

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO. MICV2014-08147

\_\_\_\_\_  
 DAVID ORTIZ, )  
                   Plaintiff, )  
 v. )  
                   ) )  
 RANDY HAMIDA )  
 a/k/a RANDY HAMIDEH, )  
 and RANDY'S MENS WEAR, LTD., INC., )  
 a California corporation, )  
                   Defendants. )  
 \_\_\_\_\_ )



**COMPLAINT**

David Ortiz ("Plaintiff" and/or "Ortiz"), by and through his undersigned counsel, as and for his Complaint against Defendant Randy Hamida a/k/a Randy Hamideh ("Hamida") and Randy's Mens Wear, Ltd., Inc., ("Randy's") (collectively "Defendants"), hereby alleges the following facts:

**NATURE OF ACTION**

1. Ortiz initiates this action seeking to recover damages from Defendants for fraud, breach of contract, breach of covenant of good faith and fair dealing, breach of express warranty, unjust enrichment, conversion, and unfair and deceptive conduct in violation of Massachusetts General Laws ("G.L.") Chapter 93A.

2. Ortiz purchased numerous pieces of diamond and gold jewelry from Hamida that he received in or about 2010 through the spring of 2011, and prepaid for in October 2010 in the amount of approximately \$127,000.00. The transaction consisted of Ortiz exchanging his own

jewelry worth approximately \$47,000.00 and tendering to Hamida an \$80,000.00 personal check payable to Randy's, which, upon information and belief, is Hamida's corporate alter ego.

3. Hamida represented that such jewelry was produced from authentic, high-quality, and extremely valuable metals and precious gemstones, when Hamida knew that such jewelry was produced from either imitation or low-quality metals and gemstones. Ortiz claims that Hamida misrepresented the quality of the jewelry and fraudulently induced Ortiz into purchasing the jewelry.

4. As soon as Ortiz discovered the quality and authenticity of the jewelry to be far inferior to what Hamida had represented, he returned the jewelry to Hamida and made demand upon him to refund all monies and the jewelry he previously tendered to Hamida. Although Hamida acknowledged that the jewelry was sub-standard and agreed to return to Ortiz his money and jewelry, Hamida has failed to do so as of the date of this Complaint.

5. Accordingly, Ortiz seeks to hold Defendants accountable for all damages, including double to treble damages and attorneys' fees, suffered as a result of Hamida's conduct.

### **PARTIES**

6. At all times relevant hereto, Ortiz has been a natural person of the age of majority, and a resident of the Town of Weston, Middlesex County, Massachusetts.

7. At all times relevant hereto, upon information and belief, Hamida is a natural person of the age of majority, and a resident of Anaheim, California. Upon information and belief, Hamida resides at 220 South Nohl Canyon Road, Anaheim, California 92807.

8. At all times relevant hereto, upon information and belief, Randy's is a corporation formed under the laws of the State of California, with a principal place of business located at 2800 N. Main Street, Santa Ana, California 92701. According to the records maintained in the

California Secretary of State's database, as of the date of this Complaint, Randy's is not in good standing with the California Secretary of State for failure to pay business taxes.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction over Defendants because they had sufficient contacts with Massachusetts in connection with the causes of action alleged in this Complaint pursuant to Massachusetts General Laws, c. 223A, §3(a) and (c).

10. Venue is proper under Massachusetts General Laws, c. 223, §1 because Ortiz maintains his principal residence in Middlesex County.

### **FACTS**

11. Ortiz is a highly accomplished and celebrated professional baseball player employed by the Boston Red Sox. Ortiz is a strong candidate for the professional baseball Hall of Fame.

12. Hamida holds himself out as a luxury jewelry dealer who targets professional athletes, in particular Major League Baseball players.

13. Upon information and belief, Randy's is a men's clothing business owned by Hamida's father, Abraham Hamida a/k/a Abraham Hamideh. Further, upon information and belief, Hamida used Randy's as his corporate alter ego when promoting and selling jewelry as a means to collect money that is paid to him in forms other than cash (i.e. credit cards and checks)

14. Upon information and belief, Hamida maintains a residence and principal place of business in Anaheim, California, although he travels nationwide to Major League Baseball cities to stalk players at their hotels in an attempt to peddle his jewelry. For instance, when Major

League Baseball teams travel on road trips during the baseball season, Hamida will promote his goods to players in the lobby of a team's hotel.

15. For years, Hamida pursued Ortiz in an attempt to meet him and lure him into purchasing jewelry from Hamida. Hamida did so because Ortiz is a successful and very well respected professional baseball player, with substantial wealth and access and influence over other baseball players who were also potential customers for Hamida.

16. During the 2010 season, Hamida approached Ortiz at the Red Sox's team hotel in Seattle during a September road trip with the Boston Red Sox. Ortiz did not purchase any jewelry from Hamida at the time, but instead asked him to come to Massachusetts to meet with Ortiz at the conclusion of the season.

17. On or about October 6, 2010, Hamida met with Ortiz at his residence, where Hamida presented Ortiz with allegedly custom-designed jewelry of the highest quality gold, diamonds, and other precious gemstones.

18. Hamida purported that the jewelry was produced from authentic and high-quality gold, diamonds, and other precious gemstones that was extremely valuable, in excess of what Ortiz was going to pay for it.

19. On or about October 6, 2010, Ortiz agreed to purchase from Hamida a matching set of jewelry that included a pair of black diamond earrings, a necklace, and a bracelet that was to be delivered to Ortiz while he was in Florida the following March (2011) during the Boston Red Sox training camp. Further, also part of the same transaction, Ortiz agreed to purchase a special Breitling watch with diamonds and a white and yellow gold and diamond bracelet that Hamida delivered to Ortiz in Massachusetts in or about November 2010.

20. Ortiz paid Hamida by exchanging his own jewelry valued at approximately \$47,000.00 and tendering to Hamida an \$80,000.00 personal check dated October 6, 2010 made payable to Randy's, as per Hamida's instructions. Although Ortiz made the check payable to Randy's, Ortiz had never heard of Randy's before tendering the check to Hamida.

21. Upon information and belief, Hamida deposited Ortiz's \$80,000.00 check into Randy's business account.

22. In or about the Spring of 2011, Hamida delivered the balance of the jewelry to Ortiz.

23. Hamida refused to provide Ortiz with a written receipt and/or a detailed appraisal of each piece, as Hamida previously promised. Ortiz requested such so he could have the jewelry insured.

24. Thus, shortly thereafter, Ortiz had his new jewelry brought to a jeweler to be appraised for insurance purposes. Ortiz was advised that the jewelry he purchased from Hamida was not of high quality and valued far less than the \$127,000.00 or more he had paid for it.

25. Ortiz immediately attempted to contact Hamida, who attempted to avoid Ortiz. Ortiz had his friends also reach out to Hamida.

26. Finally, Ortiz was able to speak with Hamida and demanded a full refund of his money and necklace because he discovered that Hamida had misrepresented the quality and value of the jewelry that was sold to Ortiz by Hamida.

27. In late April of 2011, during a road trip with the Boston Red Sox to Anaheim, California, Ortiz met with Hamida and discussed the situation. Ortiz told Hamida that he had the jewelry inspected by a jeweler, whose opinion was that the jewelry was of a significantly inferior quality than Hamida had stated, and that several of the pieces had discolored. Hamida

acknowledged to Ortiz that the jewelry was of a lesser value than he represented, and promised a full refund and a return of Ortiz's necklace.

28. Yet, Hamida failed to refund Ortiz the monies and jewelry he paid to Hamida.

29. In July of 2011, during the Major League Baseball All Star Game in Phoenix, Arizona, Ortiz encountered Hamida at a team hotel and confronted Hamida about his failure to refund Ortiz the \$80,000.00 and return the necklace. Ortiz demanded the immediate return of the monies and necklace, and that he did not want to wait until the end of the baseball season for Hamida to do so.

30. Hamida again admitted the inferiority of the jewelry he sold Ortiz, apologized and promised to repay Ortiz, but said he needed until the end of 2011 because of his financial problems.

31. Hamida claimed that he needed the jewelry returned to him so he could sell it to raise the money to repay Ortiz the \$80,000.00 and further claimed that he would return the necklace to Ortiz the next time he saw him. At the end of 2011, Ortiz agreed to first return the jewelry to Hamida in exchange for Hamida's promise to refund Ortiz the \$80,000.00 and return to Ortiz the necklace.

32. In all, Ortiz paid Hamida more than \$127,000.00 for jewelry that was made out of imitation or low-quality metal and gemstones, which was purported by Hamida to be high-quality gold, diamonds, and other precious gemstones.

33. Even though Hamida knew the jewelry was not produced from high-quality gold and diamonds, Hamida sold the jewelry to Ortiz based on the express representations from Hamida that the jewelry was authentic, high-quality, and extremely valuable.

34. Ortiz has subsequently learned that Hamida has a history of conducting himself in this manner by hearing stories of Hamida's deceptive business practices from other players subsequent to Ortiz's transaction with Hamida.

35. Hamida has failed to make Ortiz whole, and Ortiz has suffered damages as a result.

### **CAUSES OF ACTION**

#### **Count I - Fraud**

36. Ortiz repeats and incorporates by reference herein paragraphs 1 through 35 of this Complaint as though fully stated herein.

37. Hamida knowingly and intentionally defrauded Ortiz by making false representations to Ortiz concerning the quality of the jewelry Ortiz purchased from Hamida.

38. Hamida knowingly and intentionally defrauded Ortiz by inducing him to pay over \$127,000.00 (vis-a-vis an \$80,000.00 personal check and approximately \$47,000.00 in jewelry) to Hamida for the purchase of fake and/or low-quality jewelry, which Ortiz thought to be authentic, high-quality, and extremely valuable.

39. Upon information and belief, Hamida deposited Ortiz's \$80,000.00 check into Randy's business account.

40. Ortiz justifiably relied upon the false representations made by Hamida.

41. Hamida knowingly and maliciously made such false representations for the purpose of exploiting Ortiz for his own financial benefit and, in essence, to steal Ortiz's money.

42. As a direct and proximate result of Defendants' conduct alleged herein, Ortiz has been damaged in an amount he will prove at trial, of no less than \$127,000.00.

### **Count II - Breach of Contract**

43. Ortiz repeats and incorporates by reference herein paragraphs 1 through 42 of this Complaint as though fully stated herein.

44. Ortiz entered into a binding agreement with Hamida for the purchase of authentic, high-quality, and extremely valuable jewelry.

45. The transaction was supported by valuable consideration paid by Ortiz to Hamida totaling over \$127,000.00 (i.e., an \$80,000.00 personal check and approximately \$47,000.00 in jewelry).

46. Upon information and belief, Hamida deposited Ortiz's \$80,000.00 check into Randy's business account.

47. Hamida intentionally breached this agreement by failing to provide Ortiz with the authentic, high-quality, and extremely valuable jewelry.

48. Hamida further subsequently admitted that the jewelry sold was substandard, and entered into a second binding agreement – to reimburse to Ortiz the funds and jewelry Ortiz had paid Hamida for the fake and/or substandard jewelry.

49. Hamida further breached this second agreement, by failing and refusing to refund to Ortiz the money and jewelry paid to him.

50. As a direct and proximate result of Defendants' conduct alleged herein, Ortiz has been damaged in an amount he will prove at trial, of no less than \$127,000.00, plus incidental, consequential, and all other available damages.

### **Count III – Breach of the Covenant of Good Faith and Fair Dealing**

51. Ortiz repeats and incorporates by reference herein paragraphs 1 through 50 of this Complaint as though fully stated herein.



52. As more fully set forth above, Hamida was bound by the terms of the parties' contract, which imposed upon him a duty of good faith in the performance of each contractual obligation.

53. More specifically, Hamida was bound to deliver to Ortiz jewelry of the substantial value and quality he represented it to have, and for which he induced Ortiz to pay.

54. Hamida had a further obligation to fulfill his promise to refund the money and necklace paid by Ortiz, following Hamida's admission of the delivered goods' false or substandard quality, and insignificant value.

55. By delivering false or substandard jewelry, and by then failing and refusing to refund Ortiz the money and jewelry after agreeing to do so, Hamida breached his duty of good faith and fair dealing, to Ortiz's detriment.

56. As a direct and proximate result of such breach, Ortiz has been damaged in an amount he will prove at trial, of no less than \$127,000.00, plus incidental, consequential, and all other available damages.

#### **Count IV - Unjust Enrichment**

57. Ortiz repeats and incorporates by reference herein paragraphs 1 through 56 of this Complaint as though fully stated herein.

58. Ortiz made a payment (vis-a-vis an \$80,000.00 personal check and approximately \$47,000.00 in jewelry) to Hamida, who, upon information and belief, deposited Ortiz's \$80,000.00 check into Randy's business account, which thereby enriched Defendants in an amount no less than \$127,000.00.

59. Ortiz demanded that Hamida return his money and the jewelry he exchanged (or the equivalent value of the jewelry).

60. Hamida refused to return Ortiz his \$80,000.00 and the necklace Ortiz paid to Hamida for the jewelry, after admitting that he had wrongfully received such money and jewelry and after agreeing to do so.

61. Hamida knowingly acted maliciously for the purpose of exploiting Ortiz for Hamida's own financial benefit and, in essence, to steal Ortiz's money and jewelry.

62. Defendants were thus unjustly enriched at Ortiz's expense.

63. As a direct and proximate result of Defendants' conduct alleged herein, Ortiz has been damaged in an amount he will prove at trial, no less than \$127,000.00, plus incidental, consequential, and all other available damages.

#### **Count V - Conversion**

64. Ortiz repeats and incorporates by reference herein paragraphs 1 through 63 of this Complaint as though fully stated herein.

65. Ortiz made a payment (i.e. an \$80,000.00 personal check and approximately \$47,000.00 in jewelry) to Hamida.

66. Ortiz demanded that Hamida return his \$80,000.00 and the necklace that Ortiz paid to Hamida.

67. Hamida refused to return Ortiz his \$80,000.00 and the necklace Ortiz paid to Hamida for the jewelry, after agreeing to do so.

68. Hamida knowingly acted maliciously for the purpose of exploiting Ortiz for Hamida's own financial benefit and, in essence, to steal Ortiz's money and necklace.

69. Upon information and belief, Hamida deposited Ortiz's \$80,000.00 check into Randy's business account.

70. Defendants have thus wrongfully, and knowingly exercised dominion and control over Ortiz's property in violation of Ortiz's rights to such property.

71. Defendants are therefore liable for the tort of conversion of Ortiz's \$80,000.00 and necklace.

72. As a proximate result of Defendants' conduct alleged herein, Ortiz has been damaged in an amount he will prove at trial, no less than \$127,000.00, plus incidental, consequential, and all other available damages.

**Count VI - Unfair and Deceptive Trade Practices in Violation of G.L. c. 93A, §§ 2, 9**

73. Ortiz repeats and incorporates by reference herein paragraphs 1 through 72 of this Complaint as though fully stated herein.

74. Hamida engages in the trade and commerce of selling jewelry. Upon information and belief, Hamida engages in the trade and commerce of selling jewelry using Randy's as his corporate alter ego.

75. Upon information and belief, Defendants do not maintain a place of business or keep assets in the Commonwealth of Massachusetts.

76. Defendants' wrongful conduct and the transactions between the parties, as more fully described herein, took place primarily and substantially in the Commonwealth.

77. Such conduct constitutes unfair and deceptive trade practices declared unlawful by G.L. c. 93A.

78. As a direct and proximate result of such unfair and deceptive acts and practices described herein, Ortiz has incurred substantial loss of money and property.

79. Such unfair and deceptive acts and practices of Defendants were conducted with malice and rascality in violation of Mass. Gen. L. c. 93A, and, through their knowingly and intentionally deceptive character, constitute willful and wanton violations thereof, warranting an award of double to treble damages.

80. As a direct and proximate result of Defendants' conduct alleged herein, Ortiz has been damaged in an amount he will prove at trial, of no less than \$127,000.00, plus incidental, consequential, double to treble damages, reasonable attorney's fees, and all other available damages.

#### **Count VI - Breach of Express Warranty**

81. Ortiz repeats and incorporates by reference herein paragraphs 1 through 80 of this Complaint as though fully stated herein.

82. Hamida expressly represented and warranted that the jewelry he sold to Ortiz was produced from authentic, high-quality gold, diamonds, and other gemstones.

83. Hamida knowingly and intentionally defrauded Ortiz by making false representations to Ortiz concerning the quality of the jewelry Ortiz purchased from Hamida.

84. Hamida knowingly and intentionally made false representations to Ortiz and thereby induced him to pay over \$127,000.00 (in money and jewelry) to Hamida for the purchase of fake and/or low-quality jewelry which Ortiz thought to be authentic, high-quality, and extremely valuable.

85. Upon information and belief, Hamida engages in the trade and commerce of selling jewelry using Randy's as his corporate alter ego.

86. As a proximate result of Defendants' conduct alleged herein, Ortiz has been damaged in an amount he will prove at trial, of no less than \$127,000.00, plus incidental, consequential, and all other available damages.

WHEREFORE, Ortiz demands judgment against Hamida as follows:

a. On the first cause of action, granting Ortiz judgment for fraud against Defendants in an amount to be determined at trial, together with interest, costs, and attorneys' fees as allowed by law;

b. On the second cause of action, granting Ortiz judgment for breach of contract against Defendants in an amount to be determined at trial, together with interest, costs, and attorneys' fees as allowed by law;

c. On the third cause of action, granting Ortiz judgment for breach of the covenant of good faith and fair dealing against Defendants in an amount to be determined at trial, together with interest, costs, and attorneys' fees as allowed by law;

d. On the fourth cause of action, granting Ortiz judgment for unjust enrichment against Defendants in an amount to be determined at trial, together with interest, costs, and attorneys' fees as allowed by law;

e. On the fifth cause of action, granting Ortiz judgment for conversion against Defendants in an amount to be determined at trial, together with interest, costs, and attorneys' fees as allowed by law;

f. On the sixth cause of action, granting Ortiz judgment for violation of G.L. c. 93A against Defendants in an amount to be determined at trial, together with double to treble damages, his reasonable attorneys' fees, interest and costs, pursuant to G.L. c. 93A;

g. On the seventh cause of action, granting Ortiz judgment for breach of warranty against Defendants in an amount to be determined at trial, together with interest, costs, and attorneys' fees as allowed by law;

h. An award to Ortiz of his attorney's fees and costs expended in this action; and

i. For any such different and further relief as this Court may deem just and proper.

**RESERVATION OF RIGHT TO AMEND PLEADINGS**

Ortiz reserves the right to amend these pleadings to add any and all claims that he determines are just and appropriate.

**DEMAND FOR JURY TRIAL**

Ortiz hereby demands a trial by jury of all issues and counts so triable.

Dated: October 30, 2014

Respectfully submitted,

PLAINTIFF DAVID ORTIZ,

By:

  
Matthew J. Ginsburg, Esq.

BBO No. 641089

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