

IN THE CIRCUIT COURT OF THE 11<sup>th</sup> JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

ESSLINGER-WOOTEN-MAXWELL, INC.,  
a Florida corporation,  
Plaintiff,

vs.

LONES FAMILY LIMITED PARTNERSHIP,  
a Florida limited partnership, LEE S. LONES,  
individually, and JUDY C. LONES, individually,

Defendants.

CIRCUIT CIVIL DIVISION

CASE NUMBER:

13 19808 CA 31

**COMPLAINT FOR DAMAGES**

COMES NOW Plaintiff, ESSLINGER-WOOTEN-MAXWELL, INC. (hereinafter  
"Plaintiff"), by and through its undersigned counsel, and sues Defendants, LONES  
FAMILY LIMITED PARTNERSHIP (hereinafter "LONES PARTNERSHIP"), LEE S.  
LONES, individually (hereinafter "LEE LONES"), and, JUDY C. LONES, individually  
(hereinafter "JUDY LONES"), and alleges as follows:

**ALLEGATIONS COMMON TO ALL COUNTS**

1. This is an action for damages in excess of \$15,000.00, exclusive of interest and costs.
2. At all times material hereto, Plaintiff was a duly licensed real estate broker doing business in Miami-Dade County, Miami, Florida.
3. At all times material hereto, Defendant, LONES PARTNERSHIP, was a Florida limited partnership, with its principal place of business in Miami-Dade County, Florida.

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CLERK, CIRCUIT & COUNTY COURT  
MIAMI-DADE COUNTY  
CORAL GABLES, FL 33134

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4. At all times material hereto, Defendants, LEE LONES and JUDY LONES, were residents of Miami-Dade County, Florida, and are otherwise, *sui juris*.

5. On or about January 27, 2010, Plaintiff and Defendants, LONES PARTNERSHIP, and LEE and JUDY LONES, entered into a "Commercial Exclusive Right of Sale Listing Agreement," a copy of which is attached hereto as **Exhibit 1**, for the sale of certain real property known as Pinewood Acres School, Inc., located at 9500 S.W. 97<sup>th</sup> Avenue, Miami, Florida, and 9790 S.W. 97<sup>th</sup> Avenue, Miami, Florida.

6. On or about January 25, 2011, Plaintiff and Defendants, LONES PARTNERSHIP, and LEE and JUDY LONES, also entered into a "Non-Disclosure and Confidentially Agreement," a copy of which is attached hereto as **Exhibit 2**, along with a "Registration of Prospect," a copy of which is attached hereto as **Exhibit 3**.

7. At all times material hereto, Plaintiff complied with its duties and obligations pursuant the terms and conditions of the Commercial Exclusive Right of Sale Listing Agreement, and pursuant to said agreement, submitted prospective buyers in the form of Ignacio Zulueta, and his brother, Fernando Zulueta, and entities owned, operated and/or controlled by these prospective buyers, including the School Development HC LLC and/or Academica, and/or any other entities related, owned and/or controlled by any of these individuals or related entities.

8. On or about January 26, 2011, Plaintiff presented Defendants, LONES PARTNERSHIP, and LEE and JUDY LONES, with a Letter of Intent on behalf of these entities, a copy of which is attached hereto as **Exhibit 4**.

9. At or about that time, the Plaintiff presented Defendants, LONES PARTNERSHIP, and LEE and JUDY LONES, with a new offer from the prospective buyers. A copy of the new offer is attached hereto as **Exhibit 5**.

10. A few days later, the offer was rejected by the Defendants, LONES PARTNERSHIP and LEE and JUDY LONES. A copy of the rejection is attached hereto as **Exhibit 6**.

11. Plaintiff has recently learned that the entities that were procured, and/or entities owned, controlled, related or operated by them, as further alleged above, have in fact purchased, leased and/or entered into a contract with Defendants, LONES PARTNERSHIP, and LEE and JUDY LONES, for the property which is the subject matter of this lawsuit, namely, the Pinewood Acres School, and completed this transaction by excluding Plaintiff in an apparent, fraudulent and deceitful effort to preclude Plaintiff from receiving its commission in accordance with the terms and condition of the Commercial Exclusive Right of Sale Listing Agreement.

12. Pursuant to the explicit terms and conditions of the Commercial Exclusive Right of Sale Listing Agreement, the Defendants, LONES PARTNERSHIP, and LEE and JUDY LONES, owe Plaintiff a commission for a sale, or a lease, of said property.

13. Plaintiff has retained the undersigned counsel to pursue this matter, and is entitled to attorney's fees pursuant to the terms and condition of the Commercial Exclusive Right of Sale Listing Agreement.

**BREACH OF CONTRACT**

14. Plaintiff realleges all prior allegations herein as are fully set forth here.

15. At all times material hereto, Plaintiff complied with its duties and obligations pursuant the terms and conditions of the Commercial Exclusive Right of Sale Listing Agreement, and procured prospective buyers for the subject property.

16. Defendants, LONES PARTNERSHIP, and LEE and JUDY LONES, rejected said offers, and later circumvented the Plaintiff and its efforts by entering into a separate agreement with the same prospective buyers and/or entities controlled and/or related to them, thereby avoiding the payment of substantial commissions duly earned by the Plaintiff.

17. Defendants, LONES PARTNERSHIP, and LEE and JUDY LONES, have breached the terms and conditions of the Commercial Exclusive Right of Sale Listing Agreement, and the covenant of bad faith and fair dealing implied by law, and owe the Plaintiff their fully earned commission. In addition, pursuant to paragraph 12 of the Commercial Exclusive Right of Sale Listing Agreement, the Plaintiff is entitled to costs and attorneys' fees incurred by the broker due to the breach of this agreement by the Defendants.

WHEREFORE, Plaintiff, ESSLINGER-WOOTEN-MAXWELL, INC., hereby demands judgment against Defendants, LONES FAMILY LIMITED PARTNERSHIP, LEE S. LONES, Individually, and JUDY C. LONES, Individually, for its full commission, costs and attorney's fees, and any other damages this Court may deem awardable by law. Plaintiff further demands trial by jury.

Dated this \_\_\_\_\_ day of June, 2013.

**DLD LAWYERS**

