

1 Department of Real Estate  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILE  
MAY 19 2003

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SANDELCO

DEPARTMENT OF REAL ESTATE

*Shelly Ely*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 SANDELCO PROPERTIES, INC., )  
13 and )  
14 MICHAEL JOSEPH SANDEL, )  
15 Respondents. )

No. H-8269 SF

STIPULATION AND AGREEMENT

16  
17  
18 It is hereby stipulated by and between Respondent  
19 SANDELCO PROPERTIES, INC., (hereinafter "Respondent  
20 CORPORATION") and MICHAEL JOSEPH SANDEL (hereinafter  
21 "Respondent SANDEL") and the Complainant, acting by and through  
22 Michael B. Rich, Counsel for the Department of Real Estate, as  
23 follows for the purpose of settling and disposing of the  
24 Accusation filed on November 26, 2002, in this matter  
25 (hereinafter "the Accusation"):

26 1. All issues which were to be contested and all  
27

H-8269 SF

- 1 -

STIPULATION OF  
SANDELCO PROPERTIES, INC. and  
MICHAEL JOSEPH SANDEL

1 evidence which was to be presented by Complainant and  
2 Respondents at a formal hearing on the Accusation, which  
3 hearing was to be held in accordance with the provisions of the  
4 Administrative Procedure Act (APA), shall instead and in place  
5 thereof be submitted solely on the basis of the provisions of  
6 this Stipulation and Agreement.

7           2. All Respondents have received, read, and  
8 understand the Statement to Respondent, the Discovery  
9 Provisions of the APA, and the Accusation filed by the  
10 Department of Real Estate in this proceeding.

11           3. On December 9, 2002, Respondents filed a Notice  
12 of Defense pursuant to Section 11505 of the Government Code for  
13 the purpose of requesting a hearing on the allegations in the  
14 Accusation. Respondents hereby freely and voluntarily withdraw  
15 said Notice of Defense. Respondents acknowledge that they  
16 understand that by withdrawing said Notice of Defense  
17 Respondents will thereby waive their respective right to  
18 require the Commissioner to prove the allegations in the  
19 Accusation at a contested hearing held in accordance with the  
20 provisions of the APA and that Respondents will waive other  
21 rights afforded to Respondents in connection with the hearing  
22 such as the right to present evidence in defense of the  
23 allegations in the Accusation and the right to cross-examine  
24 witnesses.

25           4. This Stipulation is based on the factual  
26 allegations contained in the Accusation. In the interests of  
27

1 expedience and economy, Respondents choose not to contest these  
2 allegations, but to remain silent and understand that, as a  
3 result thereof, these factual allegations, without being  
4 admitted or denied, will serve as a prima facie basis for the  
5 disciplinary action stipulated to herein. The Real Estate  
6 Commissioner shall not be required to provide further evidence  
7 to prove said factual allegations.

8           5. It is understood by the parties that the Real  
9 Estate Commissioner may adopt the Stipulation and Agreement as  
10 her decision in this matter, thereby imposing the penalty and  
11 sanctions on Respondent's real estate license and license  
12 rights as set forth in the "Order" below. In the event that  
13 the Commissioner in her discretion does not adopt the  
14 Stipulation and Agreement, it shall be void and of no effect,  
15 and Respondents shall retain the right to a hearing and  
16 proceeding on the Accusation under all the provisions of the  
17 APA and shall not be bound by any admission or waiver made  
18 herein.

19           6. The Order or any subsequent Order of the Real  
20 Estate Commissioner made pursuant to this Stipulation and  
21 Agreement shall not constitute an estoppel, merger or bar to  
22 any further administrative or civil proceedings by the  
23 Department of Real Estate with respect to any matters which  
24 were not specifically alleged to be cause for accusation in  
25 this proceeding.



1 Business and Professions Code in conjunction with Sections 10130,  
2 10137, and 10145 of the Code, and Sections 2831.1, 2831.2, 2832,  
3 2832.1, and 2834 of Title 10, California Code of Regulations; and  
4 Section 10161 of the Code in conjunction with Section 2752 of the  
5 Regulations.

6  
7 ORDER

8 I

9 The respective real estate broker licenses and all  
10 license rights of Respondent SANDELCO PROPERTIES, INC., and  
11 Respondent MICHAEL JOSEPH SANDEL under the Real Estate Law are  
12 revoked; provided, however, a restricted corporate real estate  
13 broker license shall be issued to Respondent CORPORATION and a  
14 restricted real estate broker license shall be issued to  
15 Respondent SANDEL pursuant to Section 10156.5 of the Business  
16 and Professions Code if Respondents respectively make  
17 application therefor and pay to the Department of Real Estate  
18 the respective appropriate fee for the restricted license within  
19 ninety (90) days from the effective date of this Decision. The  
20 restricted licenses respectively issued to Respondents shall be  
21 subject to all of the provisions of Section 10156.7 of the  
22 Business and Professions Code and to the following limitations,  
23 conditions and restrictions imposed under authority of Section  
24 10156.6 of that Code:

25 1. The restricted licenses issued respectively to  
26 Respondents may be suspended prior to hearing by Order of the  
27 Real Estate Commissioner in the event of Respondent

1 CORPORATION's or Respondent SANDELCO's respective conviction or  
2 plea of nolo. contendere to a crime which is substantially  
3 related to Respondent's fitness or capacity as a real estate  
4 licensee.

5 2. The restricted licenses issued respectively to  
6 Respondents may be suspended prior to hearing by Order of the  
7 Real Estate Commissioner on evidence satisfactory to the  
8 Commissioner that a Respondent has violated provisions of the  
9 California Real Estate Law, the Subdivided Lands Law,  
10 Regulations of the Real Estate Commissioner or conditions  
11 attaching to the restricted license.

12 3. Respondents, respectively, shall not be eligible  
13 to apply for the issuance of an unrestricted real estate license  
14 nor for the removal of any of the conditions, limitations, or  
15 restrictions of a restricted license until two (2) years have  
16 elapsed from the effective date of this Decision.

17 4. Respondent SANDEL shall, within nine (9) months  
18 from the effective date of this Decision, present evidence  
19 satisfactory to the Real Estate Commissioner that Respondent  
20 SANDEL has, since the most recent issuance of an original or  
21 renewal real estate license, taken and successfully completed  
22 the continuing education requirements of Article 2.5 of Chapter  
23 3 of the Real Estate Law for renewal of a real estate License.  
24 If Respondent SANDEL fails to satisfy this condition, the  
25 Commissioner may order the suspension of the restricted license  
26 until Respondent SANDEL presents such evidence. The  
27

1 Commissioner shall afford Respondent SANDEL the opportunity for  
2 a hearing pursuant to the Administrative Procedure Act to  
3 present such evidence.

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

11 6. Respondent SANDEL shall, prior to and as a  
12 condition of the issuance of the restricted license, submit  
13 proof satisfactory to the Commissioner of having taken and  
14 successfully completed the continuing education course on trust  
15 fund accounting and handling specified in subdivision (a) of  
16 Section 10170.5 of the Business and Professions Code. Proof of  
17 satisfaction of this requirement includes evidence that  
18 Respondent SANDEL has successfully completed the trust fund  
19 account and handling continuing education course within 120  
20 days prior to the effective date of the Decision in this  
21 matter.

22 7. Pursuant to Section 10148 of the Business and  
23 Professions Code, Respondents and each of them, jointly and  
24 severally, shall pay the Commissioner's reasonable cost for: a)  
25 the audit which led to this disciplinary action and, b) a  
26 subsequent audit to determine if Respondent has corrected the

1 trust fund violations found in Paragraph I of the Determination  
2 of Issues. In calculating the amount of the Commissioner's  
3 reasonable cost, the Commissioner may use the estimated average  
4 hourly salary for all persons performing audits of real estate  
5 brokers, and shall include an allocation for travel time to and  
6 from the auditor's place of work. Respondents shall pay such  
7 cost within sixty (60) days of receiving an invoice from the  
8 Commissioner detailing the activities performed during the audit  
9 and the amount of time spent performing those activities. The  
10 Commissioner may suspend the restricted licenses issued to  
11 Respondents pending a hearing held in accordance with Section  
12 11500, et seq., of the Government Code, if payment is not timely  
13 made as provided for herein, or as provided for in a subsequent  
14 agreement between the Respondents and the Commissioner. The  
15 suspension shall remain in effect until payment is made in full  
16 or until Respondents enter into an agreement satisfactory to the  
17 Commissioner to provide for payment, or until a decision  
18 providing otherwise is adopted following a hearing held pursuant  
19 to this condition.

20 8. Respondents shall prior to the effective date of  
21 the Decision provide evidence satisfactory to the Commissioner  
22 that Respondents have cured the trust fund shortages alleged in  
23 the Accusation.

24 ///

25 //



1           9. Any restricted real estate broker license issued  
2 to Respondents may be suspended or revoked for a violation,  
3 respectively, by either Respondent of any of the conditions  
4 attaching to the restricted licenses.

5  
6  
7 March 27, 2003  
8           DATED

Michael B. Rich  
MICHAEL B. RICH, Counsel  
DEPARTMENT OF REAL ESTATE

9                           \* \* \*

10           I have read the Stipulation and Agreement and its  
11 terms are understood by me and are agreeable and acceptable to  
12 me. I understand that I am waiving rights given to me by the  
13 California Administrative Procedure Act (including but not  
14 limited to Sections 11506, 11508, 11509, and 11513 of the  
15 Government Code), and I willingly, intelligently, and  
16 voluntarily waive those rights, including the right of  
17 requiring the Commissioner to prove the allegations in the  
18 Accusation at a hearing at which I would have the right to  
19 cross-examine witnesses against me, and to present evidence in  
20 defense and mitigation of the charges.

21  
22 MARCH 22, 2003  
23           DATED

Michael Joseph Sandel  
SANDELCO PROPERTIES  
By: MICHAEL JOSEPH SANDEL

24  
25 MARCH 22, 2003  
26           DATED

Michael Joseph Sandel  
MICHAEL JOSEPH SANDEL  
Respondent

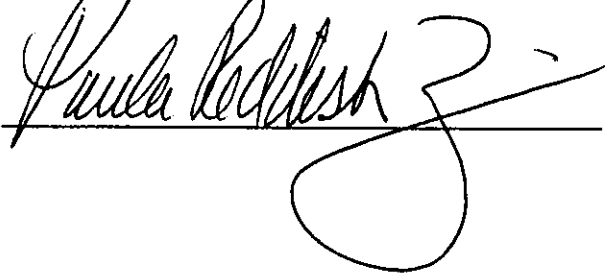
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\* \* \*

The foregoing Stipulation and Agreement for  
Settlement is hereby adopted by the Real Estate Commissioner as  
her Decision and Order and shall become effective at 12 o'clock  
noon on JUNE 9, 2003.

IT IS SO ORDERED April 15, 2003.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**

JAN 16 2003

DEPARTMENT OF REAL ESTATE

*In the Matter of the Accusation of*

By Shelby Ely

SANDELCO PROPERTIES, INC.  
and MICHAEL JOSEPH SANDEL,

}

Case No. H-8269 SF

OAH No. N2003010124

*Respondents*

**NOTICE OF HEARING ON ACCUSATION**

**To the above named respondents:**

**You are hereby notified** that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, ELIHU M. HARRIS BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612** on **TUESDAY--APRIL 1, 2003**, at the hour of **9:00 AM**, 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: JANUARY 16, 2003

By Michael B. Rich  
MICHAEL B. RICH, Counsel

1 MICHAEL B. RICH, Counsel  
2 State Bar No. 84257  
3 DEPARTMENT OF REAL ESTATE  
4 P. O. Box 187000  
5 Sacramento, CA 95818-7000  
6  
7 Telephone: (916) 227-0789

FILED  
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DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 SANDELCO PROPERTIES, INC., ) NO. H-8269 SF  
14 and MICHAEL JOSEPH SANDEL, )  
15 Respondents. ) ACCUSATION

16 The Complainant, LES R. BETTENCOURT, a Deputy Real  
17 Estate Commissioner of the State of California, for Causes of  
18 Accusation against SANDELCO PROPERTIES, INC., and MICHAEL JOSEPH  
19 SANDEL, is informed and alleges as follows:

20 I

21 The Complainant, LES R. BETTENCOURT, a Deputy Real  
22 Estate Commissioner of the State of California, makes this  
23 Accusation against Respondents in his official capacity and not  
24 otherwise.

25 II

26 At all times herein mentioned Respondent MICHAEL JOSEPH  
27 SANDEL (hereinafter "Respondent Sandel") was and is licensed by

1 the Department of Real Estate (hereinafter "Department") as a  
2 real estate broker.

3 III

4 At all times herein mentioned from and after June 20,  
5 2002, Respondent SANDELCO PROPERTIES, INC. (hereinafter  
6 "Respondent Corporation") was and is licensed by the Department  
7 as a corporate real estate real estate broker acting by and  
8 through Respondent Sandel as its designated broker officer. At  
9 no time prior to June 20, 2002, did the Department issue a  
10 license to Respondent Corporation as a real estate broker.

11 IV

12 Whenever a reference is made in an allegation in this  
13 Accusation to an act or omission of Respondent Corporation, such  
14 allegation shall be deemed to mean that the officers, directors,  
15 employees, agents, and real estate licensees employed by or  
16 associated with Respondent Corporation committed such act or  
17 omission while engaged in the furtherance of the business or  
18 operations of Respondent Corporation and while acting within the  
19 course and scope of their corporate authority, association,  
20 and/or employment.

21 V

22 Within the last three years and at all times herein  
23 mentioned, Respondents engaged in the business of, acted in the  
24 capacity of, advertised, or assumed to act as real estate  
25 brokers within the State of California within the meaning of  
26 Business and Professions Code Section 10131(b) (hereinafter  
27 "the Code"), including the operation and conduct of a property

1 management business with the public wherein, on behalf of others,  
2 for compensation or in expectation of compensation, Respondents  
3 leased or rented, offered to lease or rent, and placed for rent,  
4 and solicited listings of places for rent, and solicited for  
5 prospective tenants of real property or improvements thereon, and  
6 collected rents from real property or improvements thereon.

7 VI

8 In so acting as real estate brokers, as described in  
9 Paragraph V above, Respondents accepted or received funds in  
10 trust (hereinafter "trust funds") from or on behalf of owners and  
11 tenants in connection with the leasing, renting, and collection  
12 of rents on real property or improvements thereon, as alleged  
13 herein, and thereafter from time to time made disbursements of  
14 said funds.

15 VII

16 The aforesaid trust funds received or accepted by  
17 Respondents were deposited or caused to be deposited by  
18 Respondents into one or more bank accounts (hereinafter "trust  
19 fund accounts") maintained by Respondents for the handling of  
20 trust funds, including but not necessarily limited to the  
21 following accounts maintained by Respondents at Bank of Alameda  
22 in Emeryville, California:

23 (a) Sandel Michael, dba Sandelco Properties trust  
24 Account, account number 045-00104 (hereinafter  
25 "Trust Account #1);

26 (b) Sandelco properties Trust Account, account number  
27 032-000-9700 (hereinafter "Trust Account #2");

- 1 (c) Gary Keck Properties, account number 045-00088  
2 (hereinafter "Bank Account #1"); and,  
3 (d) Keck Trust Properties, account number 045-00096  
4 (hereinafter "Bank Account #2").

5 VIII

6 At all times herein mentioned and within the last three  
7 years until June 20, 2002, Respondent Sandel employed, directed,  
8 and caused Respondent Corporation to perform the acts and to  
9 conduct the property management activities and trust fund  
10 handling described in Paragraph V, VI, and VII above.

11 IX

12 In acting as described in Paragraphs V through VIII,  
13 above:

- 14 (a) Respondent Corporation violated Section 10130 of  
15 the Code;  
16 (b) Respondent Sandel willfully cause, suffered and  
17 permitted Respondent Corporation to violate  
18 Section 10130; and,  
19 (c) Respondent Sandel violated Section 10137 of the  
20 Code.

21 X

22 Respondent Sandel employed Jonathan Scott Weldon, a  
23 licensed real estate salesperson, pursuant to an agreement  
beginning October 29, 2001.

24 XI

25 Respondent Sandel did not notify the Commissioner of  
26 the Department of Real Estate until on or about May 20, 2002, of  
27 his employment of Jonathan Scott Weldon.

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XII

Beginning in or about May of 2002, the Department conducted an audit of the above business activities of Respondents for the time period of May 1, 2001 through April 30, 2002. During the course of the activities described above, Respondents received and disbursed funds in trust on behalf of others.

XIII

In connection with the collection and disbursement of trust funds, Respondent Sandel and Respondent Corporation failed to deposit and maintain the trust funds in a trust account or neutral escrow depository, or to deliver them into the hands of the owners of the funds, as required by Section 10145 of the Code, in such a manner that as of March 20, 2002, there was a trust fund shortage in the approximate sum of \$866.91 in Trust Account #1.

XIV

Respondents failed to obtain the prior written consents of the principals for the reduction of the aggregate balance of trust funds in Trust Account 1 to an amount less than the existing aggregate trust fund liability to the owners of said funds in conformance with Section 2832.1 of Chapter 6, Title 10, California Code Regulations (hereinafter "Regulations").

XV

In connection with the receipt and disbursement of trust funds as above alleged, and as set forth in Audit No.



1 OK-010263, dated May 31, 2002, and accompanying working papers  
2 and exhibits, Respondents:

3 (a) Failed to designate Bank Accounts #1 and #2 as  
4 trust accounts in the name of the broker as  
5 trustee and deposited client trust funds into  
6 those accounts in violation of Section 2832 of  
7 the Regulations;

8 (b) Failed to reconcile the balance of separate  
9 beneficiary or transaction records with the  
10 control records of trust funds received and  
11 disbursed at least once a month, and/or failed  
12 to maintain a record of such reconciliations  
13 as required by Section 2831.2 of the Regulations  
14 for all trust accounts;

15 (c) Failed to deposit trust funds to the trust  
16 accounts within three (3) business days of  
17 receipt as required by Section 2832(a) of the  
18 Regulations.

19 XVI

20 Respondents permitted Michelle Carrico, a person who  
21 held a California real estate license but who was no longer  
22 employed by Respondents, to be a signatory on Trust Account #2  
23 in violation of Section 2834 of the Regulations.

24 XVII

25 The acts and/or omissions of Respondents as alleged  
26 above constitute grounds for disciplinary action under the  
27 following provisions:

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- (a) As to Respondent Corporation as alleged in Paragraphs V through IX(a), inclusive, under Section 10130 of the Code in conjunction with Section 10177(d) of the Code;
- (b) As to Respondent Sandel as alleged in Paragraphs V through IX(b), inclusive, under Section 10130 of the Code in conjunction with Section 10177(d) of the Code.
- (c) As to Respondent Sandel as alleged in Paragraphs V through IX(c), inclusive, under Section 10137 of the Code;
- (d) As to Respondent Sandel as alleged in Paragraphs X and XI, under Section 2752 of the Regulations in conjunction with Section 10161.8(d) of the Code;
- (e) As to both Respondents as alleged in Paragraph XIII, under Section 10145 of the Code in conjunction with Section 10177(d) of the Code;
- (f) As to both Respondents as alleged in Paragraph XIV, under Section 10145 of the Code and Section 2832.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (g) As to both Respondents as alleged in Paragraph XV(a), under Section 10145 of the Code and Section 2832 of the Regulations in conjunction with Section 10177(d) of the Code;
- (h) As to both Respondents as alleged in Paragraph XV(b), under Section 10145 of the Code and

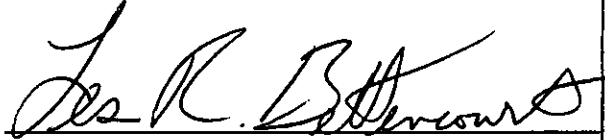
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Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code;

(i) As to both Respondents as alleged in Paragraph XV(c), under Section 10145 of the Code and Section 2832(a) of the Regulations in conjunction with Section 10177(d) of the Code; and,

(j) As to both Respondents as alleged in Paragraph XVI, under Section 2834 of the Regulations in conjunction with Section 10177(d) of the Code.

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 license(s) and license rights of Respondents 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 provisions of law.

  
LES R. BETTENOCURT  
Deputy Real Estate Commissioner

Dated at Oakland, California  
this 19th day of November, 2002