

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

IN THE MATTER OF:)	
)	
CARI BARLOW	)	NMREC CASE NOS. 15-05-04-032
License No. 17610	)	15-05-07-034
	)	15-05-07-035
	)	15-05-12-040
	)	15-05-12-041
	)	15-05-14-043
Respondent.	)	15-05-14-046
	)	15-05-15-047
	)	15-05-16-048
	)	15-05-18-050
	)	15-06-03-054
	)	15-06-10-061
	)	15-06-11-062
	)	15-06-12-063
	)	15-06-17-068
)	
)	

DEFAULT ORDER

THIS MATTER, having come before the Real Estate Commission (the “Commission”), during its regular meeting on Monday, June 19, 2017, the Commission finds the following:

1. Fifteen Notices of Contemplated Action (“NCA”) were issued by the Commission on April 26, 2017.
2. The all fifteen NCAs were sent certified mail return receipt (No. 7015 0920 0002 0652 8922) to the licensee’s address on file with the Commission on April 26, 2017.
3. The envelope containing the NCAs was returned to the Commission unopened on May 6, 2017. Affixed to the envelope was a USPS label stating “return to sender unclaimed unable to forward”.
4. The NCAs were issued to the Respondent in compliance with the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 *et seq.*

5. The NCAs informed the Respondent of her 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 NCAs 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 has the authority, pursuant to NMSA 1978, Section 61-29-12 to:
 - (A) Refuse to issue a license or may suspend, revoke, limit or condition a license if the applicant or licensee has by false or fraudulent representation 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:
 - (5) failed, within a reasonable time, to account for or 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;
 - (10) violated a provision of Chapter 61, Article 29 NMSA 1978 or a rule promulgated by the commission; or
 - (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.
9. Title 16, Chapter 61, Part 12, of the New Mexico Administrative Code delineates the procedures for disciplinary actions by the Commission in regard to persons acting in the capacity of a real estate broker in New Mexico. The regulation provides that "violation of any provision 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. Regulation 16.61.12.8 NMAC.

NMAC 16.61.16.9 Qualifying Broker: Affiliation and Responsibilities

- (A) Conduct the real estate brokerage business under the trade name and from the brokerage address or addresses registered with the commission;
- (B) Prominently display in the brokerage office the qualifying broker's own license and the licenses of all other affiliated associate brokers conducting real estate brokerage business from the brokerage office;
- (D) Notify the commission in writing within ten days of a change of the brokerage office address or telephone number; and
- (F) Maintain full and complete records wherein the qualifying broker and affiliated associate brokers are engaged on behalf of others . . . the required records shall be available to the commission . . .

NMAC 16.61.24.12 Property Management: Report and documents to owners

- (A) Owner statements. The qualifying broker shall provide the owner with a report of receipts and disbursements monthly or as required by the management agreement, showing the following:
 - (1) previous balance;
 - (2) funds deposited by category;
 - (3) funds disbursed by category; and
 - (4) ending balance
- (C) Documents. Fully executed copies of the management agreement shall be provided to the owner after obtaining all signatures . . .
- (D) Final statement after termination. Final accounting of trust account funds shall be provided to the owner within 60 days of the effective date of termination of a management agreement.

NMAC 16.61.24.15 Property Management: Record accessibility, retention and inspection

- (G) The qualifying broker is responsible for the maintenance and safekeeping of all property management records.

NMAC 16.61.36.9 Complaints and Investigations: Investigations

In conducting an investigation, the commission shall give the person under investigation the opportunity to answer the complaint made against them in writing and to produce relevant documentary evidence, in accordance with the Uniform Licensing Act. If the person under investigation fails to respond within ten (10) working days of having been provided with a copy of the complaint and having been informed by the commission in writing that a complaint has been filed against him or her, the investigation may proceed without benefit of that person's response.

10. The Commission's Decision and Order are final and not subject to judicial review.

NMSA 1978. Section 61-1-4(E).

IT IS THEREFORE ORDERED THAT Respondent's license 17610 is hereby
revoked; and

IT IS FURTHER ORDERED THAT Respondent may not reinstate her license
until all NCAs have 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**

Signed: 6-19-17


President Gretchen Koether