

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- X
HUGO BOSS RETAIL, LLC, :
 :
 Plaintiff, :
 :
 -against- :
 :
 A/R RETAIL LLC, :
 :
 Defendant. :
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Index No. 655166/20

ANSWER

Defendant, by its attorneys, Rosenberg & Estis, P.C., alleges the following as its answer to plaintiff’s Complaint, dated October 9, 2020 (the “Complaint”):

1. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraphs 1, 3, 5, 6, 12, 13, 14, 41, 43, 48, 49, 51, 53, 72, 73, 74, 75, 89, 95, 98, 112, 121 and 122 of the Complaint.

2. Denies the allegations set forth in paragraph 2 of the Complaint, except admits that non-party Hugo Boss Retail, Inc. (“Tenant”) was and is operating a “HUGO BOSS” retail store (the “Premises”) in the shopping center on the west side of Manhattan known as The Shops at Columbus Circle pursuant to the Indenture of Lease, made December 15, 2012 (the “Lease”), between Tenant, as tenant, and defendant, as landlord, and refers thereto for its terms and content.

3. Denies the allegations set forth in paragraphs 4, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 30, 31, 32, 33, 35, 36, 42, 54, 57, 58, 59, 60, 61, 62, 63, 64, 67, 70, 81, 82, 87, 88, 94, 99, 100, 101, 102, 113, 114, 115, 116, 117, 123, 124, 125, 126, 127 and 129 of the Complaint.

4. Denies the allegations set forth in paragraphs 22, 23, 34, 66, 68, 69, 71, 76, 80, 83, 85, 90, 92, 96, 103, 104, 106, 107, 108, 109, 111, 118, 119 and 128 refer all issues of law to the Court.

5. Denies the allegations set forth in paragraph 29 of the Complaint and refers to the terms of the Lease for its terms and content, except admits that for each of the months of for the period of March 2020 through October 2020, the monthly fixed rent was \$441,666.67, the monthly “Tenant’s Tax Share” was \$121,303.46, the monthly “Tenant’s Share of Expenses” (or CAM) was \$120,589.00, the marketing contribution was \$7,851.69 and the sprinkler charges were \$615.25.

6. Denies the allegations set forth in paragraphs 28, 37, 38, 39, 40, 44, 45, 46, 47, 50, 52, 55, 56, 78, 79, 86 and 93 of the Complaint, and refers to the Lease and/or other document(s) referred to therein for its/their respective terms and content.

7. Repeats and realleges the responses to the allegations incorporated into paragraphs 65, 77, 84, 91, 97, 105, 110 and 120 of the Complaint.

FIRST AFFIRMATIVE DEFENSE

8. The Complaint fails to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

9. Plaintiff lacks the capacity to sue because it is not a limited liability company authorized to do business in the State of New York.

THIRD AFFIRMATIVE DEFENSE

10. There is no privity of contract or other relationship between plaintiff and defendant.

FOURTH AFFIRMATIVE DEFENSE

11. Plaintiff has no right to rescind the Lease by serving any notice or otherwise.

FIFTH AFFIRMATIVE DEFENSE

12. Tenant has not served any notice upon defendant rescinding the Lease.

SIXTH AFFIRMATIVE DEFENSE

13. The terms of the Lease have been ratified by Tenant when it re-opened its subject retail store in the Premises starting on or about September 9, 2020.

SEVENTH AFFIRMATIVE DEFENSE

14. Plaintiff's claims are barred, in whole, or in part, by documentary evidence, including, without limitation, the Lease.

EIGHTH AFFIRMATIVE DEFENSE

15. Plaintiff's claims are barred, in whole, or in part, by the applicable statute of limitations.

NINTH AFFIRMATIVE DEFENSE

16. Tenant has breached the Lease.

TENTH AFFIRMATIVE DEFENSE

17. The Lease states that Tenant's obligation to pay rent and other monies due under the Lease is not excused by, *inter alia*, "order or regulations of or by any governmental authority."

ELEVENTH AFFIRMATIVE DEFENSE

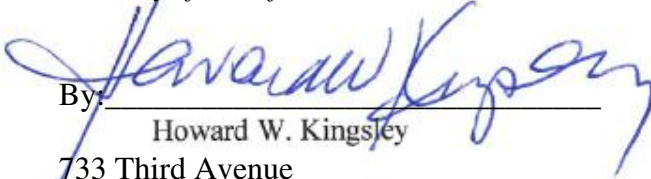
18. Tenant has not provided defendant with any notice of any "Force Majeure" as such term is defined in the Lease.

WHEREFORE, defendant requests that a judgment be entered:

- A. Dismissing the Complaint in its entirety; and
- B. Granting defendant such other and further relief as this Court deems just and proper.

Date: New York, New York
November 12, 2020

ROSENBERG & ESTIS, P.C.
Attorneys for Defendant

By: 

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