holes were cut into the ceiling by Fiore Deros at some time prior to my inspection. (page 19 of decision as attached in affirmation. The Bard decision further states “the petitioner's friend expanded the eight probe holes”. (pag2 26) This was done before my second inspection. It is very clear from reading the Bard decision and in reviewing my testimony in that case, that I did not cut any holes at any time at 28 King Street in the Bard case.
2. The affirmation states that at my post remediation inspection at 97 Green “Olmsted Cut holes in ceilings and walls and floors during a post mold abatement inspection.” The affidavit from Jack Glass states I performed additional demolition. Neither Jack Glass nor Mr. Skaller was present during my inspection and neither has any knowledge of my survey methods. In fact I did not cut any holes in walls, ceilings or floors as the mold was readily accessible. In fact, the two layers of wood floor left on the floor in studio 1 can be

lifted by hand from place as it is not anchored to the concrete slab beneath. There was no cutting of holes needed. The upper side of the wood tested damp and the underside of this wood was heavily coated with mold growth and was wet when probed with a moisture meter. The moisture was a clear indication that there was still a problem and should have been detected by ALS and the contractor during the abatement. Either the mold contractor or Candice Kowalewski could have easily discovered this by lifting the wood and visually inspecting it. IT SHOULD BE NOTED THAT THE SCOPE OF WORK CLEARLY INDICATED THAT THE STUDIO 1 FLOOR WAS TO BE REMOVED TO THE CONCRETE SLAB AND THUS THE SCOPE OF WORK WAS NEVER FOLLOWED. Furthermore, the New York State Department of Labor mold regulations and NYC guidelines warn the mold assessor to test for moisture as part of the post abatement inspection to verify the water has been eliminated. Clearly ALC did not do this.

3. The blue insulation panels that were left in place in the ceiling and walls in studio 1 can be easily moved aside by hand as they are fitted in place between the wood framing. There was no requirement to cut holes or demolish the insulation. Moving the insulation by sliding it aside revealed heavy visible mold on the sheetrock ceiling above the insulation and visible mold on the sheetrock wall shared with the living room. THE SCOPE OF WORK CALLED FOR THE REMOVAL OF THIS SHEETROCK CEILING AND SHEETROCK WALLS IN STUDIO 1.

The affirmation and affidavits assert that the agreed scope of work was completed. This is not true and in fact the scope of work was not completed and mold materials were left in place.

The scope of work was worked out for the course of a year involving Jack Glass, Candice Kowalewski, Ed Olmsted with approval from Christian Gray. Despite Jack Glass's and Candice Kowalewski's assertions, the contractor and ALC did not complete the scope of work as agreed. The following summarizes the scope of work deficiencies:

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1. Item 1 under the scope of work indicates gut demolishing the walls in rooms 1, 2 and 3. Gut demolition involves the removal of the walls to the wood studs and leaving the framing. Only one layer of sheetrock on the wall was removed, and most sheetrock was left in place. Ceiling tiles were removed, but sheetrock above was left in place. Visible mold was found behind the insulation on the sheetrock ceiling that should have been removed in studio 1.
2. Item 1 under the scope of work calls for removing the wood flooring to the concrete slab. As indicated above, this was not done in room 1.
3. Item 1 under the scope of work calls for removing the ceilings to the deck above in rooms 1, 2 and 3. And cleaning of the deck. This was not done in rooms 1 and 2.
4. Item 1 calls for cleaning of the wood framing. This could not be done because the wallboard was never removed from the framing.
5. Item 2 calls for the removal of the raised floor in the bathroom under the tub and hot water heater. This is needed because water was trapped under the floor. This was never done./

6. Item 3 called for the removal of the sheetrock in the bathroom where shared with the kitchen. Sheetrock left in place in the bathroom had visible mold
7. Item 5 calls for the removal of the sheetrock on the shared walls with the neighboring tenant to the wall cavity and does not damage the neighbors' walls. This was not done.
8. Item 6 calls for removing the lower 4 feet of the wall shared with the common hallway in room 2. This was not completed. There is visible mold left behind on this wall.
9. Item 8 calls for cutting four two by 2 ft probes along the wall length into the living room wall shared with the neighbor into the wall cavity. Inspect for mold growth. This was not done.
10. Item 9 calls for cutting probes into the living room ceiling to the wood deck and inspecting for mold. This was not done.
11. The scope of work has a section titled Inspections. This section calls for an inspection at the beginning of the work (initial) and another when the cleanup is complete. ALC remained on site daily for their reasons as this was not part of the scope. I inspected at the onset and the end of the work.

The agreed-upon scope of work, which is attached to the affirmation, required many meetings and discussions to work out. ALC, representing the building, decided on their own without consulting us to disregard the scope and perform a much smaller job. Furthermore, they make unsupportable statements that the mold growth left behind on flooring and sheetrock does not present a hazard. This contradicts the most accepted professional guidelines on mold assessment and risk. Hidden mold growth is significant because mold particulate (spores, mycelial fragments, etc.) can potentially migrate into occupied areas and result in fungal particulate exposures to occupants.¹ The U.S. Environmental Protection Agency has stated, “Mold may be hidden in places such as the back side of drywall, wallpaper, or paneling, the top side of ceiling tiles, the underside of carpets and pads, etc. Other possible locations of hidden mold include areas inside walls around pipes (with leaking or condensing pipes), the surface of walls behind furniture (where condensation forms), inside ductwork, and in roof materials above ceiling tiles (due to roof leaks or insufficient insulation).”² Pessi et al. report the presence of microbial growth inside insulation on external walls and wall cavities resulted in a degradation of indoor air quality by releasing microbial contamination into the house.³ The EPA further states, “Dead mold may still cause allergic reactions in some people, so it is not enough to simply kill the mold; it must also be removed.”⁴ According to one of the most professionally accepted criteria for assessing mold, the American Industrial Hygiene Association (AIHA) manual titled “Recognition, Evaluation, and Control of Indoor Mold Growth” states that the professional consensus is

“that hidden growth should be effectively cleaned or removed.... They define hidden mold growth as concealed visible colonizing growth of filamentous fungi on building materials or contents that

¹ American Industrial Hygiene Association Recognition, Evaluation, and Control of Indoor Mold Growth 2nd Edition; P 74 © 2019

² USEPA; A Brief Guide to Mold, Moisture and Your Home; www.epa.gov/mold/hiddenmold

³ Pessi A.M., Suonketo J, Pentti M, Kurkilahti M, Peltola K, Rantio-Lehyimaki A; Microbial Growth Inside Insulated Walls as an Indoor Biocontaminant Source; APPLIED AND ENVIRONMENTAL MICROBIOLOGY, Feb. 2002, p. 963-967 Vol. 68, No. 2 099-2240/02/\$04.000 DOI: 10.1128/AEM.68.2.963-967.2002; Copyright © 2002, American Society for Microbiology. Vol. 68.

⁴ USEPA; A Brief Guide to Mold, Moisture and Your Home; www.epa.gov/mold/hiddenmold

*is within the building enclosure but concealed from view during a normal walk-through inspection.*⁵

Last July Ed Olmsted and Jack Glass met on site in good faith to work out the completion of this work. Mr. Glass advised me at that time of his opinion that further work was needed. We were waiting for a written plan from Jack Glass to address the removal of the remaining moldy materials. This was never provided.

Furthermore, the mold assessors, Glass and Kowaleski, were required to file a Mold Remediation Work Plan Notification, a Mold Remediation Work Plan, a Post Remediation Assessment Form and Mold Post Remediation certification. See, generally, Local Law 61 of 2018. None of this was done.

⁵ American Industrial Hygiene Association Recognition, Evaluation, and Control of Indoor Mold Growth 2nd Edition; P 207 © 2019