

**BEFORE THE NEW MEXICO
REAL ESTATE COMMISSION**

IN THE MATTER OF:

BROCK SALAZAR
Broker License Nos. 45387 (Expired),
And 19850

NMREC Case No. 17-04-09-031

Respondent.

FINAL DECISION AND ORDER

This matter was presented to the New Mexico Real Estate Commission (“Commission”) during its regularly scheduled January 27, 2020 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.

On January 27, 2020, a quorum of the Commission, having familiarized themselves with the record, including the Hearing Officer’s Report, participated in the deliberation and decision of this matter. A copy of the Hearing Officer’s Report is incorporated by reference. By an affirmative vote of 4-0, the Commission reaches the following Decision and Order:

I. CONCLUSIONS OF LAW

1. Respondent Salazar is a licensed New Mexico real estate broker, license number 45387, and therefore, subject to the jurisdiction of the Commission. NMSA 1978, Section 61-29-1.

2. 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(A) NMSA 1978.

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

3. NMSA 1978, Section 61-29-10.2 Real Estate brokers must:
 - (A) Prior to the time a licensee generates or presents any written document that has the potential to become an express written agreement, the licensee shall give to a prospective buyer, seller, landlord or tenant a list of the licensee's duties that are in accordance with requirements established by the commission.
 - (B) Perform all duties established for licensees by the commission.
4. 16.61.17.9 NMAC: Real estate brokers shall:
 - (D) not engage in any real estate activities for others for which a real estate license is required outside the knowledge and supervision of their qualifying broker;
 - (E) not engage in any real estate activities on their own behalf outside the knowledge of the qualifying broker with whom the broker is affiliated.
5. 16.61.19.8 BROKER DUTIES; DISCLOSURE: Brokers owe specific broker duties to prospective buyers, sellers, landlords (owners), tenants as set forth herein, 16.61.19.8 NMAC. Brokers shall disclose the applicable set of broker duties owed to buyers, sellers, landlords (owners) of rental property and tenants as set forth herein, 16.61.19.8 NMAC, prior to the time the broker generates or presents any written document to that party that has the potential to become an express written agreement and obtain from that applicable party written acknowledgement that the broker has made such disclosures. Brokers shall perform all duties established for brokers by the commission. In the case of prospective buyers, sellers, landlord (owners) and tenants to whom the broker is not directly providing real estate services, such disclosure and acknowledgment of receipt shall be made through the broker who is directly providing real estate services to that buyer, seller, landlord (owner) or tenant.
 - (G) Brokers owe the following duties to prospective buyers, sellers, landlords (owners) and tenants:
 2. Written disclosure of any potential conflict of interest or any other written agreement that the broker has in the transaction including but not limited to:
 - (a) Any written brokerage relationship the broker has with any other parties to the transaction or;
 - (b) Any material interest or relationship of a business, personal, or family nature that the broker has in the transaction.
6. 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).

7. The Commission may impose fines, costs, education requirements or any other penalty authorized by NMSA 1978, Section 61-1-3.
8. Substantial evidence reveals that Respondent failed to provide the broker duties disclosure to the complainant in violation of NMSA 1978, Sections 61-29-12(A)(10) and 61-29-10.2.
9. Substantial evidence reveals that Respondent was acting as a dual agent when brokering the sale and purchase of the property on behalf of both the seller, the complainant, and the buyer, his wife, Angela Ortiz, and failed to disclose that material relationship to the seller in violation NMSA 1978, Section 61-29-12(A)(10) and 16.61.19.8 NMAC.
10. Substantial evidence reveals that Respondent failed to keep his qualifying broker informed about the transaction between the complainant and his wife in violation NMSA 1978, Section 61-29-12(A)(10) and 16.61.17.9 NMAC.

II. ORDER

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

- A. Respondent shall pay a fine in the amount of three thousand dollars (\$3,000.00) 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. A Letter of Reprimand shall be issued to Respondent.
- C. Respondent shall take the Brokers Basics Continuing Education Course for no credit and submit proof of attendance within six months after this Decision and Order is received by Respondent to the New Mexico Real Estate Commission office located at 5500 San Antonio Drive NE, Albuquerque, New Mexico 87109, Attn: Germelyn Vivar, Administrative Secretary.
- D. 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 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.

For the New Mexico Real Estate Commission

**Approved electronically
on January 27, 2020
Date**

**/s/ Gretchen Koether
President Gretchen Koether**