

ATTORNEY GENERAL OF THE STATE OF NEW YORK POUGHKEEPSIE REGIONAL OFFICE	
<p>In the Matter of</p> <p>Investigation by LETITIA JAMES, Attorney General of the State of New York, of</p> <p>ASAF ELKAYAM; JERUSALEM MANAGEMENT, LLC et al.,</p> <p style="text-align: center;">Respondents</p>	Assurance No. 25-018

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York ("OAG") commenced an investigation pursuant to Executive Law § 63(12) into allegations of unfair leasing practices by the respondents Asaf Elkayam, Jerusalem Management, LLC, and all related subsidiary entities listed on Schedule A (collectively, "Respondent"). This assurance of discontinuance ("Assurance") contains the findings of the OAG's investigation and the relief agreed to by the OAG and Respondent, whether acting through its respective directors, officers, employees, representatives, agents, affiliates, licensees, or subsidiaries.

OAG'S FINDINGS

Respondents

1. Respondent Asaf Elkayam is an individual residing in New York State, whose principal business address is 405 Hudson Ave., Albany, NY, 12203.
2. Respondent Jerusalem Management, LLC is a domestic limited liability company with its principal office at 405 Hudson Avenue, Albany, NY, 12203.
3. Asaf Elkayam is the president and owner of the respondent Jerusalem Management, LLC.
4. As an individual and through Jerusalem Management, LLC, Asaf Elkayam exercises control over every single-purpose entity listed in Schedule A, attached

and incorporated hereto, and all real property owned by each single-purpose entity listed in Schedule A.

Background and Investigation

5. Respondent owns around seventy-nine buildings representing over 200 rental units in the City of Albany. Except the multifamily structure on Trinity Avenue, all of Respondent's apartment units are located near the University of Albany campus and are primarily occupied by students.
6. In 2022, the OAG was made aware of complaints against Respondent alleging unlawful, deceptive, and unfair conduct in Respondent's leasing and management practices. These allegations concerned, among other things, unlawful, unconscionable, and unfair terms in the lease template used by Respondent.
7. In May of 2022, the OAG commenced its investigation of Respondent, pursuant to which the OAG has determined that Respondent has engaged in the following illegal and misleading conduct in its leasing and management practices.

Applicable Law and Violations

8. Executive Law § 63 (12) authorizes the OAG to seek a court order enjoining any repeated deceptive or fraudulent or illegal acts in the carrying on, conduct of, or transaction of business, and to seek restitution and damages for such conduct.
 9. Under Executive Law § 63 (12), conduct is "fraudulent" if it falls under "any device, scheme or artifice to defraud and any deception, misrepresentation, concealment, suppression, false pretense, false promise or unconscionable contractual provisions."
 10. Under Executive Law § 63 (12), conduct is repeated or persistent if it occurs more than once or affects more than one individual.
 11. Application Fees: Pursuant to Real Property Law (RPL) § 238-a(1)(b), the landlord of a residential dwelling may charge a maximum of twenty dollars or the actual cost for background or credit checks obtained to screen an application
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for said residential dwelling. Such fee may be collected only if the landlord provides a copy of any background or credit check to the applicant, along with a copy of the invoice for the same. The landlord must also waive the application fee if the applicant provides a background check. Respondent charges \$20 in application fees from each prospective occupant, even if there are multiple prospective occupants for the same apartment. As a result, Respondent has charged and collected between \$40 to \$80 per apartment application.

12. Security Deposit Violations: Pursuant to GOL § 7-103, any money advanced as a security deposit for rental of real property continues to be the property of the tenant. The landlord merely holds the security deposit in trust and may not commingle the security deposit or convert it as landlord's asset. Respondent's lease, however, contained multiple provisions that purport to permit Respondent to convert a tenant's security deposit during the lease term for lease violations or for damages to the apartment, in violation of GOL § 7-103.

13. Restriction on Occupancy: RPL § 235-f (2) makes it unlawful for landlords to restrict occupancy of a residential dwelling to tenants or to tenants and the tenants' immediate family, by express lease terms or otherwise. Respondent's lease states that "only parties signing this Lease may use the apartment."

14. Unconscionable Penalties Provisions: RPL § 235-c provides that unconscionable lease provisions are unenforceable. Settled law dictates that liquidated damages that are excessive and unnecessary are penalties that should not be enforced as a matter of public policy. Respondent's lease, however, contained predetermined fees schedule for readily ascertainable items, such as:

- a. \$100 for cleaning the fridge;
- b. \$100 for cleaning the oven;
- c. \$75 per day 'holdover' fee for every day the tenant stays past the expiration of the lease.

15. Unauthorized Legal Fees: Respondent's lease contains a fee schedule for legal fees that arbitrarily set amounts for various steps Respondent may take to bring a legal action or proceeding against a tenant. RPL § 234-a (a) provides that "[a]n

owner, lessor or agent thereof shall be prohibited from assessing a lessee any fee, surcharge or other charges for legal services in connection with the operation or rental of a residential unit unless the owner, lessor or agent has the legal authority to do so pursuant to a court order.”

16. Unlawful Late Fees: RPL § 238-a (2) limits fees for late payment to \$50 or 5% of the rent, whichever is less. The late fee provision in Respondent’s lease imposed a charge of \$50 or 5% of the rent, whichever is less, initially, but also stated that “after the 5th of the month there will be additional fees incurred including but not limited to attorney fees, etc.” No late fees in excess of \$50 or 5% of the monthly rent may be assessed.

17. Potentially Misleading Provisions:

- a. Multiple provisions of Respondent’s lease contained statements that putative damages or unpaid fees or penalties can be converted to “added rent” with the landlord having same rights for “added rent” as with rent. Pursuant to Real Property Actions and Proceedings Law § 702 (1), “[n]o fees, charges or penalties other than rent may be sought in a [summary eviction proceeding], notwithstanding any language to the contrary in any lease or rental agreement.”
- b. Respondent’s lease reserves to the landlord the right to enter the tenant’s apartment at all hours without prior notice to or the consent of the tenant. Although a landlord may lawfully reserve to itself right of access to rental property for repair, maintenance, and showing, landlord’s unrestricted access can impinge on the tenant’s privacy, safety, and quiet enjoyment of the leased premises.
- c. Pursuant to RPL § 226-c, a tenancy does not expire automatically with the expiration of the lease. A proper notice of nonrenewal is required, and the landlord’s failure to do so extends the length of the tenancy even beyond the term of a lease. Respondent’s lease, however, provides categorically that “no tenant may stay beyond the term of this lease.”

18. Respondent admits the OAG's factual findings outlined above. Respondent certifies that it did not and does not as Respondent's management practice collect potentially illegal fees as outlined above in paragraphs 14 through 16.

19. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. THEREFORE, the OAG is willing to accept this Assurance pursuant to Executive Law 63(15) in lieu of commencing a statutory proceeding for violations of Executive Law § 63(12), Real Property Law § 234-a, 235-c, 235-f, 235-i and 238-a, and General Obligations Law § 7-103 and 7-108 based on the conduct described above.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

Restitution and Penalties:

20. Respondent shall pay \$8,000 (Monetary Relief) as liquidated restitution within fifteen days of the execution of this Assurance. Payments shall be made by corporate or certified check, or bank draft, which shall be made payable to the "State of New York," and shall reference Assurance No. 25-018. Payment shall be addressed to the attention of AAG Christopher Lee, State of New York, Office of the Attorney General, c/o Consumer Frauds Annex, The Capitol, Albany, NY 12224.

General Injunctions.

21. Respondent agrees to comply with all applicable laws governing rental and maintenance of residential dwellings, including but not limited to RPL § 235-i, RPL § 235-f, RPL § 238-a, GOL § 7-108, and RPAPL § 768.
22. Respondent agrees to refrain from including any deceptive, unconscionable, and unfair terms or provisions in its residential leases.

Programmatic Relief

23. Absent a change in applicable law, Respondent agrees to refrain from offering to a tenant a lease containing terms that:

- a. Convert non-rent charges and fees to "added rent;"
- b. Permit Respondent to convert security deposits for its use or charge an additional security deposit amount for any reason before a tenant has vacated the apartment and Respondent has retaken possession;
- c. Fix pre-determined fees for damages or legal fees, such as but not limited to a fee schedule for repairs, cleaning, or a per diem holdover fee;
- d. Require the tenant to forfeit the security deposit except as allowed by law;
- e. Allow Respondent to enter a tenant's apartments except at reasonable hours with at least twenty-four hours prior notice to the tenant, excepting emergencies;
- f. Allow Respondent to unilaterally impose additional lease terms or rules during the term of the lease.

24. The prohibitions enumerated above in paragraph twenty-three are not meant to be exhaustive of tenants' rights and Respondent's duties as landlord. Compliance with the specific prohibitions in paragraph twenty-three does not indicate present or future approval by the OAG of any lease terms violative of relevant laws.

25. Respondent shall refrain from entering the apartments under legal possession of a tenant or lawful occupant without prior notice, except in emergencies or with an access warrant issued by a court of competent jurisdiction.

26. Respondent shall not accept more than the actual cost of background or credit checks or \$20 per new application.

27. Respondent shall include as a rider to each new lease or offer of a renewal lease a copy of the current Residential Tenants' Rights Guide published by the OAG, which may be obtained online at

https://ag.ny.gov/sites/default/files/tenants_rights.pdf.

28. Within 180 days of the execution of this Assurance, Respondent shall deliver to the OAG a copy of Respondent's revised form lease.

MISCELLANEOUS

Subsequent Proceedings.

29. Respondent expressly agrees and acknowledges that the OAG may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of this Assurance, and agree and acknowledge that in such event:
- a. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance;
 - b. the OAG may use statements, documents, or other materials produced or provided by Respondent prior to or after the effective date of this Assurance except for settlement communications;
 - c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and that Respondent irrevocably and unconditionally waive any objection based upon personal jurisdiction, inconvenient forum, or venue;
 - d. evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15).

30. Except as provided above, Respondent shall retain without limitation all defenses to any such action or proceeding.

31. If a court of competent jurisdiction determines that Respondent has violated this Assurance, Respondent shall pay to the OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

Effects of Assurance.

32. This Assurance is not intended for use by any third party in any other proceeding.

33. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignment, or transferee of Respondent. Respondent shall include in any such successor, assignment, or transfer agreement a provision that binds the successor, assignee, or transferee to the terms of this Assurance. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.

34. Nothing contained herein shall be construed to deprive any person of any private right under the law.

35. Any failure by the OAG to insist upon the strict performance by Respondent of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by Respondent.

COMMUNICATION

36. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 25-018, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery, express courier, or electronic mail at an address designated by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to the OAG, to:

Christopher Lee, AAG
NYS Attorney General's Office
1 Civic Center Plaza, Ste 201
Poughkeepsie, NY
christopher.lee@ag.ny.gov

or, in his absence, to the person holding the title of Assistant Attorney General in Charge of the Poughkeepsie Regional Office.

If to Respondent, to: Elliot Hallak
Harris Beach Murtha Cullina PLLC
Respondent's Counsel
677 Broadway, Ste 1101
Albany, NY 12207
EHallak@harrisbeachmurtha.com
Tel: (518) 701-2748

Representations and Warranties:

37. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by Respondent and their counsel, and the OAG's own investigations as set forth in Findings, paragraphs 1 through 19 above. Respondent represents and warrants that Respondent has not made any materially inaccurate or misleading representations to the OAG. If any material representations by Respondent or his counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.
38. No representations, inducements, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Respondent or OAG in agreeing to this Assurance.
39. Respondent represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved. Respondent further represents and warrants that the below officers, members, or agents or Respondent entities, as the signatories to this Assurance, are duly authorized officers, members, partners, or agents acting at the direction of the Board of Directors, Partnership, Limited Liability Companies of Respondent.

General Principles:

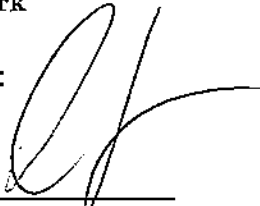
40. Unless a term limit for compliance is otherwise specified within this Assurance, Respondent's obligations under this Assurance are enduring. Nothing in this Assurance shall relieve Respondent of other obligations imposed by any state or federal law or regulation or other applicable law.
41. With respect to the OAG, Respondent agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal or factual basis, except to the extent necessary to defend itself in civil litigation or administrative proceedings.
42. With respect to the OAG, Respondent agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal
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or factual basis, except to the extent necessary to defend itself in civil litigation or administrative proceedings.

43. Nothing contained herein shall be construed to limit the remedies available to the OAG if Respondent violates the Assurance after its effective date.
 44. This Assurance may not be amended except in writing.
 45. If any provision contained in this Assurance for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.
 46. Respondent acknowledges that this Assurance is entered into freely and voluntarily and upon due deliberation with the advice of counsel.
 47. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of law principles.
 48. This Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.
 49. This Assurance may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Assurance, all of which shall constitute one agreement to be valid as of the effective date of this Assurance. For purposes of this Assurance, copies of signatures shall be treated the same as originals. Documents executed, scanned, and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Assurance and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.
 50. The effective date of this Assurance shall be the date indicated below when countersigned by the OAG.
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Letitia James
Attorney General of the State of New
York

By:



Christopher Lee
Assistant Attorney General
Poughkeepsie Regional Office
The Capitol
Albany, NY 12224

4/17/2025

Jerusalem Management, LLC
Asaf Elkayam
All Single-Purpose Entities in Schedule
A

By:



Asaf Elkayam
As himself and as principal and
managing partner/member of
respondent entities

SCHEDULE A

104 Ryckman, LLC
110 Lark Street, LLC
144 Manning Blvd., LLC
155 (149) Winthrop Avenue, LLC
157 (153) Winthrop Avenue, LLC
159 (157) Winthrop Avenue, LLC
164 Ontario Street, LLC
171 Quail Street, LLC
171 Quail Street-Albany, LLC
181 Quail Street, LLC
19 Elberon Place, LLC
216 Quail Street, LLC
219 Quail Street, LLC
223-225 Quail St., LLC
240 Quail Street, LLC
25 Elberon Place, LLC
283 Delaware Avenue, LLC
29 Elberon Place, LLC
29 West Street, LLC
31 Elberon Place, LLC
313 Hudson Ave, LLC
313 Ontario Street, LLC
313 Ontario Street-Albany, LLC
322 Orange Street, LLC
326 Second Street, LLC
33 West Street, LLC
391 Hamilton Street, LLC
395 Hudson Avenue, LLC
399 Second Street, LLC
403 Hudson Ave, LLC
403 Hudson Avenue-Albany, LLC
405 Hudson Ave, LLC
405 Hudson Avenue-Albany, LLC
411 Hudson Avenue, LLC
417 Hudson Ave, LLC
419 Hudson Ave, LLC
421 Hudson Avenue
421 Hudson Avenue-Albany, LLC *
425 Hudson Ave, LLC

431 Hudson Ave, LLC
435 Partridge Street, LLC
A452 Hamilton Ave, LLC
456 Hudson Avenue, LLC
457 Hamilton Street, LLC
458 Hudson Avenue, LLC
458 Livingston Ave, LLC
46 South Main Avenue, LLC
461 Hamilton Street, LLC
461 Hamilton Street-Albany, LLC
464 Hudson Avenue, LLC
47 Elberon Place, LLC
470 Hudson Avenue-Albany, LLC
471 Hudson Ave, LLC
479 Hudson Avenue, LLC
483 Hudson Avenue-Albany, LLC
490 Hudson Avenue, LLC
491 Hamilton Street, LLC
492 Hudson Ave, LLC
495 Washington Ave-Albany, LLC
505 Hudson Avenue, LLC
505 Hudson Avenue-Albany, LLC
514 Washington Avenue, LLC
515 Hamilton Street, LLC
516 Hamilton Street, LLC
517 Washington Avenue, LLC
52 Elberon Place, LLC
520 Yates Street, LLC
53 Manning Blvd, LLC
53 Second Street, LLC
54 Elberon Place, LLC
541 Washington Avenue, LLC
55 Elberon Place, LLC
554 Washington Avenue, LLC
556 Washington Avenue, LLC
560 Washington Ave, LLC
57 Ten Broeck Street-Albany, LLC
573 Morris Street, LLC
573 Washington Avenue, LLC
58 Elberon Place (Albany), LLC
635 Park Avenue, LLC

660 Myrtle Avenue, LLC
680 Myrtle Avenue, LLC
687 Clinton Ave, LLC
689 Myrtle Avenue, LLC
69 Trinity Place, LLC
711-713 Myrtle Avenue, LLC
812 Myrtle, LLC
818 Myrtle Avenue, LLC
838 Emmett Street, LLC
871 Mercer Street, LLC
Albany Student Rentals
Asher's Albany Properties
Checkmate Retail, LLC
Elberon Parking, LLC
Jerusalem Management, LLC
Jerusalem Property Management, Inc.
Quail Street One, LLC
Quail Street Two, LLC
Samson's Properties, LLC
Schworm Enterprises, Inc.