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Department of Real Estate  
P.O. Box 137007  
Sacramento, CA 95813-7007  
  
Telephone: (916) 576-8700

**FILED**

SEP 03 2024

DEPARTMENT OF REAL ESTATE  
By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of  
  
GEM ENTERPRISES INC.;  
  
and  
  
JOSEPH ALBERT DAROSA, individually and  
as designated officer of Gem Enterprises Inc.,  
  
Respondents.)

No. H-12700 SF

STIPULATION AND  
AGREEMENT

It is hereby stipulated by and between GEM ENTERPRISES INC. (GEI), and JOSEPH ALBERT DAROSA (DAROSA) (collectively "Respondents"), and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate (Department), as follows for the purpose of settling and disposing of the Accusation filed on December 14, 2023; in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement.

1                   2.       Respondents have received, read, and understand the Statement to  
2 Respondent, and the Discovery Provisions of the APA filed by the Department in this  
3 proceeding.

4                   3.       Respondents filed a Notice of Defense pursuant to Section 11505 of the  
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents  
7 acknowledge that Respondents understand that by withdrawing said Notice of Defense  
8 Respondents will thereby waive Respondents' rights to require the Real Estate Commissioner  
9 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in  
10 accordance with the provisions of the APA, and that Respondents will waive other rights  
11 afforded to Respondents in connection with the hearing such as the right to present evidence in  
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

13                   4.       This Stipulation and Agreement is based on the factual allegations  
14 contained in the Accusation. In the interest of expediency and economy, Respondents choose not  
15 to contest these factual allegations, but to remain silent and understand that, as a result thereof,  
16 these factual statements will serve as a prima facie basis for the "Determination of Issues" and  
17 "Order" set forth below. The Commissioner shall not be required to provide further evidence to  
18 prove such allegations.

19                   5.       This Stipulation and Agreement and Respondents' decision not to contest  
20 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and  
21 are expressly limited to this proceeding and any other proceeding or case in which the  
22 Department, the state or federal government, an agency of this state, or an agency of another  
23 state is involved.

24                   6.       Respondents understand that by agreeing to this Stipulation and  
25 Agreement, Respondents agree to pay, pursuant to Section 10148 of the California Business and  
26 Professions Code (Code), the cost of the audit, which resulted in the determination that  
27 Respondents committed the trust fund handling violation(s) found in the Determination of

1 Issues. The amount of said costs is \$11,258.

2 7. Respondents further understand that by agreeing to this Stipulation and  
3 Agreement, the findings set forth below in the Determination of Issues become final, and that  
4 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant  
5 to Section 10148 of the Code to determine if the violations have been corrected. The maximum  
6 costs of said audit shall not exceed \$14,073.

7 8. Respondents understand that by agreeing to this Stipulation and  
8 Agreement, Respondents agree to pay, pursuant to Section 10106 of the Code, the reasonable  
9 costs of investigation and enforcement, which resulted in the determination that Respondents  
10 committed the violation(s) found in the Determination of Issues. The amount of said  
11 investigation and enforcement costs is \$625.40.

12 9. It is understood by the parties that the Commissioner may adopt the  
13 Stipulation and Agreement as the Commissioner's decision in this matter thereby imposing the  
14 penalty and sanctions on the real estate licenses and license rights of Respondents as set forth in  
15 the below "Order". In the event that the Commissioner in the Commissioner's discretion does  
16 not adopt the Stipulation and Agreement, it shall be void and of no effect, and Respondents shall  
17 retain the right to a hearing and proceeding on the Accusation under all the provisions of the  
18 APA and shall not be bound by any admission or waiver made herein.

19 9. The Order or any subsequent Order of the Commissioner made pursuant to  
20 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further  
21 administrative or civil proceedings by the Department with respect to any matters which were  
22 not specifically alleged to be causes for action in Accusation H-12700 SF.

23 \* \* \*

24 DETERMINATION OF ISSUES

25 By reason of the foregoing stipulations and waivers and solely for the purpose of  
26 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the  
27 following determination of issues shall be made:

1 I

2 The acts and omissions of Respondents as described in the Accusation are  
3 grounds for the suspension or revocation of Respondents' licenses and license rights under the  
4 following sections of the Code and Title 10, Chapter 6, of the California Code of Regulations  
5 (Regulations):

6 As to Paragraph 10, under Section 10177(d) of the Code in conjunction with  
7 Section 10145 of the Code and Section 2832.1 of the Regulations; and

8 As to Paragraph 11, under Section 10177(d) of the Code in conjunction with  
9 Section 2831.1 of the Regulations.

10 As to Paragraph 12, under Section 10177(d) of the Code in conjunction with  
11 Section 2831.2 of the Regulations.

12 II

13 The acts and/or omissions of DAROSA as described in the Accusation is cause  
14 for the suspension or revocation of DAROSA's license and/or license rights under Section  
15 10177(h) of the Code.

16 \* \* \*

17 ORDER

18 I

19 All licenses and licensing rights of GEI under the Real Estate Law are suspended  
20 for a period of sixty (60) days from the effective date of this Order; provided, however, that:

21 1) Thirty (30) days of said suspension shall be stayed, upon the condition that GEI  
22 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to  
23 Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary  
24 penalty of \$1,500.

25 a) Said payment shall be in the form of a cashier's check made payable to the  
26 Department of Real Estate. Said check must be delivered to the Department of Real Estate,  
27

1 Flag Section at 651 Bannon Street, Suite 500, Sacramento, CA 95811, prior to the effective date  
2 of this Order.

3 b) No further cause for disciplinary action against the Real Estate licenses of GEI  
4 occurs within two (2) years from the effective date of the decision in this matter.

5 c) If GEI fails to pay the monetary penalty as provided above prior to the effective  
6 date of this Order, the stay of the suspension shall be vacated as to GEI and the order of  
7 suspension shall be immediately executed, under this Order, in which event GEI shall not be  
8 entitled to any repayment nor credit, prorated or otherwise, for the money paid to the Department  
9 under the terms of this Order.

10 d) If GEI pays the monetary penalty and any other moneys due under this Stipulation  
11 and Agreement and if no further cause for disciplinary action against the real estate license of  
12 GEI occurs within two (2) years from the effective date of this Order, the entire stay hereby  
13 granted this Order, as to GEI only, shall become permanent.

14 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the  
15 following terms and conditions:

16 a) GEI shall obey all laws, rules and regulations governing the rights, duties and  
17 responsibilities of a real estate licensee in the State of California; and,

18 b) That no final subsequent determination be made, after hearing or upon stipulation,  
19 that cause for disciplinary action occurred within two (2) years from the effective date of this  
20 Order. Should such a determination be made, the Commissioner may, in the Commissioner's  
21 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed  
22 suspension. Should no such determination be made, the stay imposed herein shall become  
23 permanent.

## 24 II

25 All licenses and licensing rights of DAROSA under the Real Estate Law are  
26 suspended for a period of sixty (60) days from the effective date of this Order; provided,  
27 however, that:

1) Thirty (30) days of said suspension shall be stayed, upon the condition that DAROSA petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total monetary penalty of \$1,500.

a) Said payment shall be in the form of a cashier's check made payable to the Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag Section at 651 Bannon Street, Suite 500, Sacramento, CA 95811, prior to the effective date of this Order.

b) No further cause for disciplinary action against the Real Estate licenses of DAROSA occurs within two (2) years from the effective date of the decision in this matter.

c) If DAROSA fails to pay the monetary penalty as provided above prior to the effective date of this Order, the stay of the suspension shall be vacated as to DAROSA and the order of suspension shall be immediately executed, under this Order, in which event DAROSA shall not be entitled to any repayment nor credit, prorated or otherwise, for the money paid to the Department under the terms of this Order.

d) If DAROSA pays the monetary penalty and any other moneys due under this Stipulation and Agreement and if no further cause for disciplinary action against the real estate license of DAROSA occurs within two (2) years from the effective date of this Order, the entire stay hereby granted this Order, as to DAROSA only, shall become permanent.

2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

a) DAROSA shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,

b) That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years from the effective date of this Order. Should such a determination be made, the Commissioner may, in the Commissioner's discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed

1 suspension. Should no such determination be made, the stay imposed herein shall become  
2 permanent.

3 3) All licenses and licensing rights of DAROSA are indefinitely suspended unless or  
4 until DAROSA provides proof satisfactory to the Commissioner, of having taken and  
5 successfully completed the continuing education course on trust fund accounting and handling  
6 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of  
7 satisfaction of these requirements includes evidence that DAROSA has successfully completed  
8 the trust fund account and handling continuing education courses, no earlier than 120 days prior  
9 to the effective date of the Decision and Order in this matter. Proof of completion of the trust  
10 fund accounting and handling course must be delivered to the Department of Real Estate, Flag  
11 Section at 651 Bannon Street, Suite 500, Sacramento, CA 95811, or by fax at 916-263-8758,  
12 prior to the effective date of this Decision and Order.

13 III

14 1) Pursuant to Section 10148 of the Code, Respondents shall pay the sum of \$11,258  
15 for the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall  
16 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.  
17 Payment of audit costs should not be made until Respondents receive the invoice. If  
18 Respondents fail to satisfy this condition in a timely manner as provided for herein,  
19 Respondents' real estate license shall automatically be suspended until payment is made in full,  
20 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
21 condition.

22 2) Pursuant to Section 10148 of the Code, Respondents shall pay the  
23 Commissioner's reasonable cost, not to exceed \$14,073, for an audit to determine if Respondents  
24 have corrected the violation(s) found in the Determination of Issues. In calculating the amount  
25 of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly  
26 salary for all persons performing audits of real estate brokers and shall include an allocation for  
27 travel time to and from the auditor's place of work. Respondents shall pay such costs within

1 sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the audit  
2 costs should not be made until Respondents receive the invoice. If Respondents fail to satisfy  
3 this condition in a timely manner as provided for herein, Respondents' real estate license shall  
4 automatically be suspended until payment is made in full, or until a decision providing otherwise  
5 is adopted following a hearing held pursuant to this condition.

6 3) All licenses and licensing rights of Respondents are indefinitely suspended unless  
7 or until Respondents pays the sum of \$625.40 for the Commissioner's reasonable cost of the  
8 investigation and enforcement which led to this disciplinary action. Said payment shall be in the  
9 form of a cashier's check made payable to the Department of Real Estate. The investigative and  
10 enforcement costs must be delivered to the Department of Real Estate, Flag Section at 651  
11 Bannon Street, Suite 500, Sacramento, CA 95811, prior to the effective date of this Decision and  
12 Order.

13 19 June 2024

14 DATED




15 TRULY SUGHRUE  
16 Counsel for Complainant

17 \* \* \*

18 I have read the Stipulation and Agreement, discussed it with my counsel, and its  
19 terms are understood by me and are agreeable and acceptable to me. I understand that I am  
20 waiving rights given to me by the California Administrative Procedure Act, and I willingly,  
21 intelligently and voluntarily waive those rights, including the right of requiring the  
22 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the  
23 right to cross-examine witnesses against me and to present evidence in defense and mitigation of  
24 the charges.

25 DATED

26 June 19, 2024



27 Joseph Albert DaRosa, Designated Officer  
GEM ENTERPRISES INC.,  
Respondent



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June 19, 2024  
DATED

Joseph Albert Darosa  
JOSEPH ALBERT DAROSA  
Respondent

*I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.*

6/19/24

[Signature]  
JOSHUA ROSENTHAL  
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and Order and shall become effective at 12 o'clock noon on SEP 24 2024

IT IS SO ORDERED 8/27/2024

CHIKA SUNQUIST  
Real Estate Commissioner

