

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

<b>IN THE MATTER OF:</b>	)	
	)	
<b>DONAVAN LOPEZ</b>	)	<b>NMREC CASE NO. 14-01—15-015</b>
<b>BROKER LICENSE No: N/A</b>	)	
	)	
<b>Respondent.</b>	)	

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**DEFAULT ORDER**

**THIS MATTER**, having come before the Real Estate Commission (the “Commission”), on Monday, September 25, 2017, the Commission finds the following:

1. A Notice of Contemplated Action (“NCA”) was issued by the Commission on January 22, 2016.
2. The NCA was sent certified mail return receipt (No. 7014 3490 0002 0024 0635) to the Respondent’s address on file with the Commission on January 22, 2016.
3. The certified return receipt for the envelope containing the NCA was returned signed by Bethany Boyack to the Commission on or about January 25, 2016.
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 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 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 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. NMSA 1978, Section 61-29-17.2. Such action may include the imposition of fines, costs or any other penalty authorized by NMSA 1978, Sections 61-1-3 and 61-29-17.2 and may be subject to payment of all costs of disciplinary proceedings pursuant to NMSA 1978, Section 61-1-3.2.
9. NMSA 1978, Section 61-29-1 provides that it is unlawful for a person to engage in the business, act in the capacity of, advertise or display in any manner or otherwise assume to engage in the business of, or act as an associate broker or a qualifying broker within this state without a license issued by the Commission. A person who engages in the business or acts in the capacity of an associate broker or a qualifying broker in this state, except as otherwise provided by Section 61-29-2 NMSA 1978, with or without a New Mexico license, has thereby submitted to the jurisdiction of the state and to the administrative jurisdiction of the Commission and is subject to all penalties and remedies available for a violation of any provision of Chapter 61, Article 29 NMSA 1978.

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 of the person is licensed in New Mexico.” NMAC 16.61.12.8.

Part 1 of NMAC 16.61.1.7(LL) defines property management as real estate services to include, but are not limited to, the marketing, showing, renting and leasing of real property; the collection and disbursement of funds on behalf of owners, the supervision

of employees and vendors; the coordination of maintenance and repairs; the management of tenant relations; or the preparation of leases or rental agreements, financial reports and other documents. In the course of listing and marketing properties for sale, inspections of the property, repairs and maintenance incident to the sale and authorized by the owner shall not be considered property management.

10. 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 Donovan Lopez may not apply for or receive a New Mexico real estate broker or associate 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: 9-25-17

Gretchen Koether  
President Gretchen Koether