

**BEFORE THE NEW MEXICO
REAL ESTATE COMMISSION**

IN THE MATTER OF:

**THOMAS R. KEESING
License Nos. 17011 AND 17191,**

NMREC Case No. 16-06-03-038

Respondent.

FINAL DECISION AND ORDER

This matter was presented to the New Mexico Real Estate Commission ("Commission") during its regularly scheduled meeting on November 18, 2019, held at the Greater Albuquerque Association of Realtors located at 1635 University Blvd NE, Albuquerque, New Mexico, for a Decision and Order pursuant to the provisions of the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 to -34.

On November 18, 2019, a quorum of the Commission, having familiarized themselves with the record, including the Hearing Officer's Report, participated in the deliberation and decision in this matter. The Hearing Officer's Report is incorporated by reference. By an affirmative vote of 5-0, the Commission adopts the Hearing Officer's Report and reaches the following Decision and Order:

I. ADDITIONAL FINDINGS OF FACT

- A. Respondent was released from prison approximately eight months from the date of the administrative hearing.
- B. Respondent is currently serving a three-year probation.
- C. Respondent is currently serving probation.
- D. Respondent minimizes his responsibility for the acts that resulted in the federal indictment and his plea agreement.

II. CONCLUSIONS OF LAW

- A. Respondent is a real estate broker licensed by the Real Estate Commission, and was licensed at the time the acts were committed, therefore, Respondent is subject to the Real Estate Brokers and Salesmen Act, NMSA 1978, Section 61-29-1 through -29 and the jurisdiction of the New Mexico Real Estate Commission. NMSA 1978, Section 61-29-4.
- B. The Commission is subject to Uniform Licensing Act. NMSA 1978, Section 61-29-13 and 61-1-2.
- C. The Commission may refuse to issue a license or may suspend, revoke, limit or condition a license if the applicant or licensee has by false or fraudulent representations obtained a license or, in performing or attempting to perform any of the actions specified in Chapter 61, Article 29, Part 12 NMSA 1978, when the applicant or licensee has:
- (6) Been convicted in any court of competent jurisdiction of a felony or any offence involving moral turpitude.
 - (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.
- D. The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by Sections 61-29-1 through 61-29-18 NMSA 1978.
- E. Section 28-2-4 (1997), as provided:
- A. Any board or other agency having jurisdiction over employment by the state or any of its political subdivisions or the practice of any trade, business or profession may refuse to grant or renew or may suspend or revoke any public employment or license or other authority to engage in the public employment, trade, business or profession for any one or any combination of the following causes:
- (1) where the applicant, employee or licensee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction directly relates to the particular employment, trade, business or profession;
 - (2) where the applicant, employee or licensee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly

relate to the particular employment, trade, business or profession, if the board or other agency determines after investigation that the person so convicted has not been sufficiently rehabilitated to warrant the public trust.

F. Section 28-2-6 (1974), as provided:

The provisions of the Criminal Offender Employment Act relating to any board or other agency which has jurisdiction over the practice of any trade, business or profession apply to authorities made subject to its coverage by law, or by any such authorities' rules or regulations if permitted by law.

G. 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, and other penalties as provided by law, commission rules, or policies, in the case of an unlicensed person. A person found by the commission to be engaging in unlicensed real estate activity 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 the real estate license law Chapter 61, Article 29 NMSA 1978 and the commission rules, Title 16 Chapter 61 NMAC. Nothing herein contained shall be deemed to be a restriction on any other penalty or provision provided by law. 16.61.12.8 NMAC.

G. The Commission may take notice of judicially cognizable facts and in addition may take notice of general, technical or scientific facts within their specialized knowledge. NMSA 1978, Section 61-1-11(B).

H. The Commission may impose fines, costs, education requirements or any other penalty authorized by NMSA 1978, Sections 61-1-3 and 61-29-17.2.

I. Respondent shall bear costs of disciplinary proceedings unless excused by the board from paying all or part of the fees pursuant to NMSA 1978, Sections 61-1-4(G) and 61-29-17.2.

J. Substantial evidence shows that the Notice of Contemplated Action and Notice of Hearings were timely issued and served upon Respondent and Respondent waived his right to a hearing within sixty days after issuance of the Notice of Contemplated Action through his legal counsel in compliance with NMSA 1978, Sections 61-1-4, 5 and 7.

K. Substantial evidence shows that on January 28, 2015, Respondent pled guilty to aiding and abetting the embezzlement of \$35,000 and willful failure to file a tax return for the calendar year 2006 in violation of 61-29-12(6), (10) and (11) and 28-2-4.

III. ORDER

Upon consideration of all the facts and circumstances the Commission **ORDERS:**

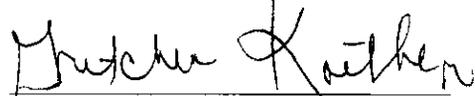
- A. Respondent's licenses are immediately revoked.
- B. Respondent shall pay the cost of the disciplinary proceedings in the amount of eight hundred and six dollars and eighty-two cents (\$806.82) within sixty days (60) of receiving this Decision and Order. Payment shall be made in the form of a cashier's check payable to the New Mexico Real Estate Commission. Payment shall be made in the form of a cashier's check payable to the New Mexico Real Estate Commission and mailed to the Commission office at 5500 San Antonio Drive NE, Albuquerque, New Mexico 87109, Attn: Germelyn Vivar, Administrative Secretary.

Gretchen Koether, the Commission's President, is designated to sign this Decision and Order. A copy of the Decision and Order shall be filed and served upon the Respondents in accordance with the law.

NOTICE: Pursuant to Section 61-1-17 of the Uniform Licensing Act and NMSA 1978, Section 39-3-1.1, a person aggrieved by an adverse decision of the Commission issued after a hearing may obtain a review of the decision in the District Court of Santa Fe County or in the District Court of any county in which a hearing on the matter was conducted. To obtain such review, a notice of appeal must be filed in the proper District Court within thirty (30) days after the date of the Commission's decision. Failure to file a notice of appeal within the time stated herein shall operate as a waiver of the right to judicial review and shall result in the decision of the Commission becoming final. The procedures for filing an appeal from the Commission to the District Court are governed by Rule 1-074 of the Rules of Civil Procedure for the District Courts.

Date: 12-3-19

FOR THE NEW MEXICO
REAL ESTATE COMMISSION



Gretchen Koether
President

New Mexico Real Estate Commission