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FILED

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BUREAU OF REAL ESTATE

By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation)
12 VMRW, BRIAN SANTOS BANIQUED,) NO. H-12076 SF
13 and VICTOR MANRIQUE) ACCUSATION
14 Respondents.)
15)

16 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
17 State of California, for Accusation against Respondent VMRW, Respondent BRIAN SANTOS
18 BANIQUED (BANIQUED) and Respondent VICTOR MANRIQUE (MANRIQUE),
19 collectively, Respondents, is informed and alleges as follows:

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21 The Complainant makes this Accusation against Respondents in her official
22 capacity.

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24 At all times herein mentioned, VMRW was and is presently licensed and/or has
25 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
26 Professions Code (the Code) by the Bureau of Real Estate (the Bureau) as a corporate real estate
27 broker.

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BANIQUED is presently licensed by the Bureau as a real estate broker.

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MANRIQUE is presently licensed by the Bureau as a real estate salesperson, but at no time mentioned herein was licensed as a real estate broker.

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At all times during the audit period, BANIQUED was licensed by the Bureau as the designated broker/officer of VMRW. As the designated broker/officer, BANIQUED was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of VMRW for which a real estate license is required.

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At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, collected rents from tenants on behalf of landlords, ordered repairs on, offered to rent and performed other duties regarding property owned by landlords.

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Whenever reference is made in an allegation in this Accusation to an act or omission of VMRW, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with VMRW committed such act or omission while engaged in furtherance of the business or operations of VMRW and while acting within the course and scope of their corporate authority and employment.

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1 FIRST CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 through 7, above, and incorporates the same,
4 herein by reference.

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6 On May 18, 2016, an audit was conducted of VMRW's office located at 2216
7 Railroad Ave., Hercules, California, where the auditor examined records for the period of May
8 1, 2014 through April 30, 2016 (the audit period).

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10 While acting as a real estate broker as described in Paragraph 6, above, and
11 within the audit period, VMRW accepted or received funds in trust (trust funds) from tenants on
12 behalf of landlords in connection with the property management activities and deposited or
13 caused to be deposited those funds directly into owners' bank accounts.

14 11

15 In the course of the activities described in Paragraph 6, in connection with the
16 collection and disbursement of trust funds, VMRW and BANIQUED:

- 17 (a) Failed to maintain Records of Trust Funds Received and Not Placed in a
18 Trust Account, as required by Section 2831(a) (6) of Chapter 6, Title 10,
19 California Code of Regulations (Regulations);
- 20 (b) Deposited trust funds, consisting of one check, into its operating account,
21 then paid an invoice on behalf of an owner, in violation of Section 10145
22 and 10176(e) of the Code;
- 23 (c) Failed to disclose its license number on its website as required by Section
24 2773 of the Regulations and Section 10140.6(b) of the Code;
- 25 (d) Allowed a co-owner, who was unlicensed, to conduct real estate activities,
26 in violation of Section 10137 of the Code.

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The acts and/or omissions of VMRW and BANIQUED as alleged above violate Sections 2773 (license number) and 2831(a) (6) (record of trust funds received-not placed in trust) and Sections 10137 (compensating unlicensed person) and 10145 (trust fund handling), of the Code and are grounds for discipline under Sections 10137, 10177(d) (willful violation/disregard Real Estate Law) and 10177(g) (negligence/incompetence real estate licensee) of the Code.

SECOND CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 12, above, and incorporates them herein by reference.

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Within the three year period prior to the filing of this Accusation, VMRW and BANIQUED employed and compensated MANRIQUE to perform the activities requiring a real estate license as alleged in Paragraph 6, above.

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Within the last three years before the filing of this Accusation, MANRIQUE engaged in property management activities including leasing or renting, soliciting places for rent, soliciting prospective tenants, collecting rents from tenants and ordering repairs on properties owned by landlords on behalf of VMRW.

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The facts alleged above constitute cause for the suspension or revocation of the licenses and license rights of VMRW and BANIQUED under Section 10137 (hiring unlicensed person) of the Code and constitute cause for the suspension or revocation of the licenses and license rights of MANRIQUE under Section 10130 (unlicensed activity) of the Code.

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1 THIRD CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 through 16, above, and incorporates them
4 herein by reference.

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6 At all times during the audit period, BANIQUED was responsible, as the
7 designated broker/officer of VMRW, for the supervision and control of the activities conducted
8 on behalf of the corporation by its officers and employees. BANIQUED failed to exercise
9 reasonable supervision and control over the property management brokering activities of
10 VMRW. In particular, BANIQUED permitted, ratified and/or caused the conduct described in
11 the First and Second Causes of Action, above, to occur, and failed to take reasonable steps,
12 including but not limited to the handling of trust funds, supervision of employees, and the
13 implementation of policies, rules, procedures, and systems to ensure the compliance of the
14 corporation with the Real Estate Law and the Regulations.

15 19

16 The above acts and/or omissions of BANIQUED violate Section 2725 (broker
17 supervision) of the Regulations and Section 10159.2 (designated officer responsibility) of the
18 Code and are grounds for disciplinary action under the provisions of Sections 10177(d) and (h)
19 (broker failure to supervise) of the Code.

20 Audit Costs

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22 The acts and/or omissions of VMRW and BANIQUED as alleged above, entitle
23 the Bureau to reimbursement of the costs of its audits pursuant to Section 10148(b) (audit costs
24 for trust fund handling violations) of the Code.

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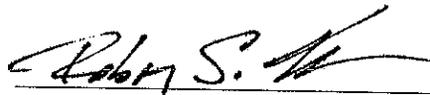
Costs of Investigation and Enforcement

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Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

22

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 licenses 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.



ROBIN S. TANNER
Supervising Special Investigator

Dated at Oakland, California,

this 5th day of April, 2017.