

1 Bureau of Real Estate  
2 320 W. 4<sup>TH</sup> Street, Suite 350  
3 Los Angeles, CA 90013-1105  
4 Telephone: (213) 576-6982

**FILED**

JAN 22 2015

BUREAU OF REAL ESTATE

By *Jon Enochs*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

\*\*\*

10 In the Matter of the Accusation of )  
11 )  
12 MANALO REALTY INC.; )  
13 and RICHARD RIZARRE MANALO, )  
14 individually and as designated officer )  
15 of Manalo Realty Inc., )  
Respondents. )

No. H-04473 SD

STIPULATION  
AND  
AGREEMENT

16  
17 It is hereby stipulated by and between Respondents MANALO REALTY INC.  
18 and RICHARD RIZARRE MANALO, individually and as designated officer of Manalo Realty  
19 Inc. (sometimes collectively referred to as "Respondents") represented by Jon Alan Enochs,  
20 Esq. and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Bureau of  
21 Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on  
22 March 14, 2013, in this matter:

24 1. All issues which were to be contested and all evidence which was to be  
25 presented by Complainant and Respondents at a formal hearing on the Accusation, which  
26 hearing was to be held in accordance with the provisions of the Administrative Procedure Act  
27

1 ("APA") shall instead and in place thereof be submitted solely on the basis of the provisions of  
2 this Stipulation and Agreement ("Stipulation.")

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

6 3. Respondents timely filed a Notice of Defense pursuant to Section 11506 of  
7 the Government Code for the purpose of requesting a hearing on the allegations in the  
8 Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense.  
9 Respondents acknowledge that they understand that by withdrawing said Notice of Defense they  
10 thereby waive their right to require the Commissioner to prove the allegations in the Accusation  
11 at a contested hearing held in accordance with the provisions of the APA and that they will  
12 waive other rights afforded to them in connection with the hearing such as the right to present  
13 evidence in their defense the right to cross-examine witnesses.  
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16 4. This Stipulation is based on the factual allegations contained in the  
17 Accusation. In the interest of expedience and economy, Respondents choose not to contest  
18 these allegations, but to remain silent and understand that, as a result thereof, these factual  
19 allegations, without being admitted or denied, will serve as a prima facie basis for the  
20 disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to  
21 provide further evidence to prove said factual allegations.  
22

23 5. This Stipulation is made for the purpose of reaching an agreed disposition of  
24 this proceeding and is expressly limited to this proceeding and any other proceeding or case in  
25 which the Bureau of Real Estate ("Bureau") or another licensing agency of this state, another  
26 state or if the federal government is involved, and otherwise shall not be admissible in any other  
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1 criminal or civil proceeding.

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

10 7. The Order or any subsequent Order of the Real Estate Commissioner made  
11 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further  
12 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters  
13 which were not specifically alleged to be causes for accusation in this proceeding.  
14

15 8. Respondents understand that by agreeing to this Stipulation, Respondents  
16 agree to pay, pursuant to Business and Professions Code Section 10148, the cost of the original  
17 audit which led to this disciplinary action. The amount of said cost is \$10,830.00.  
18

19 9. Respondents have received, read, and understand the "Notice Concerning  
20 Costs of Subsequent Audit." Respondents further understand that by agreeing to this  
21 Stipulation, the findings set forth below in the Determination of Issues become final, and the  
22 Commissioner may charge Respondents for the cost of any subsequent audit conducted pursuant  
23 to Business and Professions Code Section 10148 to determine if the violations have been  
24 corrected. The maximum cost of the subsequent audit will not exceed \$10,830.00.  
25

26 10. Respondents understand that by agreeing to this Stipulation, Respondents  
27 agrees to pay, pursuant to Business and Professions Code Section 10106, the cost of the

1 investigation and enforcement of this matter. The amount of said cost is \$2,225.00.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing, it is stipulated and agreed that the following

4 Determination of Issues shall be made:

5 I.

6 (Audit LA 110021)

7 Residential Resales and Mortgage Loan Audit

8 The conduct of MANALO REALTY INC. and RICHARD RIZARRE MANALO

9 as described in Paragraph 4, above, is in violation of Sections 10130, 10137, 10140.6(b),  
10 10140.6(b), 10148, 10160, 10163, and 10177(f) of the Business and Professions Code ("Code")  
11 and Sections 2726, 2742(c), 2753 and 2773 of Title 10, Chapter 6 of the California Code of  
12 Regulations ("Regulations,") and is a basis for suspension or revocation of Respondents' license  
13 and license rights as violations of the Real Estate Law pursuant to Code Section 10177(d).

14 II.

15 (LA 110035)

16 Property Management Audit

17 The conduct of MANALO REALTY INC. and RICHARD RIZARRE MANALO  
18 as described in Paragraph 4, above, is in violation of Code Section 10145, 10145(d), 10159.2  
19 and 10177(f) and Regulations, 2832.1, 2831, 2831.1, 2831.2, 2832(a), 2832, 2834 and is a basis  
20 for suspension or revocation of Respondents' license and license rights as a violation of the Real  
21 Estate Law pursuant to Code Section 10177(d).

22 III.

23 The conduct of RICHARD RIZARRE MANALO, as described in Paragraph 4,  
24 above in Paragraphs I and II, above, constitutes a failure to keep MANALO REALTY INC. in  
25 compliance with the Real Estate Law during the time that said Respondent RICHARD  
26 RIZARRE MANALO was the officer designated by a corporate broker licensee, in violation of  
27 Code Section 10159.2 and Regulation 2725 and is a basis for suspension or revocation of

1 Respondents' license and license rights as a violation of the Real Estate Law pursuant to Code  
2 Section 10177(h).

3  
4 ORDER

5 WHEREFORE, THE FOLLOWING ORDER is hereby made:

6 I.

7 All licenses and licensing rights of Respondents MANOLO REALTY INC. and  
8 RICHARD RIZARRE MANALO under the Real Estate Law are revoked; provided, however,  
9 restricted real estate broker licenses shall be issued to Respondents pursuant to Section 10156.5  
10 of the Business and Professions Code if Respondents:

11 (A) Make application thereof and pay to the Bureau of Real Estate the  
12 appropriate fee for the restricted licenses within ninety (90) days from the effective date of this  
13 Decision.

14 (B) Respondent RICHARD RIZARRE MANALO shall, prior to and as a  
15 condition of the issuance of the restricted license, submit proof satisfactory to the Commissioner  
16 of having taken and successfully completed the continuing education course on trust fund  
17 accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the  
18 Business and Professions Code. Proof of satisfaction of this requirement includes evidence that  
19 Respondent has successfully completed the trust fund account and handling continuing  
20 education course within 120 days prior to the effective date of the Decision in this matter.

21 The restricted license issued to Respondent shall be subject to all of the  
22 provisions of Section 10156.7 of the Business and Professions Code and to the followings  
23 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:  
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25  
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1                   1. The restricted license issued to Respondents may be suspended prior to  
2 hearing by Order of the Real Estate Commissioner in the event of a Respondent's conviction or  
3 plea of nolo contendere to a crime which is substantially related to a Respondent's fitness or  
4 capacity as a real estate licensee.

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

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

14                   4. Respondent RICHARD RIZARRE MANALO shall within six (6) months  
15 from the effective date of the restricted license, take and pass the Professional Responsibility  
16 Examination administered by the Bureau including the payment of the appropriate examination  
17 fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of the  
18 restricted license until Respondent passes the examination.  
19

20                   5. Respondent RICHARD RIZARRE MANALO shall, within nine (9) months  
21 from the effective date of this Decision, present evidence satisfactory to the Real Estate  
22 Commissioner that Respondent has, since the most recent issuance of an original or renewal real  
23 estate license, taken and successfully completed the continuing education requirements of  
24 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If  
25 Respondent fails to satisfy this condition, the Commissioner may order the suspension of his  
26  
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1 license until the Respondent presents such evidence. The Commissioner shall afford  
2 Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to  
3 present such evidence.

4 II.

5 Pursuant to Section 10148 of the Business and Professions Code, Respondents

6 MANALO REALTY INC., and RICHARD RIZARRE MANALO shall pay the Commissioner's  
7 reasonable cost for (a) the audit which led to this disciplinary action and (b) a subsequent audit  
8 to determine if Respondents are now in compliance with the Real Estate Law. The cost of the  
9 audit which led to this disciplinary action is \$10,830.00. In calculating the amount of the  
10 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary  
11 for all persons performing audits of real estate brokers, and shall include an allocation for travel  
12 time to and from the auditor's place of work. Said amount for the prior and subsequent audits  
13 shall not exceed \$21,660.00. Respondents are jointly and severally liable for the cost of the  
14 audits.  
15

16  
17 Respondents shall pay such cost within 60 days of receiving an invoice from the  
18 Commissioner detailing the activities performed during the audit and the amount of time spent  
19 performing those activities.  
20

21 The Commissioner may suspend the license of Respondents pending a hearing  
22 held in accordance with Section 11500, et seq., of the Government Code, if payment is not  
23 timely made as provided for herein, or as provided for in a subsequent agreement between the  
24 Respondents and the Commissioner. The suspension shall remain in effect until payment is  
25 made in full or until a Respondent enters into an agreement satisfactory to the Commissioner to  
26 provide for payment, or until a decision providing otherwise is adopted following a hearing held  
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1 pursuant to this condition.

2 III.

3 All licenses and licensing rights of Respondents MANALO REALTY INC. and  
4 RICHARD RIZARRE MANALO, are indefinitely suspended unless or until Respondents pay  
5 the sum of \$2,225.00 for the Commissioner's reasonable cost of the investigation and  
6 enforcement which led to this disciplinary action by the effective date. Said payment must be  
7 received by the Bureau prior to the effective date of the Order in this matter.  
8

9 IV.

10 Respondent RICHARD RIZARRE MANALO shall within nine (9) months from  
11 the effective date of this Decision, present evidence satisfactory to the Real Estate  
12 Commissioner that Respondent has, since the most recent issuance of an original or renewal real  
13 estate license, taken and successfully completed the continuing education requirements of  
14 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If  
15 Respondent fails to satisfy this condition, the Commissioner may order the suspension of the  
16 license until Respondent presents such evidence. The Commissioner shall afford Respondent  
17 the opportunity for a hearing pursuant to the Administrative Procedure Act to present such  
18 evidence.  
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21 V.

22 All licenses and licensing rights of Respondents are indefinitely suspended  
23 unless or until Respondents provide proof satisfactory to the Commissioner that the trust fund  
24 shortages of \$19,683.90, set forth in the Accusation and herein below, has been restored,  
25 including the identification of the source of funds used to cure the shortage:  
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1 TA 1 \$12,997.18  
2 TA 2 6,626.72  
3 Total \$19,683.90

4 VI.

5 As a further condition for the Real Estate Commissioner to enter into this

6 Stipulation, Respondents shall provide evidence satisfactory to the Commissioner that all  
7 violations set forth below have been corrected prior to the effective date of the Stipulation.

- 8
- 9 o Cancel interest-bearing account for TA 2.
  - 10 o Remove or Bond unlicensed Patricia Balio as trust account signatory.
  - 11 o Restore \$326.67 (August 25, 2011) to T/A 1 or TA 2.
  - 12 o Cease employing or compensating unlicensed Denise Gurfinkiel.
  - 13 o Restore Corporate Status to Good Standing with the Secretary of State  
and the Franchise Tax Board.

14 VII.

15 All proof required by this Order shall be sent to the attention of Elliott Mac

16 Lennan, Counsel, Legal Section, Bureau of Real Estate, 320 West 4th St., Suite 350, Los  
17 Angeles, California 90013-1105. All checks, unless otherwise specified, are payable to the  
18 Bureau of Real Estate.

19  
20  
21 DATED: 6-30-14

22 EJL  
ELLIOTT MAC LENNAN,  
Counsel for Bureau of Real Estate

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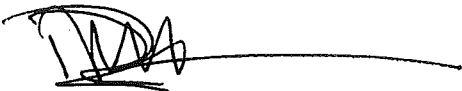
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2 EXECUTION OF THE STIPULATION

3 We have read the Stipulation and have discussed it with our attorney. Its terms  
4 are understood by us and are agreeable and acceptable to us. We understand that we are waiving  
5 ~~rights given to us~~ by the California Administrative Procedure Act (including but not limited to  
6 Sections 11506, 11508, 11509 and 11513 of the Government Code), and we are willingly,  
7 intelligently and voluntarily waive those rights, including the right of requiring the  
8 Commissioner to prove the allegations in the Accusation at a hearing at which we would have  
9 the right to cross-examine witnesses against us and to present evidence in defense and  
10 mitigation of the charges.

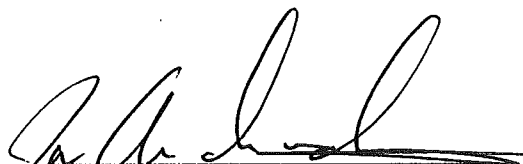
11  
12  
13 DATED: 12/10/14

14   
15 MANALO REALTY INC.  
16 BY: RICHARD RIZARRE MANALO, D.O.  
17 Respondent

18 DATED: 12/10/14

19   
20 RICHARD RIZARRE MANALO, individually  
21 and as designated officer of Manalo Realty Inc.,  
22 Respondent

23 DATED: 12/10/14

24   
25 JON ALAN ENOCHS, ESQ.  
26 Attorney for Respondents

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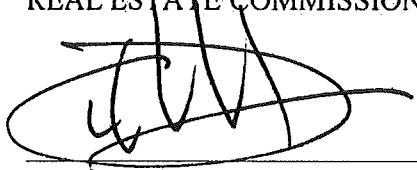
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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
Respondents MANALO REALTY INC. and RICHARD RIZARRE MANALO, individually and  
as designated officer of Manalo Realty Inc., and shall become effective at ~~12 o'clock noon~~ on  
FEB 11 2015

IT IS SO ORDERED JAN 09 2015,

REAL ESTATE COMMISSIONER



By: JEFFREY MASON  
Chief Deputy Commissioner