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FOR IMMEDIATE RELEASE:

ROSENBERG & ESTIS VICTORIOUS IN APPELLATE TERM, SECURES EVICTION IN ELABORATE ‘ILLUSORY TENANCY’ SCHEME

Tenant Falsely Claimed Rights to Rent-Stabilized Unit

Rosenberg & Estis, P.C., New York City’s largest real estate law firm, has secured a victory for its client in a Civil Court trial and a subsequent appeal to the Appellate Term, First Department, securing possession of a rent-stabilized apartment after unraveling an elaborate scheme perpetrated by the tenant and her alleged roommate (“Appellant”), who claimed rights to the unit by alleging that the tenant of record was an illusory tenant.

Deborah E. Riegel, member; Ethan R. Cohen, associate, and Ilya Prokopets, associate, with R&E, represented 68-74 Thompson Realty, LLC, in the case before Justice Sabrina B. Kraus in Civil Court and before the Appellate Term.

“The Appellant and the tenant of record fashioned a complex scheme to convince the landlord that they were roommates, as permitted by law, to deprive landlord of knowledge of an illegal sublet for profit” said Ms. Riegel. “Our team of attorneys was able to expose the fraud and successfully represent the property owner in Civil Court and on appeal.”

As part of the scheme, the Appellant twice appeared in Court and held herself out as the tenant’s roommate, substantiated by notarized letters from the tenant affirming that she was a roommate. The Appellant also fraudulently represented to the Civil Court and to the landlord, in a so-ordered stipulation, that she was the tenant’s roommate.

The tenant and Appellant further perpetuated their fraud by, among other things, ensuring that the tenant was present and appeared to be living at the premises during landlord’s inspections of the premises, and by opening a joint bank account and tendering all rent payments bearing the tenant’s and Appellant’s names. In addition, they affirmatively colluded to have the tenant sign all renewal leases (even mailing them to her in Switzerland when necessary), and mailing renewals and rent checks to the landlord in the tenant’s name, even when sent by Appellant.

“After Appellant’s deceit was discovered, the landlord commenced a non-primary residence holdover proceeding against the tenant of record,” Ms. Riegel said. “Appellant appeared in Court, retreated from her prior representations and sought an unwarranted rent-stabilized tenancy, essentially arguing that landlord and the Civil Court should have known she was lying sooner.”

After the tenant of record defaulted, the sole issue at trial was Appellant's illusory tenancy defense. After a three-day bench trial, Civil Court Justice Kraus entirely rejected Appellant's claims because she participated in an elaborate scheme to hide the alleged sub-tenancy from the landlord and the Civil Court in prior summary proceedings, and found her to be wholly unbelievable.

Significantly, based on Ms. Riegel's aggressive cross-examination of the Appellant, Civil Court expressly found that "it is undisputed that [Appellant] will lie to the court and the landlord if she believes it will enable her to continue in occupancy..."

On appeal, the Appellate Term, First Department, found "no cause to disturb the trial court's fact-laden determination that [Appellant] failed to prove her illusory tenancy defense."

The Court also found that the trial record and evidence amply supported Civil Court's conclusions, noting further that, "the trial court, having heard [Appellant]'s testimony and observed her demeanor, was entitled to discredit her testimony upon its assessment that it was "inconsistent, contradictory and inherently unreliable." Appellant's motion for leave to appeal to the Appellate Division, First Department was denied, and landlord subsequently executed on its warrant of eviction.

About Rosenberg & Estis, P.C.

Founded in 1975, Rosenberg & Estis, P.C. is widely recognized as one of New York City's pre-eminent real estate law firms. Rosenberg & Estis, P.C. represents clients in all aspects of real estate development, transactions, financing, litigation, rent regulation and governmental affairs.

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