

Flag

1 BUREAU OF REAL ESTATE  
2 P. O. Box 137007  
3 Sacramento, CA 95813-7007

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**FILED**

JAN 07 2016

BUREAU OF REAL ESTATE

By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

12 In the Matter of the Accusation of	)	BRE No. H-6264 SAC
	)	
13 GARALD ROSS MANWILL,	)	
	)	<u>STIPULATION AND AGREEMENT</u>
14 Respondent.	)	<u>IN SETTLEMENT AND ORDER</u>
	)	

16 It is hereby stipulated by and between GARALD ROSS MANWILL, II  
17 (Respondent), and his counsel, Mary Work and the Complainant, acting by and through Richard  
18 K. Uno, Counsel for the Bureau of Real Estate; as follows for the purpose of settling and  
19 disposing of the Accusation filed on June 4, 2015, in this matter:

20 1. All issues which were to be contested and all evidence which was to be  
21 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing  
22 was to be held in accordance with the provisions of the Administrative Procedure Act (APA),  
23 shall instead and in place thereof be submitted solely on the basis of the provisions of this  
24 Stipulation and Agreement In Settlement and Order (Stipulation).

25 2. Respondent has received, read, and understands the Statement to  
26 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real  
27 Estate in this proceeding.

1           3.       On or about October 31, 2013, Respondent filed a Notice of Defense  
2 pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on  
3 the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said  
4 Notice of Defense. Respondent acknowledges that he understands that by withdrawing said  
5 Notice of Defense he will thereby waive his right to require the Real Estate Commissioner  
6 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in  
7 accordance with the provisions of the APA and that he will waive other rights afforded to him in  
8 connection with the hearing such as the right to present evidence in defense of the allegations in  
9 the Accusation and the right to cross-examine witnesses.

10           4.       This Stipulation is based on the factual allegations contained in the  
11 Accusation. In the interest of expediency and economy, Respondent choses not to contest these  
12 factual allegations, but to remain silent and understands that, as a result thereof, these factual  
13 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set  
14 forth below. The Commissioner shall not be required to provide further evidence to prove such  
15 allegations.

16           5.       It is understood by the parties that the Commissioner may adopt the  
17 Stipulation as his Decision in this matter, thereby imposing the penalty and sanctions on  
18 Respondent's real estate licenses and license rights as set forth in the below "Order". In the  
19 event that the Commissioner in his discretion does not adopt the Stipulation, it shall be void and  
20 of no effect, and Respondent shall retain the rights to a hearing and proceeding on the Accusation  
21 under all the provisions of the APA and shall not be bound by any admission or waiver made  
22 herein.

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

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1 subject to all of the provisions of Section 10156.7 of the Code and to the following limitations,  
2 conditions, and restrictions imposed under authority of Section 10156.6 of the Code:

3 1. The restricted license issued to Respondent may be suspended prior to  
4 hearing by Order of the Commissioner in the event of Respondent's conviction or plea of nolo  
5 contendere to a crime which is substantially related to Respondent's fitness or capacity as a real  
6 estate licensee.

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

11 3. Respondent shall not be eligible to apply for the issuance of an  
12 unrestricted real estate license nor the removal of any of the conditions, limitations, or  
13 restrictions attaching to the restricted license until two (2) years have elapsed from the date of  
14 issuance of the restricted license to Respondent.

15 4. Respondent shall, within nine (9) months from the effective date of this  
16 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,  
17 since the most recent issuance of an original or renewal real estate license, taken and successfully  
18 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate  
19 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,  
20 Respondent's real estate license shall automatically be suspended until Respondent presents  
21 evidence satisfactory to the Commissioner of having taken and successfully completed the  
22 continuing education requirements. Proof of completion of the continuing education courses  
23 must be delivered to the Bureau of Real Estate, Flag Section, at P.O. Box 137013, Sacramento,  
24 CA 95813-7013.

25 5. All licenses and licensing rights of Respondent are indefinitely suspended  
26 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and  
27 successfully completed the continuing education course on trust fund accounting and handling

1 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of  
2 satisfaction of these requirements includes evidence that Respondent has successfully completed  
3 the trust fund account and handling continuing education courses, no earlier than 120 days prior  
4 to the effective date of the Decision and Order in this matter. **Proof of completion of the trust  
5 fund accounting and handling course must be delivered to the Bureau of Real Estate, Flag  
6 Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to  
7 the effective date of this Decision and Order.**

8 6. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of  
9 \$5, 933.13 for the Commissioner's cost of the audit which led to this disciplinary action.  
10 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the  
11 Commissioner. Payment of audit costs should not be made until Respondent receives the  
12 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,  
13 Respondent's real estate licenses shall automatically be suspended until payment is made in full,  
14 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
15 condition.


16 7. Pursuant to Section 10148 of the Code, Respondent shall pay the  
17 Commissioner's reasonable cost, not to exceed \$5,933.13, for an audit to determine if  
18 Respondent has corrected the violation(s) found in the "Determination of Issues". In calculating  
19 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated  
20 average hourly salary for all persons performing audits of real estate brokers, and shall include an  
21 allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost  
22 within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the  
23 audit costs should not be made until Respondent receives the invoice. If Respondent fails to  
24 satisfy this condition in a timely manner as provided for herein, Respondent's real estate licenses  
25 shall automatically be suspended until payment is made in full, or until a decision providing  
26 otherwise is adopted following a hearing held pursuant to this condition.  
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1 right to cross-examine witnesses against me and to present evidence in defense and mitigation  
2 of the charges.

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12/2/15  
DATED

  
\_\_\_\_\_  
GERALD ROSS MANWILL, II

\* \* \*

*I have reviewed this Stipulation and Agreement as to form and content and have advised my client accordingly.*

12/14/2015  
DATED

  
\_\_\_\_\_  
MARY R. WORK  
Attorney for Respondent

The foregoing Stipulation and Agreement In Settlement and Order is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on JAN 28 2016.

IT IS SO ORDERED JANUARY 6, 2016.

WAYNE S. BELL  
REAL ESTATE COMMISSIONER  
  
\_\_\_\_\_  
By: JEFFREY MASON  
Chief Deputy Commissioner