

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6910 (Direct)

FILED
DEC 27 2000
DEPARTMENT OF REAL ESTATE

By Chris Leong

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
GABRIELA ESTHER LITOV,)	NO. H-28551 LA
)	L-2000060013
Respondent.)	<u>STIPULATION AND AGREEMENT</u>

It is hereby stipulated by and between GABRIELA ESTHER LITOV (hereinafter "Respondent"), represented by Lawrence H. Lackman, Esq., and the Complainant, acting by and through Chris Leong, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on May 12, 2000.

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

1 2. Respondent has received, read and understands
2 the Statement to Respondent, the Discovery Provisions of the
3 Administrative Procedure Act and the Accusation, filed by the
4 Department of Real Estate in this proceeding.

5 3. Respondent filed a Notice of Defense pursuant to
6 Section 11505 of the Government Code for the purpose of
7 requesting a hearing on the allegations in the Accusation.
8 Respondent hereby freely and voluntarily withdraws said Notice
9 of Defense. Respondent acknowledges that she understands that
10 by withdrawing said Notice of Defense she will thereby waive
11 her right to require the Commissioner to prove the allegations
12 in the Accusation at a contested hearing held in accordance
13 with the provisions of the Administrative Procedure Act and
14 that Respondent will waive other rights afforded to her in
15 connection with the hearing, such as the right to present
16 evidence in defense of the allegations in the Accusation and
17 the right to cross-examine witnesses.

18 4. In the interest of expedience and economy,
19 Respondent chooses not to contest the factual allegations in
20 Paragraphs 1 through 8 of the Accusation, but to remain silent
21 and understands that, as a result thereof, these factual
22 statements, without being admitted or denied, will serve as a
23 prima facie basis for the disciplinary action stipulated to
24 herein. The Real Estate Commissioner shall not be required to
25 provide further evidence to prove such allegations.

26 5. It is understood by the parties that the Real
27 Estate Commissioner may adopt the Stipulation and Agreement as

1 her Decision in this matter, thereby imposing the penalty and
2 sanctions on Respondent's real estate license and license
3 rights as set forth in the "Order" below. In the event that
4 the Commissioner in her discretion does not adopt the
5 Stipulation and Agreement, it shall be void and of no effect,
6 and Respondent shall retain the right to a hearing and
7 proceeding on the Accusation under all the provisions of the
8 Administrative Procedure Act and shall not be bound by any
9 stipulation or waiver made herein.

10 6. The Order or any subsequent Order of the Real
11 Estate Commissioner made pursuant to this Stipulation and
12 Agreement shall not constitute an estoppel, merger or bar to
13 any further administrative or civil proceeding by the
14 Department of Real Estate with respect to any matters which
15 were not specifically alleged to be causes for accusation in
16 this proceeding. This Stipulation and the Order made pursuant
17 to this Stipulation shall have no collateral estoppel or res
18 judicata effect in any proceeding(s) in which Respondent and
19 the Department are not parties. This Stipulation is made and
20 accepted with the express understanding and agreement that it
21 is for the purpose of settling these proceedings only, and is
22 not intended as an acknowledgement or admission of fact in any
23 other judicial, administrative, or other proceeding in which
24 the Department is not a party.

25 DETERMINATION OF ISSUES

26 By reason of the foregoing stipulations, admissions
27 and waivers and solely for the purpose of settlement of the



1 pending Accusation without a hearing, it is stipulated and
2 agreed that the following Determination of Issues shall be
3 made:

4 The acts and omissions of Respondent, described in
5 Paragraphs 1 through 8 of the Accusation, are cause for the
6 suspension or revocation of all real estate licenses and
7 license rights of Respondent under the provisions of Section
8 10145 of the Business and Professions Code and Sections 2831
9 and 2832.1 of the Regulations.

10 ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12 All licenses and licensing rights of Respondent
13 GABRIELA ESTHER LITOV under the Real Estate Law are suspended
14 for a period of ninety (90) days from the effective date of
15 this Decision; provided, however, that thirty (30) days of
16 said suspension shall be stayed for one (1) year upon the
17 following terms and conditions:

- 18 1. Pursuant to Section 10148 of the Business and
19 Professions Code, Respondent GABRIELA ESTHER LITOV shall pay
20 the Commissioner's reasonable cost for:
21 (a) the audit which led to this disciplinary action and,
22 (b) a subsequent audit to determine if Respondent has
23 corrected the trust fund violations found in the Determination
24 of Issues. The cost of the audit which led to this
25 disciplinary action is \$2,578.71. In calculating the amount
26 of the Commissioner's reasonable cost for the subsequent
27 audit, the Commissioner may use the estimated average hourly

1 salary for all persons performing audits of real estate
2 brokers, and shall include an allocation for travel time to
3 and from the auditor's place of work. Said amount for the
4 subsequent audits shall not exceed \$2,578.71.

5 Respondent shall pay the cost of both audits within
6 sixty (60) days of receiving an invoice from the Commissioner
7 detailing the activities performed during the audit and the
8 amount of time spent performing those activities. The
9 Commissioner may in her discretion, vacate and set aside any
10 stay order, if payment is not timely made as provided for
11 herein, or as provided for in a subsequent agreement between
12 the Respondents and the Commissioner. The vacation and set
13 aside of the stay shall remain in effect until payment is made
14 in full, or until Respondents enter into an agreement
15 satisfactory to the Commissioner to provide for payment.
16 Should no order vacating the stay be issued, the stay imposed
17 herein shall become permanent.

18 2. Respondent shall obey all laws, rules and
19 regulations governing the rights, duties and responsibilities
20 of a real estate licensees in the State of California; and

21 3. That no final subsequent determination be made
22 after hearing or upon stipulation, that cause for disciplinary
23 action occurred within one (1) year of the effective date of
24 this Decision. Should such a determination be made, the
25 Commissioner may, in her discretion, vacate and set aside the
26 stay order and reimpose all or a portion of the stayed
27 suspension.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

4. Respondent shall pay a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$50.00 for each day of said suspension stayed, for a total monetary penalty of \$1,500.00.

5. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered to the Department prior to the effective date of the Decision in this matter. If Respondent fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

7. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed on the condition that no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one (1) year of the effective date of this Decision.

1 Respondent passes the Professional Responsibility Examination
2 and that Respondent has paid for the audits mentioned above.
3 Should such a determination be made or a condition not be
4 fulfilled, the Commissioner may, in her discretion, vacate and
5 set aside the stay order and reimpose all or a portion of the
6 stayed suspension. Should no such determination be made and
7 all conditions fulfilled, the stay imposed herein shall become
8 permanent.

9 8. Respondent shall provide proof satisfactory to
10 the Commissioner, prior to the effective date of this
11 Decision, that the shortage of November 12, 1999, stated in
12 audit report number LA 990100 has been cured.

13
14 DATED:

12/13/00

CHRIS LEONG

CHRIS LEONG, ESQ.
Counsel for Complainant

15
16 * * *

17 I have read the Stipulation and Agreement, have
18 discussed it with my counsel, and its terms are understood by
19 me and are agreeable and acceptable to me. I understand that
20 I am waiving rights given to me by the California
21 Administrative Procedure Act (including but not limited to
22 Sections 11506, 11508, 11509 and 11513 of the Government
23 Code), and I willingly, intelligently and voluntarily waive
24 those rights, including the right of requiring the
25 Commissioner to prove the allegations in the Accusation at a
26 hearing at which I would have the right to cross-examine
27 witnesses against me and to present evidence in defense and

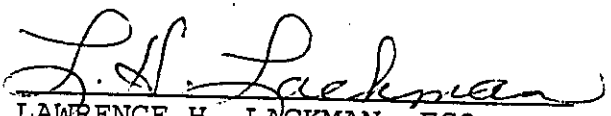
1 mitigation of the charges.

2 Respondent can signify acceptance and approval of
3 the terms and conditions of this Stipulation and Agreement by
4 faxing a copy of the signature page, as actually signed by
5 Respondent, to the Department at the following telephone/fax
6 number (213) 576-6917. Respondent agrees, acknowledges and
7 understands that by electronically sending to the Department a
8 fax copy of her actual signature as it appears on the
9 Stipulation and Agreement, that receipt of the faxed copy by
10 the Department shall be as binding on Respondent as if the
11 Department had received the original signed Stipulation and
12 Agreement.

14 DATED: 12-6-00


GABRIELA ESTHER LITOV
Respondent

17 DATED: 12.7.00

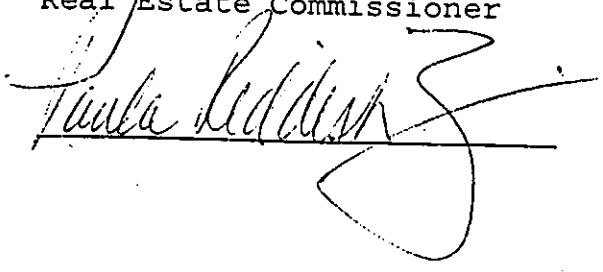

LAWRENCE H. LACKMAN, ESQ.
Counsel for Respondent

* * *

20 The foregoing Stipulation and Agreement is hereby
21 adopted as my Decision in this matter and shall become
22 effective at 12 o'clock noon on January 16, 2001

23 IT IS SO ORDERED December 21, 2000.

25 PAULA REDDISH ZINNEMANN
Real Estate Commissioner



SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 GABRIELA ESTHER LITOV,)
)
)
 _____)
 Respondent (s)

Case No. H-28551 LA

OAH No. L-2000060013

FILED
JUL 20 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

By Chris Leong

To the above-named Respondent (s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, OCTOBER 4, 2000, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: July 20, 2000

By

Chris Leong
CHRIS LEONG, Counsel

cc: Gabriela Esther Litov
Lawrence H. Lackman, Esq.
Danio Fajardo/Audits (Delarmente)
Sacto.
OAH

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 GABRIELA ESTHER LITOV,)
)
 _____)
 Respondent (s)

Case No. H-28551 LA

OAH No. L-2000060013

FILED
JUN - 6 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent (s):

By Chris Leong

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, AUGUST 23, 2000, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: June 6, 2000

By Chris Leong
CHRIS LEONG, Counsel

cc: Gabriela Esther Litov
Lawrence H. Lackman, Esq.
Danio Fajardo/Audits (Delarmente)
Sacto.
OAH

1 CHRIS LEONG, Counsel (SBN 141079)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6982
6 -or- (213) 576-6910 (Direct)
7

FILED
MAY 12 2000
DEPARTMENT OF REAL ESTATE

By C. A. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-28551 LA
12)
12 GABRIELA ESTHER LITOV,)
13 individually and dba)
13 EGL Properties,) A C C U S A T I O N
14)
14 Respondent.)
15)

16 The Complainant, Thomas McCrady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against GABRIELA ESTHER LITOV, individually and dba EGL
19 Properties (Respondent), is informed and alleges in his official
20 capacity as follows:

21 1.

22 The Complainant, Thomas McCrady, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation
24 against Respondent in his official capacity.

25 2.

26 All Sections of Title 10, Chapter 6, California Code of
27 Regulations, are hereinafter referred to as "Regulations".

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

3.

At all times herein mentioned, Respondent was and still is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (Code), and was and still is licensed by the Department of Real Estate of the State of California (Department) as a real estate broker.

4.

At all times material herein, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker for others in the State of California, within the meaning of Code Section 10131(b), including the operation and conduct of a property management business with the public wherein Respondent leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or on a business property, or collected rents from real property, or improvements thereon, or from business opportunities.

5.

On or about January 20, 2000, the Department completed an audit of the activities of Respondent for the period from August 1, 1998 to November 12, 1999. The results of that audit are set forth below.

6.

At all times herein, in connection with the property



1 management activity described in Paragraph 4, above, Respondent
2 accepted or received funds, including funds in trust
3 (trust funds), from or on behalf of actual and prospective
4 parties to transactions handled by Respondent and thereafter made
5 deposits and/or disbursements of such funds. From time to time
6 herein mentioned, said trust funds were deposited and/or
7 maintained by Respondent in bank accounts including, but not
8 necessarily limited to, 28 trust accounts to manage approximately
9 76 properties for the public. Four of the accounts were examined
10 in this audit. The four examined trust accounts were maintained
11 at Bank of America, 10960 Wilshire Blvd., Los Angeles,
12 California. The first account was known as EGL Properties Trust
13 Account, account number 24339-04226 (hereinafter "TA#1").
14 The second account was known as EGL Properties, Inc.,
15 2540 7th St., account number 24330-08634 (hereinafter "TA#2").
16 The third account was known as EGL Properties, Inc.,
17 2510 7th St., account number 24330-08634 (hereinafter "TA#3").
18 The fourth account was known as EGL Properties As Agents for
19 Ewing/Silverlake, account number 24330-01802 (hereinafter
20 "TA#4").

21 7.

22 Respondent acted in violation of the Code and the
23 Regulations in that:

24 (a) As of September 15, 1999, T/A#1 had a shortage in
25 the amount of approximately \$6,748.73; as of November 12, 1999,
26 T/A#1 had a shortage in the amount of approximately \$5,678.67.
27 Respondent caused, permitted and/or allowed the withdrawal or



1 disbursement of trust funds from T/A#1 without the prior written
2 consent of every principal who then was an owner of funds in the
3 account thereby reducing the balance of funds in the said account
4 to an amount less than the existing aggregate trust fund
5 liability of the broker to all owners of said trust funds, in
6 violation of Code Section 10145 and Regulation 2832.1.

7 (b) Respondent failed to designate TA#2, TA#3 and TA#4
8 as trust accounts in the name of the broker as trustee, in
9 violation of Code Section 10145 and Regulation 2832.

10 (c) Respondent allowed Elie Litov, who was not licensed
11 by the Department or covered by adequate fidelity bonds, to be a
12 signatory on the trust accounts, in violation of Code Section
13 10145 and Regulation 2834.

14 (d) Respondent failed to maintain the required control
15 records showing the total trust funds received, total trust funds
16 disbursed and daily balance, in violation of Code Section 10145
17 and Regulation 2831.

18 (e) Respondent failed to reconcile the total of the
19 separate ledger balances with the balance of the control records,
20 in violation of Code Section 10145 and Regulation 2831.2.

21 8.

22 The conduct, acts and omissions of Respondent, as
23 described in Paragraph 7, violated the Code and the Regulations
24 as set forth above. Each of the foregoing violations constitutes
25 cause for the suspension or revocation of all real estate
26 licenses and license rights of Respondent under the provisions of
27 Code Section 10177(d).



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of Respondent, GABRIELA ESTHER LITOV, individually and dba EGL Properties, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other applicable provisions of law.
Dated at Los Angeles, California
this 12th day of May, 2000.

THOMAS MCCRADY
Deputy Real Estate Commissioner

cc: Gabriela Esther Litov
Thomas McCrady
Sacto.
LA Audit/Delarmente
EME