

At ___ Part ___ of the Supreme Court of the State of New York held in and for the County of Albany at the Courthouse located at 16 Eagle Street, Albany, New York on the 10th day of February, 2020

Present: *L. Michael Mackey*

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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In the Matter of the Application of :

REAL ESTATE BOARD OF NEW YORK, INC., NEW :
YORK STATE ASSOCIATION OF REALTORS, INC., :
BOHEMIA REALTY GROUP, BOND NEW YORK :
REAL ESTATE CORP., THE CORCORAN GROUP, :
DOUGLAS ELLIMAN REAL ESTATE, HALSTEAD :
REAL ESTATE, BROWN HARRIS STEVENS :
RESIDENTIAL SALES LLC, SOTHEBY'S :
INTERNATIONAL REALTY, INC., R NEW YORK, :
KIAN REALTY NYC LLC, REGINA WIERBOWSKI :
REAL ESTATE, LLC, LEVEL GROUP INC., and :
CITY CONNECTIONS REALTY, INC., :

Petitioners, :

For a judgment pursuant to Article 78 of the CPLR :

-against- :

NEW YORK STATE DEPARTMENT OF STATE, and :
ROSSANA ROSADO, as New York State Secretary of :
State, :

Respondents. :
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*ORDER TO
SHOW CAUSE*

Index No. 901586-20

Upon the reading and filing the Verified Petition, sworn to February 9, 2020, and the exhibits annexed thereto, Petitioners' Memorandum of Law in Support of Article 78 Petition and Application for Order to Show Cause and Temporary Restraining Order, dated February 9, 2020, the Affidavit of Gary Malin, sworn to February 8, 2020, the Affidavit of Douglas Wagner, sworn

to February 7, 2020, the Affidavit of Hal Gavzie, sworn to February 7, 2020, the Affidavit of Sarah Salzberg, sworn to February 9, 2020, the Emergency Affirmation of Claude G. Szyfer, dated February 9, 2020, and the exhibits annexed thereto, and all prior pleadings and proceedings had herein,

LET Respondents New York State Department of State and Rossana Rosado, in her capacity as New York State Secretary of State (“Respondents”) show cause at Part 1, Room 220 of this Court at the Supreme Court of the State of New York, County of Albany, at the courthouse located at 16 Eagle Street, Albany, New York, at 9:30 A.m. on March 13, 2020, or as soon thereafter as counsel can be heard, why an order should not be issued pursuant to New York Civil Practice Law and Rules (“CPLR”) § 6301:

1. preliminarily enjoining the applicability of Respondents’ determination to Question 5 of its “Guidance for Real Estate Professionals Concerning the Statewide Housing Security & Tenant Protection Act of 2019 and the Housing Stability and Tenant Protection Act of 2019,” issued in or around February 4, 2020, that a landlord’s agent, including a broker, cannot be compensated by a prospective tenant for bringing about a meeting of the minds between the landlord and tenant (“Respondents’ Determination”) pending the final determination of Petitioners’ claims in this proceeding;
2. preliminarily enjoining Respondents from pursuing disciplinary action against a landlord’s agent, including a broker, who demands or collects a commission, broker’s fee, or other compensation from a prospective tenant for bringing about a meeting of the minds between the landlord and tenant pending the final determination of Petitioners’ claims in this proceeding; and
3. *Granting the relief sought in the Verified Petition and* granting such other and further relief as the Court deems just, proper, and equitable.

IT IS ORDERED that, pending the Court’s determination of the motion for a preliminary injunction filed by Petitioners Real Estate Board of New York, Inc., New York State Association of Realtors, Inc., Bohemia Realty Group, Bond New York Real Estate Corp., The Corcoran Group, Douglas Elliman Realty Estate, Brown Harris Stevens Residential Sales LLC, Halstead Real Estate, Sotheby’s International Realty, Inc., R New York, Kian Realty NYC LLC,

Regina Wierbowski Real Estate, LLC, Level Group Inc., and City Connections Realty, Inc. (“Petitioners”), pursuant to CPLR § 6313:

1. The applicability of Respondents’ Determination is hereby enjoined; and
2. Respondents are hereby enjoined from pursuing disciplinary action against a landlord’s agent, including a broker, who demands or collects a commission, broker’s fee, or other compensation from a prospective tenant for bringing about a meeting of the minds between the landlord and tenant; and

IT IS FURTHER ORDERED that Petitioners shall ~~personally~~ ^{by overnight mail} serve a copy of this Order to Show Cause and Temporary Restraining Order, together with all the papers upon which it is based, on Respondents’ attorneys, the Office of the Attorney General of the State of New York, such that service is effectuated no later than February 13, 2020.

IT IS FURTHER ORDERED that Respondents shall ~~personally~~ ^{by overnight mail} serve their papers in opposition to Petitioners’ motion for a preliminary injunction, if any, on Petitioners’ attorneys, Stroock & Stroock & Lavan LLP, such that service is effectuated no later than March 6, 2020.

IT IS FURTHER ORDERED Petitioners shall ~~personally~~ ^{by overnight mail} serve reply papers on its motion for a preliminary injunction, if any, on Respondents’ above-specified attorneys, such that service is effectuated no later than March 11, 2020.

Signed this 10th day of February, 2020, at New York, New York.

ENTER:
