

MEMO TO FILE
RE: TIPS AND COMPLAINTS RECEIVED IN CONNECTION WITH
REVIEW OF EMPIRE STATE REALTY TRUST, INC

DATE : October 29, 2013

FROM : Tom Kluck, Legal Branch Chief
Angela McHale, Attorney-Advisor
Division of Corporation Finance

COMPANY : Empire State Realty Trust, Inc

FILE NOS. : 333-179486 and 333-179485

BACKGROUND

These filings relate to the consolidation of several real estate properties in the greater New York metropolitan area (including the Empire State Building) and the IPO of Empire State Realty Trust, Inc., a Maryland corporation organized to qualify as a real estate investment trust. The S-4 registration statement pertained to the consolidation of three public LLCs (ESBA LLC, 60 E 42nd St. Associates LLC, and 250 W 57th St. Associates, LLC), along with 22 private entities, by way of a "roll-up transaction." The S-4 went effective on December 21, 2012. The S-11 registration statement pertained to the IPO portion of the transaction and went effective on October 1, 2013.

Throughout the course of our nearly two-year review of these transactions, we received hundreds of complaints and phone calls from many investors. Early in the review process, Enforcement and the Office of Enforcement Liaison in the Division of Corporation Finance (OEL) determined that it would be best for the review team in Corporation Finance to receive and handle these complaints directly, rather than having them submitted into the TCR database, since some of the complaints pertained to the review of the filings. Below is a summary of how those complaints were generally handled. This approach and this memo documentation explaining how complaints were generally handled and resolved are being made pursuant to instructions from OEL.

SUMMARY OF THE HANDLING OF COMPLAINTS

We received investor complaints mostly by email, but we also received phone calls and letters by mail. We considered each and every complaint we received and took one of the following actions, depending on the nature and substance of the complaint:

- Pursued the complaint through disclosure during the comment process for the S-4 and/or the S-11

- Followed up with the registrant orally

- (b)(5);(b)(6)

- Shared with OMA to consider issuing a separate comment letter (w/r/t complaints regarding the solicitation process)
- Took no further action because the complaint fell outside the scope of the federal securities laws or was otherwise addressed or determined to be a non-issue.

All written complaints received have been scanned into a Sharepoint site so that Corp Fin and Enforcement could both view the complaints at any time. The Sharepoint site can be found at the following link: <https://collaboration/sites/RSFI/tcrob/ESBRETT/default.aspx>. Support staff for OEL helped create the site and granted access to the following: (b)(6) (Enf), Tom Kluck (CF), David Orlic (CF), Angela McHale (CF), (b)(6) (OEL), and OMI.

(b)(6)

All phone call complaints were returned and documented in a phone log which can be found on the AD8 J:// drive and also on the Sharepoint site.