

**BEFORE THE REAL ESTATE COMMISSION
OF THE STATE OF NEW MEXICO**

IN THE MATTER OF:

**CHRISTOPHER ANDERSON
Broker License No.: 15812**

NMREC CASE NO. 16-08-03-055

Respondent.

FINAL DECISION AND ORDER

This matter was presented to the New Mexico Real Estate Commission ("Commission") during its March 18, 2019, meeting held at the Greater Albuquerque Association of Realtors located at 1635 University Blvd NE, Albuquerque, New Mexico, for a Decision and Order pursuant to the provisions of the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 to -34.

A hearing was held on January 22, 2019, before the designated hearing officer, Gretchen Koether, for the Commission at the Regulation and Licensing Department located at 5500 San Antonio Drive NE, Albuquerque, New Mexico. Rebecca Branch, Assistant Attorney General and Administrative Prosecutor, was present on behalf of the State. Jesse Hatch represented Christopher Anderson ("Respondent"). Lori Chavez, Assistant Attorney General and Counsel, was present to advise the Hearing Officer. The Hearing Officer's Report was filed with the Commission on February 22, 2019.

On March 18, 2019, a quorum of the Commission, having familiarized themselves with the record, including the Hearing Officer's Report, participated in the deliberation and decision in this matter. A copy of the Hearing Officer's Report is attached hereto and incorporated by reference. By an affirmative vote of 5-0, the Commission adopts the Hearing Officer's Report and reaches the following Decision and Order:

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APR 25 2019

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I. CONCLUSIONS OF LAW

- A. Respondent is a real estate broker licensed by the Real Estate Commission, and therefore is subject to the Real Estate Brokers and Salesmen Act, NMSA 1978, Section 61-29-1 through -29 and the jurisdiction of the New Mexico Real Estate Commission. NMSA 1978, Section 61-29-4.
- B. The Commission may refuse to issue a license or may suspend, revoke, limit or condition a license if the applicant or licensee has by false or fraudulent representations obtained a license or, in performing or attempting to perform any of the actions specified in Chapter 61, Article 29, Part 12 NMSA 1978.
- C. Before the time a broker generates or presents any written document that has the potential to become an express written agreement, the broker shall disclose in writing to their prospective customer or client, and obtain a written acknowledgement from their prospective customer or client, showing the delivery of the disclosure of the following broker duties:
- A. honesty and reasonable care as set forth in the provision of this section . . . ;
 - H. written disclosure of any adverse material facts actually known by the associate broker or qualifying broker about the property or the transaction, or about the financial ability of the parties to the transaction to complete the transaction; adverse material facts requiring disclosure do not include any information covered by the federal fair housing laws or the New Mexico Human Rights Act; 16.61.19.8 NMAC.
- D. Licensees shall perform all duties established by the commission. NMSA 1978, Section 61-29-10.2(B).
- E. The Commission may take notice of judicially cognizable facts and in addition may take notice of general, technical or scientific facts within their specialized knowledge. NMSA 1978, Section 61-1-11(B).
- F. The Commission may impose fines, costs, education requirements or any other penalty authorized by NMSA 1978, Section 61-1-3;
- G. Respondent shall bear costs of disciplinary proceedings unless excused by the board from paying all or part of the fees pursuant to NMSA 1978, Section 61-1-4(G);
- H. Substantial evidence shows that Respondent failed to present the written broker duties disclosure to his customer or client before a written document having the potential to become an express written agreement was presented to his customer or client, and failed to obtain a written acknowledgement from his customer or client showing delivery of the disclosure of the broker's duties in violation of NMSA 1978, Section 61-29-12(A) (10) and 16.61.19.8 NMAC.

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By GV

- I. Substantial evidence shows that Respondent failed to exercise honesty and reasonable care, when failing to disclose the known adverse fact that the city had issued a substandard housing certificate for the property to the prospective buyer in violation of NMSA 1978, Section 61-29-12(A)(10) and 16.61.19.8(A) and (H) NMAC

II. ORDER

Upon consideration of all the facts and circumstances the Commission **ORDERS**:

- A. Respondent shall pay a fine in the amount of seven hundred and fifty dollars (\$750.00) within sixty (60) days after the date this Decision and Order is received by Respondent. Payment shall be made in the form of a cashier's check payable to the New Mexico Real Estate Commission and mailed to the Commission office at 5500 San Antonio Drive NE, Albuquerque, New Mexico 87109, Attn: Germelyn Vivar, Administrative Secretary.
- B. Respondent shall successfully complete for no continuing education credit four hours of Commission-approved courses to be determined upon payment of the fine in full. Respondent shall provide to the Commission's Administrative Secretary a certificate of course completion to document compliance with this term of the Order.
- C. Respondent shall pay the cost of the disciplinary proceedings in the amount of one thousand two dollars and seventeen cents (\$1,002.17) within sixty days (60) of receiving this Decision and Order. Payment shall be made in the form of a cashier's check payable to the New Mexico Real Estate Commission and may be combined with payment of the fine ordered in paragraph A of this Order.
- D. A Letter of Reprimand to be issued to the Respondent.
- E. Respondent's failure to comply with the provisions of this Decision and Order shall result in the summary suspension of all real estate broker licenses held by Respondent until after a hearing on the matter. The hearing shall be set as soon as is practicable. The hearing may result in the Commission taking additional disciplinary action against the Respondent up to and including revocation of all broker licenses held by the Respondent.

Gretchen Koether, the Commission's President, is designated to sign this Decision and Order. A copy of the Decision and Order shall be filed and served upon the Respondents in accordance with the law.

NOTICE: Pursuant to Section 61-1-17 of the Uniform Licensing Act and NMSA 1978, Section 39-3-1.1, a person aggrieved by an adverse decision of the Commission issued after a hearing may obtain a review of the decision in the District Court of Santa Fe County or in the District Court of any county in which a hearing on the matter was conducted. To obtain such review, a notice of appeal must be filed in the proper District Court within thirty (30) days after the date of the Commission's decision. Failure to file a notice of appeal within the time stated herein shall operate as a waiver of the right to judicial review and shall result in the decision of the Commission becoming final. The procedures for filing an appeal from the Commission to the District Court are governed by Rule 1-074 of the Rules of Civil Procedure for the District Courts.

Date: 4-12-2019

FOR THE NEW MEXICO
REAL ESTATE COMMISSION

/s/ Gretchen Koether
Gretchen Koether
President
New Mexico Real Estate Commission

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