

1 Department of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 263-8672

FILED

JUN 21 2021

DEPT. OF REAL ESTATE

By *Zu-Ju*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 ALAN MANDELBERG)

13 and)

14 BONNIE B. ELLERT,)

15 Respondents)

DRE Case No. H-05165 SD

STIPULATION AND AGREEMENT
TO PUBLIC REPOVAL

16 It is hereby stipulated by and between Respondents ALAN MANDELBERG
17 ("MANDELBERG") and BONNIE B. ELLERT ("ELLERT") (collectively, "Respondents"),
18 both represented by David Stallone, Esq., and the Complainant, acting by and through Julie L.
19 To, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of
20 settling and disposing of the Accusation filed on July 13, 2020 in this matter:
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22 1. All issues which were to be contested and all evidence which was to be
23 presented by Complainant and Respondents at a formal hearing on the Accusation, which
24 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
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1 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions
2 of this Stipulation and Agreement to Public Reproval ("Stipulation").

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

5 3. On July 28, 2020 and July 31, 2020, Respondents MANDELBERG and
6 ELLERT filed their respective Notices of Defense pursuant to Section 11505 of the Government
7 Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents
8 hereby freely and voluntarily withdraw said Notices of Defense. Respondents acknowledge that
9 they understand that by withdrawing said Notices of Defense, Respondents will thereby waive
10 their right to require the Real Estate Commissioner ("Commissioner") to prove the allegations in
11 the Accusation at a contested hearing held in accordance with the provisions of the APA, and
12 that Respondents will waive other rights afforded to them in connection with the hearing such as
13 the right to present evidence in defense of the allegations in the Accusation and the right to
14 cross-examine witnesses.

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

21 5. This Stipulation and Agreement to Public Reproval and Respondents' decision
22 not to contest the Accusation are made for the purpose of reaching an agreed disposition of this
23 proceeding and are expressly limited to this proceeding and any other proceeding or case in
24 which the Department, the state or federal government, an agency of this state, or an agency of
25 another state is involved. Respondents further understand that the sustained violations may be
26 considered in any future administrative or disciplinary matters by the Department.

1 6. Respondents further understand and agree that this Stipulation and Agreement
2 to Public Repeval or any subsequent Order of the Commissioner made pursuant to this
3 Stipulation and Agreement to Public Repeval shall not constitute an estoppel, merger, or bar to
4 any further administrative or civil proceedings by the Department with respect to any matters
5 which were not specifically alleged in Accusation H-05165 SD.

6 7. It is understood by the Respondents that the Real Estate Commissioner may
7 adopt this Stipulation and Agreement to Public Repeval as the Commissioner's Decision in this
8 matter, thereby imposing the penalty and sanctions on Respondents' real estate licenses and license
9 rights as set forth in the below "Order." In the event that the Commissioner in his discretion does
10 not adopt the Stipulation and Agreement to Public Repeval, the stipulation shall be void and of
11 no effect and Respondents shall retain the right to a hearing and proceeding on the Accusation
12 under the provisions of the APA and shall not be bound by any admission or waiver made herein.

13 8. Respondents understand that by agreeing to this Stipulation and Agreement to
14 Public Repeval, Respondents agree to be jointly and severally liable for payment of the cost of
15 the Department's investigation and enforcement costs which led to this disciplinary action. The
16 amount of said costs is \$2,359.45 (comprised of investigation costs in the amount of \$722.65 and
17 enforcement costs in the amount of \$1,636.80). The investigation and enforcement costs must be
18 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA
19 95813-7013, within thirty (30) days of the date of the citation. Said payment shall be in the form
20 of a cashier's check made payable to the Department of Real Estate.

21 9. Respondents further acknowledges that failure to remit timely payment of the
22 investigation and enforcement costs will result in further formal disciplinary action by the
23 Department, including, but not limited to the continued prosecution of Accusation H-05165
24 SD. Respondents shall not be entitled to any repayment nor credit, prorated or otherwise, for
25 money paid to the Department under the terms of this Stipulation and Agreement to Public
26 Repeval.

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DETERMINATION OF ISSUES

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

The conduct, acts and/or omissions of Respondent BONNIE B. ELLERT, as described in Paragraph 4, herein above, are in violation of: Code Section 10085; Code Section 10085.5; Code Section 10137; and Code Section 10177(g), and are basis for the discipline of the license and license rights of Respondent as a violation of the Real Estate Law.

The conduct, acts and/or omissions of Respondent ALAN MANDELBERG, as described in Paragraph 4, herein above, are in violation of: Code Section 10085; Code Section 10085.5; Code Section 10177(g); and Code Section 10177(h) and Regulation 2725, and are basis for the discipline of the license and license rights of Respondent as a violation of the Real Estate Law.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondents ALAN MANDELBERG and BONNIE B. ELLERT are **publicly reprovved**. The public reprovval of Respondents' licenses is subject to the following limitations, conditions and restrictions:

1. All licenses and licensing rights of Respondents are indefinitely suspended unless or until Respondents jointly and severally pay the sum of \$2,359.45 (comprised of investigation costs in the amount of \$722.65 and enforcement costs in the amount of \$1,636.80) for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action. Said payment shall be in the form of a cashier's check or certified check made payable to the Department of Real Estate. The investigation and enforcement costs must be delivered to: Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

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1 2. Respondents' signatures indicate full agreement to the terms of this Stipulation
2 and Agreement to Public Repeval and to the terms set forth herein.

3 3. Respondents shall not be entitled to any repayment nor credit, prorated or
4 otherwise, for money paid to the Department under the terms of this Stipulation and Agreement
5 to Public Repeval.

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7
8 5-27-21
DATED



Julie L. To, Counsel for Complainant

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10 * * *

11 EXECUTION OF THE STIPULATION

12 We have read the Stipulation and Agreement to Public Repeval, and its terms are
13 understood by us and are agreeable and acceptable to us. We understand that we are waiving
14 rights given to us by the California Administrative Procedure Act, and we willingly, intelligently
15 and voluntarily waive those rights, including the right of requiring the Commissioner to prove
16 the allegations in the Accusation at a hearing at which we would have the right to cross-examine
17 witnesses against us and to present evidence in defense and mitigation of the charges.

18 MAILING AND E-MAIL

19 Respondents shall send a hard copy of the original signed Stipulation and
20 Agreement to Public Repeval to: Julie L. To, Department of Real Estate, 320 West 4th Street,
21 Suite 350, Los Angeles, CA 90013. In the event of time constraints before an administrative
22 hearing, Respondents can signify acceptance and approval of the terms and conditions of this
23 Stipulation and Agreement by emailing a scanned copy of the signature page, as actually signed
24 by Respondents, to the Department of Real Estate counsel assigned to this case. Respondents
25 agree, acknowledge and understand that by electronically sending the Department of Real Estate
26 a scan of Respondents' actual signatures as they appear on the Stipulation and Agreement to
27 Public Repeval, that receipt of the scan by the Department of Real Estate shall be binding on

1 Respondents as if the Department of Real Estate had received the original signed Stipulation and
2 Agreement.

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4 5/31/21
5 DATED



6 ALAN MANDELBERG, Respondent

7 5/24/21
8 DATED


9 BONNIE B. ELLERT, Respondent

10 *I have reviewed the Stipulation and Agreement as to form and have advised my*
11 *client accordingly.*

12 5-21-21
13 DATED


14 David Stallone, Esq.
15 Attorney for Respondents
16 ALAN MANDELBERG & BONNIE B. ELLERT

17 ...

18 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
19 this matter and shall become effective at 12 o'clock noon on JUL 21 2021.

20 IT IS SO ORDERED 6-16-21

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22 REAL ESTATE COMMISSIONER

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25 
26 DOUGLAS R. McCAULEY
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