

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

IN THE MATTER OF:

**JOHN "JACK" PISERCHIA
License No.: 17707
(REVOKED)**

NMREC CASE NO. 16-08-06-058

Respondent.

DEFAULT ORDER

THIS MATTER came before the Real Estate Commission (the "Commission") during its regularly scheduled meeting on Monday, November 19, 2018, for a decision in the above referenced case. With a quorum present and majority vote of the Commission in the affirmative, the Commission finds the following:

1. A Notice of Contemplated Action ("NCA") was issued by the Commission on August 17, 2018.
2. The NCA was sent certified mail return receipt (No. 7017 3040 0000 8692 1129) to the Respondent's address on file with the Commission on August 17, 2018.
3. The certified return mail receipt card was signed by K. Thomas on August 18, 2018 and received by the Commission on August 20, 2018.
4. The NCA was issued to the Respondent in compliance with the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 *et seq.*
5. The NCA informed the Respondent of his right to a hearing and that the Respondent must respond to the Commission in writing requesting a hearing within twenty (20) days after service of the NCA. NMSA 1978, Section 61-1-4(D).

6. The NCA informed the Respondent that failure to respond to the NCA will result in the Commission taking the contemplated action. NMSA 1978, Section 61-1-4(E).
7. Respondent did not mail a request for hearing within the time and manner required by NMSA 1978, Sections 61-1-4(D) and (E).
8. The Commission is “expressly vested with the power and authority to make and enforce rules to carry out the provisions of [Chapter 61, Article 29 NMSA 1978]. NMSA 1978, Section 61-29-4. The Commission can “impose a civil penalty on any person who is found, through a court or administrative proceeding, to have acted in violation of Chapter 61, Article 29 NMSA 1978. More specifically, the Commission is empowered to “suspend, revoke, limit or condition a license” if a licensee in performing any actions specified by Chapter 61, Article 29 NMSA 1978 commits any violations as enumerated in NMSA 1978, Sections 61-29-12. Such action may include the imposition of fines, costs, education requirements or any other penalty authorized by NMSA 1978, Section 61-1-3.
9. The Commission may refuse to issue a license or may suspend, revoke, limit or condition a license if the applicant or licensee has a false or fraudulent representation obtained a license or, in performing or attempting to perform any of the actions specified in Chapter 61, Article 29, Part 12(A) NMSA 1978, an applicant or licensee has:
 - (1) made substantial misrepresentations;
 - (2) pursued a continued and flagrant course of misrepresentation; made false promises through agents, salespersons, advertising or otherwise, or used any trade name or insignia of membership in any real estate organization of which the licensee is not a member;
 - (5) failed, within a reasonable time, to account for or to remit any money coming into the licensee’s possession that belongs to others, commingled funds of others with licensee’s own or failed to keep funds of others in an escrow or trustee account or failed to furnish legible copies of all listing and sales contracts to all parties executing them.

(10) violated a provision of Chapter 61, Article 29 NMSA 1978 or a rule promulgated by the commission;

(11) committed an act, whether of the same or different character from that specified in this subsection, that is related to dealings as a qualifying broker or an associate broker and that constitutes or demonstrates bad faith, incompetency, untrustworthiness, impropriety, fraud, dishonesty, negligence or any unlawful act;

10. An unlawful act or violation of Chapter 61, Article 29 NMSA 1978 by an associate broker, employee, partner or associate of a qualifying broker shall not be cause for revocation of a license of the qualifying broker unless it appears to the satisfaction of the commission that the qualifying broker had guilty knowledge of the unlawful act or violation. NMSA 1978, Section 61-29-12(B).

11. Violation of any provisions of the real estate license law or commission rules may be cause for disciplinary action against any person who engages in the business or acts in the capacity of a real estate broker in New Mexico with or without a New Mexico real estate license, up to and including license suspension or revocation if the person is licensed in New Mexico, and other penalties as provided by law, commission rules, or policies.
16.61.12.8 NMAC.

12. The Commission's Decision and Order are final and not subject to judicial review.
NMSA 1978. Section 61-1-4(E).

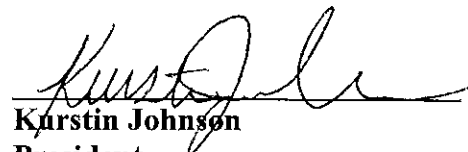
IT IS ORDERED THAT Respondent may not apply for and shall not receive a broker's license until this NCA has been answered and resolved.

President Kurstin Johnson is designated by the Commission to sign this Order on behalf of the Real Estate Commission

IT IS SO ORDERED.

**NEW MEXICO REAL ESTATE
COMMISSION**

Date: 11/19/18


Karstin Johnson
President