

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

**IN THE MATTER OF:**

**JOHN “JACK” PISERCHIA  
Broker License No.: 17707 (Expired)**

**NMREC CASE NO. 17-06-04-042**

**Respondent.**

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**DEFAULT ORDER**

**THIS MATTER**, came before the Real Estate Commission (the “Commission”), during its special meeting scheduled for Monday, July 15, 2019, 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 May 22, 2019.
2. The NCA was sent to Respondent certified mail return receipt (No. 7018 2290 0001 9898 8671) to the Respondent’s address on file with the Commission on May 22, 2019.
3. The certified return mail receipt card nor the envelope have been returned to the Commission.
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 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 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 licensees 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 deep 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;
  - (8) failed, if a qualifying broker, to place as soon after receipt as is practicably possible,

after securing signatures of all parties to the transaction, any deposit money or other money received by the qualifying broker in a real estate transaction in a custodial, trust or escrow account, maintained by the qualifying broker in a bank or savings and loan institution or title company authorized to do business in this state, in which the funds shall be kept until the transaction is consummated or otherwise terminated, at which time a full accounting of the funds shall be made by the qualifying broker.

Records relative to the deposit, maintenance and withdrawal of the funds shall contain information as may be prescribed by the rules of the commission. Nothing in this paragraph prohibits a qualifying broker from depositing nontrust funds in an amount not to exceed the required minimum balance in each trust account so as to meet the minimum balance requirements of the bank necessary to maintain the account and avoid charges. The minimum balance deposit shall not be considered commingling and shall not be subject to levy, attachment or garnishment. This paragraph does not prohibit a qualifying broker from depositing any deposit money or other money received by the qualifying broker in a real estate transaction with another cooperating broker who shall in turn comply with this paragraph;

(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. 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.

11. 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 the NCA has been answered and resolved.

President Gretchen Koether is designated by the Commission to sign this Order on

behalf of the Real Estate Commission

**IT IS SO ORDERED.**

**REAL ESTATE COMMISSION  
OF NEW MEXICO**

**Date:** 7-15-19

  
**President Gretchen Koether**