

BEFORE THE REAL ESTATE COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF:

EMESE FISHER

NMREC CASE NO. 14-12-05-133

Broker License No. 16057

Respondent

ORDER ACCEPTING SETTLEMENT AGREEMENT

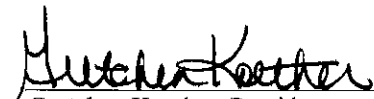
THIS MATTER comes before a quorum of the New Mexico Real Estate Commission ("Commission") at a regular meeting on July 31, 2017, to consider a proposed Settlement Agreement in the above-referenced matter. With a quorum present, and an affirmative vote of 3-0, the Commission orders as follows:

IT IS THEREFORE ORDERED that the proposed Settlement Agreement is hereby

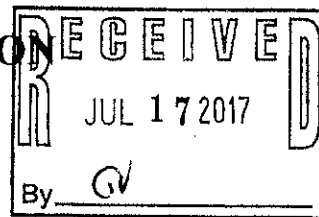
Rejected

Accepted

Date 7-31-17


Gretchen Koether, President
Real Estate Commission

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



IN THE MATTER OF:)
)
EMESE FISHER)
BROKER LICENSE NUMBER: 16057)
)
Respondent.)

NMREC CASE NO. 14-12-05-133

SETTLEMENT AGREEMENT

WHEREAS, the State of New Mexico Real Estate Commission (the "Commission") received a complaint on or around December 5, 2014 regarding Emese Fisher (the "Respondent"), a real estate broker licensed by the Commission, and a Notice of Contemplated Action (the "NCA") was authorized and issued by the Commission on December 5, 2016; and

WHEREAS, Respondent is willing to resolve this matter in an amicable fashion and without the need for a formal hearing as required pursuant to the Uniform Licensing Act (the "ULA"); and

WHEREAS, the undersigned Administrative Prosecutor believes that this Settlement Agreement is an appropriate resolution of the charges raised in the NCA and therefore recommends that the Commission approve the Settlement Agreement,

THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

1. **Jurisdiction.** The Commission is responsible for licensure and enforcement under the Real Estate Licensing Act, NMSA 1978, §§ 61-29-1 through -29 (the "Act"). Respondent is a real estate broker licensed by the Commission and therefore is subject to the jurisdiction of the Commission with respect to the allegations set forth in the NCA.

2. **Allegations of Violations.** Respondent acknowledges that this disciplinary action is based on allegations that she violated provisions of NMSA 1978, § 61-29-12(A)(10) and (11), and Rules 16.61.19.8(A), (B), (C) and (D).

3. **Discipline.** While Respondent does dispute the Commission's assertions and does not admit to any violation, the Respondent has elected not to contest the Commission's alleged violations.

4. **Requirements.** As a means of amicably resolving this matter, Respondent agrees to fully and timely comply with the following provisions:

A. Respondent shall pay the sum of three thousand dollars (\$3,000.00) to the Commission within 30 days of the Commission's acceptance of this Settlement Agreement. For purposes of calculating the payment deadline, the Commission will be deemed to have accepted this Settlement Agreement on the date that the accompanying Order is signed by the President of the Commission. Payment shall be made in the form of a certified check or money order payable to Gene Turk, and shall be delivered to: Wayne W. Ciddio, Executive Secretary; New Mexico Real Estate Commission; 5500 San Antonio NE, Suite B; Albuquerque, NM 87109.

B. Respondent consents to a letter of reprimand being placed in her file as a result of this action.

C. Respondent will attend four (4) hours of real estate ethics credits that will not count towards her required continuing education.

5. **Commission's Forebearance.** The Commission agrees that it will take no further action against Respondent with respect to the allegations set forth in the NCA in this matter provided Respondent fully and timely complies with the requirements set forth in Paragraph 4 above.

6. **Waiver.** Respondent acknowledges, agrees and stipulates that by signing this Settlement Agreement she is waiving the following rights as they pertain to the alleged misconduct described herein:

A. Respondent enters into this Settlement Agreement voluntarily and waives her right to have these matters heard in the manner described in the ULA, NMSA 1978, §§ 61-1-1 -33, including the right to a full evidentiary hearing on the charges made in the complaint against her, the right to confront and cross-examine witnesses, and the right to appeal any decision of the Commission following such a hearing. This waiver only applies if the Commission accepts this Settlement Agreement.

B. Respondent waives any and all time limitations set forth in the ULA, including all rights to have this matter heard within the time frame established by the ULA, in order for the Commission to consider this Agreement. This waiver applies regardless of whether or not the Commission accepts this Settlement Agreement.

7. **Voluntary Agreement.** Respondent acknowledges that she is represented by counsel. Respondent affirmatively states that she has read this entire Settlement Agreement and understands her responsibilities contained herein. Respondent knowingly, intentionally and voluntarily enters into and signs this Settlement Agreement and affirms that no promises or representations have been made to her other than the terms and conditions contained in this Settlement Agreement.

8. **Release.** Respondent acknowledges that the Commission has the statutory, administrative and regulatory authority and jurisdiction to investigate and adjudicate allegations of professional misconduct. NMSA 1978, §§ 61-29-1 through -29. Upon execution of this Settlement Agreement, Respondent releases the Commission from any and all claims arising out of the Commission's decision to investigate the complaint, refer the matter for issuance of a Notice of Contemplated Action, and take the actions described herein.

9. **Approval by Commission.** This Settlement Agreement is subject to approval by the Commission. If the Commission rejects this Settlement Agreement, the Commission may proceed with a formal hearing. In the event that the Commission rejects this Agreement, neither the fact nor the terms of this Settlement Agreement nor any statements made by the Respondent in connection with this Settlement Agreement shall be used against Respondent in a subsequent proceeding.

10. **Effective Date.** This Settlement Agreement is binding upon the Commission and the Respondent when it is signed by the Respondent and the attending Order, validating the terms of the Settlement Agreement, is signed by the Commission President. Upon the Commission President affixing his signature to the Order indicating the Commission's approval of this Agreement, copies of both documents shall be mailed to Respondent by Certified Mail. This mailing shall fulfill the Commission's obligation to notify Respondent of the Commission's acceptance of the Settlement Agreement.

11. **Effect of Settlement Agreement.** As long as Respondent complies with the requirements of this Settlement Agreement the Commission will consider this matter closed and resolved and will contemplate no further action against Respondent for the conduct alleged in the NCA in this matter, Case No. 14-12-05-133. However, the Commission may consider this

Settlement Agreement as evidence of a pattern of conduct in the event that similar or other conduct is proven against Respondent in the future. Additionally, the Commission may consider the fact that discipline was imposed through this Settlement Agreement and the accompanying Order as a factor in determining appropriate discipline should any other violations be proven against Respondent in the future.

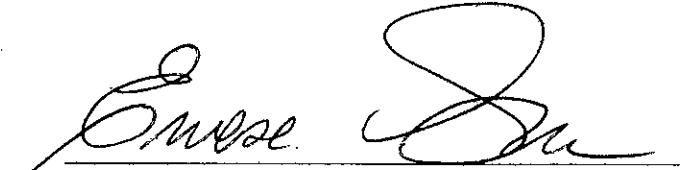
This Settlement Agreement is a settlement of Case No. 14-12-05-133 only and has no effect on the Commission's authority to take action against Respondent for any separate allegations of violations within the Commission's jurisdiction. Respondent understands and acknowledges that her action in entering this Settlement Agreement is final and not subject to reconsideration, judicial review or appeal.

12. **Effect of Failure to Comply.** Respondent acknowledges that a failure to comply with the terms and conditions of this Settlement Agreement shall be a separate and independent ground for disciplinary action by the Commission against Respondent and at the discretion of the Commission shall constitute a violation of the Act. Such action will immediately result in the filing of an Order to Show Cause as to why the Commission should not find the Respondent in violation of the Agreement and impose any and all lawful sanctions at its disposal including but not limited to revocation, suspension, restrictions on scope of practice, imposition of fees, penalties and costs and/or taken any other disciplinary action authorized pursuant to the Real Estate Licensing Act and/or the ULA.

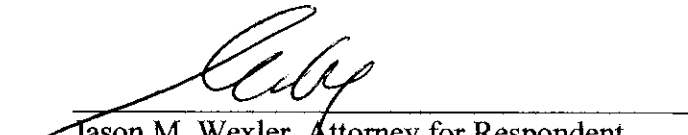
14. **Public Record.** The NCA and this Settlement Agreement are public records within the meaning of the Inspection of Public Records Act, NMSA 1978, § 14-2-6C.

[Signatures on next page]

6/26/17
DATE


Emese Fisher, Respondent

7/13/2017
DATE


Jason M. Wexler, Attorney for Respondent

Prepared by:

/s/ Rebecca C. Branch
Rebecca C. Branch
Assistant Attorney General
Administrative Prosecutor
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