

BEFORE THE REAL ESTATE COMMISSION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

PHIL A. GRIEGO
Broker License No: 17003

NMREC CASE NO. 16-06-16-042

Respondent.

SETTLEMENT AGREEMENT

Whereas, Phil A. Griego (hereafter, "Respondent") is licensed in New Mexico under the Real Estate Licensing Act, NMSA 1978, §61-29-1 through §61-29-29 ("the Act"), and is subject to the jurisdiction of the New Mexico Real Estate Commission ("Commission"); and

Whereas, the Commission received a formal complaint alleging that Respondent has violated the Act; and

Whereas, the Commission found sufficient evidence to refer the matter to its administrative prosecutor and request that a Notice of Contemplated Action ("NCA") be issued against Respondent; and

Whereas, an NCA was issued pursuant to the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 (1957, as amended through 2017) ("ULA"), which stated that the Commission had sufficient evidence which, if not rebutted or satisfactorily explained, would justify the Commission taking disciplinary action against Respondent up to and including license revocation; and

Whereas, Respondent is willing to resolve this matter without the need for, and time and expense of, a formal hearing being conducted; and

Whereas, the Commission's administrative prosecutor believes that this proposed Settlement Agreement (the "Agreement") is appropriate and in the best interest of the Commission and the State:

THEREFORE, IT IS AGREED AS FOLLOWS:

1. **Jurisdiction:** Respondent is licensed by the Commission or otherwise subject to the Act and jurisdiction of the Commission.
2. **Voluntary Agreement:** Respondent enters into this Agreement knowingly and voluntarily, without duress or coercion, and after a full opportunity to consult an attorney. Respondent understands that if [he or she] rejects this agreement the Commission will conduct a formal evidentiary hearing which could result in the

Commission imposing discipline that is more severe or less severe than the sanctions imposed herein.

3. Commission Approval: This Agreement requires Commission approval. If the Commission rejects this Agreement, the Commission may proceed with a full evidentiary hearing on a date scheduled by the Commission in a subsequent notice. If the Commission rejects this Agreement, the terms of this Agreement or statements made by Respondent in support of this Agreement shall not be used against Respondent in a subsequent hearing. The approval shall be effective the date this Agreement is signed by the Commission or its designee.
4. Waivers: If this Agreement is accepted by the Commission, Respondent agrees to waive any and all rights under the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 (1957, as amended through 2017), including but not limited to the right to an evidentiary hearing, the right to discovery, the right to present evidence, the right to call and cross examine witnesses, and the right to judicial review.
5. Violations: Respondent admits to the following violation(s) of the Act or Commission's rules:

Section 61-29-12 (2011), as provided:

A. 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 NMSA 1978, an applicant or licensee has:

- (1) made a substantial misrepresentation;
- (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;
- (3) paid or received a rebate, profit, compensation or commission to or from any unlicensed person, except the licensee's principal or other party to the transaction, and the only with that principal's written consent;
- ...
- (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 the 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;

(6) been convicted in any court of competent jurisdiction of a felony or any offense involving moral turpitude;

(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;

Section 61-29-3 (1974), as provided:

The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by Sections 61-29-1 through 61-29-18 NMSA 1978.

Section 28-2-4 (1997), as provided:

Any board or other agency having jurisdiction over employment by the state or any of its political subdivisions or the practice of any trade, business or profession may refuse to grant or renew or may suspend or revoke any public employment or license or other authority to engage in the public employment, trade, business or profession for any one or any combination of the following causes:

(1) where the applicant, employee or licensee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction directly relates to the particular employment, trade, business or profession;

(2) where the applicant, employee or licensee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly relate to the particular employment, trade, business or profession, if the board or other agency determines after investigation that the person so convicted has not been sufficiently rehabilitated to warrant the public trust;

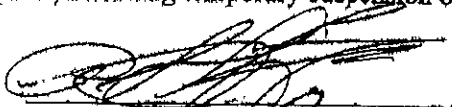
Section 28-2-6 (1974), as provided:

The provisions of the Criminal Offender Employment Act relating to any board or other agency which has jurisdiction over the practice of any trade, business or profession apply to authorities made subject to its coverage by law, or by any such authorities' rules or regulations if permitted by law.

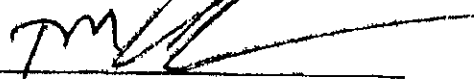
6. Sanctions and Conditions: Respondent agrees to the following disciplinary sanctions and conditions:
 - a. Respondent stipulates to full and complete revocation of his license by the New Mexico Real Estate Commission.
7. Reportable Discipline: Respondent understands that this Agreement constitutes formal disciplinary action by the Commission. As such, the Commission will report the action to the applicable professional licensing national database, if any.
8. Non-Compliance: Respondent understands and agrees that failure to comply with the terms of this Agreement will result in further Commission action. Any violation of this Agreement will result in the immediate, automatic filing of an administrative Notice of Non-Compliance by Commission staff. Upon the filing of a Notice of Non-Compliance, the matter shall be scheduled for the next public meeting of the Commission, at which time the Commission shall hear from Commission staff regarding the alleged non-compliance. Respondent shall have the opportunity to address the allegations or offer any other relevant argument or evidence regarding the reasons for non-compliance. Such argument or evidence may be provided in writing prior to the meeting or in person at the Commission meeting. Any presentation regarding the Notice of Non-Compliance shall be limited to evidence surrounding Respondent's alleged failure to comply with the Agreement. Upon finding such violation occurred, the Commission may suspend Respondent's license(s), provided that this suspension may only remain in effect until such time as the Respondent has complied with the terms of this agreement, or take other enforcement action as permitted by law. If Respondent's non-compliance constitute acts that are prohibited under the Commission's statute or rules, the Commission may also initiate a new disciplinary action and refer that matter for administrative prosecution.
9. Contact Information: Respondent shall notify the Commission within ten (10) calendar days if there is a change in employment or home address during the term of discipline or prior to completion of any conditions stated herein.
10. Public Record: This Agreement and the original complaint are public records and may be provided for inspection if requested, pursuant to the New Mexico Inspection of Public Records Act ("IPRA"), NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2018). The Commission may also publish this Agreement or a summary of the Agreement to the public, which may include posting to the Commission's website.
11. Full Compliance and Final Disposition: Upon Respondent's satisfactory completion of the terms of this agreement, the case will be deemed closed for administrative purposes without the filing of an order or official vote of the Commission. However, this matter may still constitute disciplinary action as provided herein for purposes of Respondent's record with the Commission.

I understand and have read this document and hereby agree to the terms of this Agreement freely and voluntarily. I understand that by entering into this Agreement I am giving up my rights under the Uniform Licensing Act, including my right to an evidentiary hearing on the merits of the alleged violations.

I understand that if the Commission accepts this Agreement, I am required to comply with the terms stated herein, and that failure to comply with the Agreement may subject me to further discipline, including temporary suspension of my license.


Respondent

11-13-19
Date


Thomas Clark
Respondent's Attorney

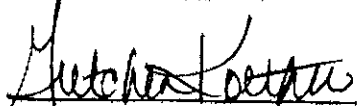
11/12/19
Date

ORDER

This document is not valid unless it is accepted by vote of the Commission. Having come before the Commission during a properly scheduled public meeting, with a quorum present and majority voting in the affirmative, this Agreement is:

ACCEPTED

IT IS SO ORDERED.


Gretchen Koether, Chair
New Mexico Real Estate Commission

11-18-19
Date