

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

**IN THE MATTER OF:**

**JOYCE R. BARGER  
BROKER LICENSE No.: 12941**

**Respondent.**

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**NMREC CASE NO. 13-09-02-098**

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**DEFAULT ORDER**

**THIS MATTER**, having come before the Real Estate Commission (the “Commission”), on Monday, May 15, 2017, the Commission finds the following:

1. A Notice of Contemplated Action (“NCA”) was issued by the Commission on or about September 9, 2015.
2. The NCA was sent certified mail return receipt (No. 7014 3490 0002 0024 0406) to the Respondent’s address on file with the Commission on September 9, 2015.
3. The certified return receipt mail was returned signed by WC Tom Bay to the Commission on September 14, 2015.
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 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 NCA 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:

(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;

(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;

(9) failed, if an associate broker, to place as soon after as is practicably possible in the custody of the associate broker's qualifying broker, after securing signatures of all parties to the transaction, any deposit money or other money entrusted to the associate broker by any person dealing with the associate broker as the representative of the qualifying broker.

(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.

(B) 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.

Part 17 – Associate Broker: Affiliation and Responsibilities 16.61.17.9 NMAC  
Responsibilities:

An associate broker shall:

- I. Remit all funds received from others related to real estate transactions to the qualifying broker or their designee as soon as possible after receipt of those funds, and after securing signatures of all parties to the transaction;
- J. deliver in a timely manner to their qualifying broker all records required to be maintained by their qualifying broker under 16.61.16 NMAC.

Part 19 – Broker Duties and Brokerage Relations 16.61.19.8 NMAC Broker Duties;  
disclosure:

Before the time a broker generates or presents any written document that has the potential to become an express written agreement, the broker shall disclose in writing to their prospective customer or client . . . disclosure of the following duties:

- A. Honesty and reasonable care as set forth in the provisions of this section;
  - B. Compliance with local, state, and federal fair housing and anti-discrimination laws, the New Mexico real estate license law and the real estate commission rules, and other applicable local, state and federal laws and regulations;
  - F. Prompt accounting for all money or property received by the broker . . .
9. 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 broker license 12941 is hereby revoked;

**IT IS FURTHER ORDERED THAT** Respondent may not reinstate her broker 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**

Signed: 5-15-17

  
**President Gretchen Koether**