

BEFORE THE REAL ESTATE COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. 16-01-04-004

Dennis Friedland
Broker License No: 47936

And

Elizabeth Karsten
Broker License No 40254, 19964

And

Marc Guggino
Broker License No 18253,

Respondent.

SETTLEMENT AGREEMENT

Whereas, Marc Guggino (hereafter, "Respondent") is licensed in New Mexico under the Real Estate Licensing Act ("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 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 disputes the Commission's assertions and does not admit to any violation, the Respondent has elected not to contest the Commission's assertion that he violated the following Act or Commission's rules:
 - a. NMSA 1978 § 61-29-10.1
 - b. NMSA 1978 § 61-29-10.2
 - c. NMSA 1978 § 61-29-12
 - d. NMAC 16.61.17.9(F)
 - e. NMAC 16.61.19.8 (A), (C), (D), (G) and (H)
 - f. NMAC 16.61.32.8(A)
6. Sanctions and Conditions: Respondent agrees to the following disciplinary sanctions and conditions:
 - a. Formal Reprimand: Respondent shall receive a formal reprimand, issued by the Commission staff or designee of the Commission, which shall constitute discipline in Respondent's record.

- b. Continuing Education: Respondent shall successfully complete the continuing education course listed below. Respondent shall obtain prior written approval (email confirmation of such approval is sufficient) for the course from the Commission's administrator or designee before taking any course. The course shall not be credited toward any other continuing education requirements for Respondent's licensure and Respondent is responsible for any associated costs. Respondent shall submit evidence of the successful completion of any course within 90 days from the date this Agreement is accepted by the Commission. The required courses are:
 - i. 8 hours of a course pre-approved by the NMREC
 - c. Fine: Respondent shall pay to the Commission a fine of one thousand dollars (\$1,000.00). This fine shall be paid within 90 days of the date this Agreement is accepted by the 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(s).

Marc Guggino, Respondent

Date

Respondent's Attorney (if any)

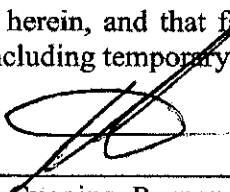
Date

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Marc Guggino, Respondent

Jan 1, 2020
Date

Respondent's Attorney (if any)

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
Gretchen Koether, President
New Mexico Real Estate Commission

1-28-2020
Date

Prepared By:

/s/ Erin E. Lecocq
Erin E. Lecocq
Assistant Attorney General
Administrative Prosecutor
New Mexico Office of the Attorney General
408 Galisteo Street
Santa Fe, NM 87501
(505) 490-4839
elecocq@nmag.gov