

**FILED**

**OCT - 8 2019**

**DEPT. OF REAL ESTATE**

By *Carla Selous*

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9 **BEFORE THE DEPARTMENT OF REAL ESTATE**

10 **STATE OF CALIFORNIA**

11 \* \* \*

|    |                                       |   |                   |
|----|---------------------------------------|---|-------------------|
| 12 | In the Matter of the Accusation of    | ) | No. H- 05100 SD   |
|    |                                       | ) |                   |
| 13 | MANALO REALTY INC,                    | ) | <u>ACCUSATION</u> |
| 14 | doing business as Manalo Realty,      | ) |                   |
| 15 | Manalo Realty Mortgage, and           | ) |                   |
| 16 | M R Mortgage, and                     | ) |                   |
| 17 | RICHARD RIZARRE MANALO,               | ) |                   |
| 18 | individually and as former designated | ) |                   |
| 19 | officer of Manalo Realty Inc,         | ) |                   |
|    |                                       | ) |                   |
|    | Respondents.                          | ) |                   |

20 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the  
21 State of California, for cause of Accusation against MANALO REALTY INC, doing business  
22 as Manalo Realty, Manalo Realty Mortgage, and M R Mortgage, and RICHARD RIZARRE  
23 MANALO, individually and as former designated officer of Manalo Realty Inc  
24 (“Respondents”), is informed and alleges as follows:

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1.

The Complainant, Veronica Kilpatrick, acting in her official capacity as a Supervising Special Investigator of the State of California, makes this Accusation against Respondents MANALO REALTY INC and RICHARD RIZARRE MANALO.

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

LICENSE HISTORY

3.

Respondent MANALO REALTY INC ("MANALO REALTY") presently has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a restricted corporate real estate broker.

4.

Respondent RICHARD RIZARRE MANALO ("MANALO") presently has license rights as a restricted real estate broker.

5.

From February 11, 2015, to October 14, 2018, Respondent MANALO REALTY was licensed by the Department of Real Estate ("Department") as a corporate real estate broker by and through Respondent MANALO, as the restricted designated officer and restricted broker responsible, pursuant to Code section 10159.2, for supervising the activities requiring a real estate license conducted on behalf of MANALO REALTY, or by MANALO REALTY'S officers, agents and employees.

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**PRIOR LICENSE DISCIPLINE**

6.

On or about January 9, 2015, the Real Estate Commissioner in Case No. H-04473 SD adopted as his Decision effective on or about February 11, 2015, a Stipulation and Agreement entered on or about December 10, 2014, by Respondents MANALO REALTY and MANALO and the Department<sup>1</sup> where MANALO REALTY and MANALO stipulated to the acts and omissions in the Accusation as grounds for disciplinary action in that: MANALO REALTY and MANALO violated Code sections 10130, 10137, 10140.6(b), 10145, 10148, 10159.2, 10160, 10163, and 10177(f) and Regulations sections 2726, 2742(c), 2753, 2773, 2831, 2831.1, 2831.2, 2832, 2832.1, and 2834; and MANALO violated Regulations section 2725. The Decision provided that MANALO REALTY'S and MANALO'S real estate broker licenses were revoked and that MANALO REALTY and MANALO would be issued restricted real estate broker licenses if MANALO REALTY and MANALO complied with certain conditions such as submitting an application within 90 days of the effective date.

**BROKERAGE**

**MANALO REALTY INC**

7.

At all times mentioned, in the City of Chula Vista, County of San Diego, Respondent MANALO REALTY acted as a real estate broker, conducting licensed activities within the meaning of Code section 10131(b) (leases or rents real property for others).

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<sup>1</sup> The Department of Real Estate was known as the Bureau of Real Estate from July 2013 to July 2018.

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AUDIT  
MANALO REALTY INC

8.

On January 15, 2019, the Department completed audit examinations of the books and records of Respondent MANALO REALTY pertaining to the activities described in Paragraph 7 which require a real estate license. The audit examinations covered a period of time from June 1, 2015, to May 31, 2018. The audit examinations revealed violations of the Code and the Regulations as set forth in the following paragraphs, and as more fully discussed in Audit Report SD 170057 and the exhibits and workpapers attached to said audit report.

AUDIT VIOLATIONS OF THE REAL ESTATE LAW

9.

In the course of activities described in Paragraph 7 above and during the examination periods described in Paragraph 8 above, Respondent MANALO REALTY acted in violation of the Code and the Regulations in that:

9(a) As of May 31, 2018, Respondent MANALO REALTY had a trust fund shortage in the amount of \$548.23. Respondent did not have written consent from the owners of the trust funds to reduce the balance of trust funds to an amount less than the aggregate trust fund liabilities, in violation of Code section 10145 and Regulations section 2832.1.

9(b) Respondent MANALO REALTY did not perform and maintain a monthly reconciliation of all the separate records with the control record of all trust funds received and disbursed, in violation of Code section 10145 and Regulation sections 2831.2.

9(c) Bank accounts used by Respondent MANALO REALTY for trust funds were not designated as a trust account in violation of Code section 10145 and Regulations sections 2832.

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10.

The conduct, acts, or omissions of Respondent MANALO REALTY, described in Paragraph 9 above, violated the Code and the Regulations as set forth below:

| <u>PARAGRAPH</u> | <u>PROVISIONS VIOLATED</u>                        |
|------------------|---------------------------------------------------|
| 9(a)             | Code section 10145 and Regulations section 2832.1 |
| 9(b)             | Code section 10145 and Regulation sections 2831.2 |
| 9(c)             | Code section 10145 and Regulations sections 2832  |

The foregoing violations constitute cause for the suspension or revocation of all the licenses, license endorsements, and license rights of Respondent MANALO REALTY under the Real Estate Law pursuant to the provisions of Code sections 10177(d), 10177(g), and/or 10177(k).

SECOND CAUSE OF ACTION  
SUPERVISION AND COMPLIANCE

11.

The conduct, acts, or omissions of Respondent MANALO, as described in Paragraphs 9 and 10 above, in failing to ensure compliance of the Real Estate Law by Respondent MANALO REALTY, is in violation of Code section 10159.2 and Regulations section 2725, and subjects all the licenses, license endorsements, and license rights of MANALO to suspension or revocation pursuant to Code sections 10177(d), 10177(g), 10177(h), and/or 10177(k).

12.

Code section 10148(b) provides, in pertinent part, that the Real Estate Commissioner shall charge a real estate broker for the cost of any audit if the Commissioner has found in a final decision, following a disciplinary hearing, that the broker has violated Code section 10145 or a Regulation or rule of the Commissioner interpreting said Code section.

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Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, 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.

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 the licenses, license endorsements, and license rights of Respondents MANALO REALTY INC and RICHARD RIZARRE MANALO under the Real Estate Law, for the cost of audit, investigation, and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California

this 20 day of September, 2019

  
Veronica Kilpatrick  
Supervising Special Investigator

cc: MANALO REALTY INC  
RICHARD RIZARRE MANALO  
eXp Realty of California Inc DBA Achieve Real Estate; Achieve Real Estate Group; Bay Area Real Estate Mom; BLVD Real Estate Group; DBN Properties; Exclusive Property Advisors; Executive Representation; EXP Realty; FCC Realty Group; Green Home Real Estate; HomeLink; Hometown Realty; The Income Innovators; Invictus Real Estate Services; The J Group; Left Coast Listings; The Legacy Real Estate Group; Live Love San Diego Homes; Live Love SD Homes; Network Realty; Platinum Pinnacle Group; Prestige Realty Advisors; Santa Cruz Beach Homes; Santa Cruz Beach Homes Team; Santa Cruz Network Group; Think Real Estate; Your Westside; and Z Team Real Estate  
Veronica Kilpatrick  
Sacto.

Audits

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