

MAY 06 2016

BEFORE THE REAL ESTATE COMMISSION  
STATE OF NEVADA

REAL ESTATE COMMISSION  
BY *[Signature]*

JOSEPH R. DECKER, Administrator,  
REAL ESTATE DIVISION, DEPARTMENT  
OF BUSINESS & INDUSTRY,  
STATE OF NEVADA,

Case No. 2015-0006

Petitioner,

vs.

FIRST AMENDED DECISION

HELENA GARCIA,

RESPONDENT.

This matter came for hearing before the Nevada Real Estate Commission, State of Nevada on Tuesday, March 15, 2016, at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada 89101. RESPONDENT Helena Garcia ("RESPONDENT") appeared and testified at the hearing. Deputy Attorney General, Peter K. Keegan appeared and prosecuted the Complaint on behalf of Petitioner Joseph R. Decker, Administrator of the Real Estate Division, Department of Business & Industry, State of Nevada ("Division").

The matter was submitted for decision based upon the allegations contained in the Complaint and the evidence presented at the March 15, 2016, Hearing. The Commission now enters its Findings of Fact and Conclusions of Law as follows:

FINDINGS OF FACT

The Commission, based upon the evidence presented during the hearing, finds that there is substantial evidence in the record to establish each of the following Findings of Fact:

1. RESPONDENT has been licensed by the Division as a Salesperson under License Number S.0046337, since April 6, 2005; Respondent's license is in active status.
2. RESPONDENT is subject to the jurisdiction of the Division and the Commission, and the provisions of Nevada Revised Statutes ("NRS") Chapter 645 and Nevada Administrative Code ("NAC") Chapter 645.
3. RESPONDENT uses the alias Helena "La Protectora" Garcia.

1           4.       RESPONDENT was licensed as Helena E. Garcia, but included her alias on her  
2 real estate business cards.

3           5.       At all times relevant to the Complaint, RESPONDENT was associated with the  
4 following identified real estate brokers at Nationwide Realty, LLC ("Nationwide"): Kenneth  
5 Jacobi, August 7, 2013 – October 30, 2014; Uri Ben-Shimon, October 30, 2014 - December 9,  
6 2014; Albert M. Clark, December 2, 2014 – January 6, 2015; Uri Ben-Shimon, January 5,  
7 2015 – March 15, 2015; Cynthia Lujan, March 15, 2015 – Present.

8           6.       On or about February 11, 2014, Complainant Maria M. Guzman ("Guzman")  
9 sought the services of a real estate agent to purchase real property and was referred to  
10 RESPONDENT.

11          7.       On or about February 12, 2014, RESPONDENT agreed to assist Guzman with  
12 locating and purchasing a home in Las Vegas, Nevada, for a stated budget of \$120,000.00,  
13 thereby establishing an agency relationship.

14          8.       On or about February 12, 2014, RESPONDENT exchanged email contact  
15 information with Guzman's son and stated she would email Guzman some prospective  
16 houses.

17          9.       On or about February 14, 2014, RESPONDENT told Guzman to meet her at her  
18 "Latinos En Accion" Office located at 2160 West Charleston Boulevard, Las Vegas, Nevada  
19 89102.

20          10.       During the March 15, 2016, Hearing before the Nevada Real Estate Commission  
21 in this matter, RESPONDENT testified that "Latinos En Accion" is a non-profit organization.

22          11.       On or about February 14, 2014, RESPONDENT directed Guzman to go to her  
23 bank with Humberto Raiano and Alicia Raiano to purchase a Cashier's Check payable to  
24 Nevada Title RE: RAC Investment LLC, in the amount of \$130,000.00, Guzman complied and  
25 the Cashier's Check was given to Humberto Raiano.

26          12.       RESPONDENT, Humberto Raiano, and Alicia Raiano, were all members of RAC  
27 Investment Property, LLC, at all times relevant to the Complaint.

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1           13.     During the March 15, 2016, Hearing before the Nevada Real Estate Commission  
2 in this matter, RESPONDENT testified that the \$130,000.00 from Guzman was used by RAC  
3 Investment Properties, LLC, to fund a real estate development project.

4           14.     On or about February 14, 2014, RESPONDENT, Humberto Raiano, and Alicia  
5 Raiano, executed and provided Guzman with an unsecured promissory note for the principal  
6 sum of \$156,000.00, payable to Guzman on August 14, 2014, by RAC Investment Properties,  
7 LLC.

8           15.     During the March 15, 2016, Hearing, Guzman testified that she understood that  
9 she was entering into a transaction to purchase a home.

10          16.     On or about March 3, 2014, RESPONDENT sent emails from her Nationwide  
11 Realty. email address, helena4homecasa@yahoo.com, to Guzman at her son's email  
12 address, with a list of prospective houses.

13          17.     Thereafter, Guzman made attempts to contact RESPONDENT at her  
14 Nationwide Realty phone number to schedule viewings of the prospective properties, but was  
15 never shown any properties by RESPONDENT.

16          18.     On August 14, 2014, RESPONDENT, Humberto Raiano, and Alicia Raiano, all  
17 members of RAC Investment Properties, LLC, defaulted on the unsecured Promissory Note  
18 they executed in favor of Guzman.

19          19.     After several months not being able to reach RESPONDENT, Guzman then  
20 contacted RESPONDENT at her "Latinos En Accion" telephone number and requested a  
21 refund of her money, but was told by RESPONDENT she did not have her money and that  
22 Guzman should go see Rosy Landa.

23          20.     On or about September 25, 2014, Guzman went to RESPONDENT's Office for  
24 "Latinos En Accion" and was provided a \$5,000.00 check from "Landa Professional Services,  
25 Inc.," which included a reference to "Helena Garcia Loan" in the memo line.

26          21.     Guzman was unable to reach RESPONDENT after receiving the \$5,000.00  
27 check, but was contacted by Humberto Garcia of RAC Investment Property, LLC, regarding  
28 the status of the real estate development project that Guzman's money was used to purchase.



1           31.     RESPONDENT received proper notice of the hearing pursuant to NRS Chapters  
2 645 and 233B and NAC Chapter 645.

3           32.     Pursuant to NRS 645.630(2), the Commission finds that the following charges  
4 specified in the Complaint are true and supported by substantial evidence

5           33.     RESPONDENT violated NRS 645.633(1)(i) by engaging in conduct which was  
6 deceitful, fraudulent, or dishonest dealing.

7           34.     RESPONDENT deceived Guzman into believing that RESPONDENT was acting  
8 as her real estate agent and would assist her in the purchase of home; however,  
9 RESPONDENT did not provide any Guzman any services.

10          35.     RESPONDENT violated NRS 645.630(1)(b) by making false promises that were  
11 likely to influence, persuade, and induce Guzman.

12          36.     RESPONDENT made false promises that she would assist Guzman to purchase  
13 a home in order to fraudulently induce Guzman to enter into a \$130,000.00 unsecured  
14 Promissory Note, the proceeds of which were used by RESPONDENT and her business  
15 partners for a private real estate investment to which Guzman was not a party.

16          37.     RESPONDENT violated NRS 645.633(1)(i) pursuant to NAC 645.605(11)(d) by  
17 providing false, forged or altered documents to the Division which is deceitful, fraudulent or  
18 dishonest dealing.

19          38.     The November 28, 2014, Promissory Note and accompanying Affidavit dated  
20 January 19, 2015, submitted by RESPONDENT to the Real Estate Division contained false  
21 information in an attempt to impede the Real Estate Division's investigation.

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**ORDER**

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**IT IS HEREBY ORDERED**, upon a unanimous vote, that RESPONDENT shall pay to the Division a total fine of \$16,528.96. The total fine reflects a fine of \$15,000.00 for committing the above violations of law, plus \$1,528.96 for hearing and investigative costs. RESPONDENT shall pay the total fine to the Division within 120 days of the effective date of this Order. The Division may institute debt collection proceedings for failure to timely pay the total fine.

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**IT IS FURTHER ORDERED** that RESPONDENT's real estate license, License Number S.0046337, is **REVOKED**, effective 30 days from the effective date of this Order.

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The Commission retains jurisdiction for correcting any errors that may have occurred in the drafting and issuance of this Decision.

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This Order shall become effective on the 23<sup>RD</sup> day of MAY, 2016.

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DATED this 6<sup>th</sup> day of May, 2016.

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REAL ESTATE DIVISION  
STATE OF NEVADA

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By:   
President, Nevada Real Estate Commission

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