

1 **BEFORE THE REAL ESTATE COMMISSION**

2 **STATE OF NEVADA**

3 SHARATH CHANDRA, Administrator,
4 REAL ESTATE DIVISION, DEPARTMENT
5 OF BUSINESS AND INDUSTRY,
6 STATE OF NEVADA,

Case No. 2024-660

7 Petitioner,

8 vs.

9 ANDREW J. AREVALO,
10 (S.0184627)

11 Respondent.

FILED

AUG 04 2025

REAL ESTATE COMMISSION

BY 

12 **OPPOSITION TO RESPONDENT'S MOTION TO DISMISS**

13 The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY
14 OF THE STATE OF NEVADA ("Division"), by and through its attorneys of record, Aaron D. Ford,
15 Attorney General, and Christal P. Keegan, Deputy Attorney General, submits this Opposition to
16 Respondent Andrew J. Arevalo's ("Arevalo") Motion to Dismiss, pursuant to NAC 645.840(3).

17 DATED this 4th day of August 2025.

18 AARON D. FORD
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1 **I. BACKGROUND**

2 This case has not yet been adjudicated despite the Division filing its Complaint on October 1,
3 2024.¹ During this time, Respondent Andrew J. Arevalo's ("Arevalo") real estate salesperson license
4 came up for renewal, with an expiration date of April 30, 2025.² On April 29, 2025 at 2:24 PM, the day
5 before his deadline to renew, Division's records were accessed to review the status of his renewal.³ The
6 Complaint could not be amended prior to the May 13-15, 2025 Commission Hearings in accordance with
7 NRS 645.680.

8 On May 12, 2025, the Court of Appeals issued a Temporary Stay of the May 13 Hearing, and the
9 relief sought in the petition became moot when the court entered the temporary stay that prevented the
10 May 12 hearing from going forward.⁴ The Division filed its First Amended Complaint on May 16, 2025
11 as it is plainly permitted to do – **NAC 645.835(1) A complaint may be amended at any time** - adding
12 the new charges under NRS 645.330(1)(b) for the false reporting just committed on his April 2025 license
13 renewal application, in accordance with NRS 645.680. (**emphasis added**).

14 On June 16, 2025, Arevalo filed his Answer to the First Amended Complaint, in which he
15 included his Rule 12(b)(5) defense, in his first affirmative defense, alleging the First Amended Complaint
16 fails to state a claim against Respondent upon which relief can be granted, such that this post-Answer

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18 ¹ This case was first noticed for the November 19-21, 2024 Hearings, and it is undisputed that
19 Arevalo's first continuance request submitted on October 31, 2024, was granted, and the hearing was
20 continued; accordingly, the case was re-noticed for the February 11-13, 2025 Hearings, whereby Arevalo
21 filed a Motion to Stay and Continue or in the Alternative Dismiss on February 4, 2025, and also made an
22 oral motion to continue the matter on February 12, 2025, which was granted, *see* the Commission's Order
23 Granting Respondent's Second Request for Continuance, filed February 24, 2025; the case was re-noticed
24 for the May 13-15, 2025 Hearings, and Arevalo filed his Motion to Continue Administrative Trial on
25 April 11, 2025, which the Commission denied April 14, 2025. On April 22, 2025, Arevalo sought
26 emergency writ relief from the district court and lost, *see* June 12, 2025 Order Denying Petitioner Andrew
27 J. Arevalo's Petition for Writ of Mandamus in its entirety, Case No. A-25-917222-W. On May 9, 2025,
28 Arevalo filed his Petition for Writ of Mandamus or Prohibition with the Nevada Supreme Court, which
transferred to the Court of Appeals, and pursuant to the Court of Appeals May 12, 2025 Order issuing
Temporary Stay, the Commission issued its Order Granting Temporary Stay May 13, 2025, with the case
continued to the August 12-14, 2025 Commission Hearings. On July 18, 2025, the Court of Appeals
issued its Order Denying Arevalo's Petition for Writ of Mandamus or Prohibition, Case No. 90605-COA.

² NRED 000004. Real Estate Certificate of Licensure, Andrew J. Arevalo, Salesperson
S.0184627, License Expiration Date: 04/30/2025.

³ NRED 000054-000056. Contact View Andrew J. Arevalo, accessed 4/29/25 2:24 PM,
Renewal – S.0184627.

⁴ Order Denying Petition for A Writ of Mandamus or Prohibition, Case No. 90605-COA, filed
July 18, 2025, P. 2, "Here, the relief sought in the petition became moot when this court entered the
temporary stay that prevented the May 12 hearing from going forward."

1 Motion to Dismiss filed July 30, 2025 is frivolous, and otherwise appears to have been utilized to gain
2 an advantage post-Answer by advancing arguments on the merits and as a platform for making baseless
3 claims of prosecutorial vindictiveness in the wrong forum.

4 **II. LEGAL ARGUMENT**

5 NAC 645.840 sets forth the requirements for motions for the Nevada Real Estate Commission's
6 ("Commission") consideration. The standard for evaluating motions to dismiss for failure to state a claim
7 in administrative hearings mirrors the rigorous standard applied in judicial proceedings under Nevada
8 Rule of Civil Procedure 12(b)(5). Courts will dismiss a claim only if it appears beyond a doubt that the
9 plaintiff could prove no set of facts that would entitle them to relief.⁵ All factual allegations in the
10 complaint are regarded as true, and all inferences are drawn in favor of the non-moving party.⁶

11 **A. The First Amended Complaint States a Claim in Violation of NRS 645.330(1)(b)** 12 **for Arevalo's False Statements of Material Facts on His Renewal Application** 13 **Upon the Relief Requested under NRS 645.680 Revocation, Suspension, or** 14 **Denial of Renewal of License.**

15 Arevalo relies on *Blanchard v. Blanchard*, 108 Nev. 908 (1992), which is a case incomparable to
16 the instant case in that *Blanchard* regarded a former wife filing a complaint against her former husband
17 to rescind a property settlement agreement due to alleged intentional misrepresentations regarding
18 existence and value of certain community assets listed in agreement, and in that case, the Supreme Court
19 ultimately reversed the Eighth Judicial District Court's decision and held that the former wife's allegations
20 were sufficient to state a claim, and so it is not clear what point Arevalo is trying to make, but it certainly
21 supports that the additional allegations in this case are sufficient to survive the rigorous motion to dismiss
22 standard under NRCP 12(b)(5).

23 Further, the court relied on the principle that misrepresentation claims can be based on omissions
24 or partial concealments of material facts,⁷ and Arevalo has a duty under NRS 645.330(1)(b) to not make
25 false statements of material fact on his renewal application. It is also irreconcilable that Arevalo would
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27 ⁵ *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 226, 181 P.3d 670, 671 (2008).

28 ⁶ *Id.* reaffirmed by *Engelson v. Dignity Health*, 139 Nev. Adv. Op. 58, 542 P.3d 430, 437 (Nev. App. 2023).

⁷ *Blanchard v. Blanchard*, 108 Nev. 908 (1992).

1 indicate “No” to questions of material fact on his April 2025 real estate salesperson license renewal
2 application,⁸ when he self-reported to the Division in between his renewal periods.⁹

3 Arevalo’s false reports committed on his April 2025 renewal application were not, on its face,
4 apparent to Licensing because Arevalo reported “No” and therefore the application was not automatically
5 flagged.¹⁰ In the exercise of reasonable diligence in verifying the statements on Arevalo’s renewal
6 application, the application was accessed April 29, 2025 before Arevalo’s expiration to renew April 30,
7 2025, where the false reporting to Questions 10 and 11 were identified.¹¹ False reporting on applications
8 are grounds to revoke, suspend, or deny the renewal of a license, and proceed to the Commission pursuant
9 to NAC 645.680. As permitted by NAC 645.840, the First Amended Complaint was filed May 16, 2025.

10 **B. Arguments Regarding Whether the Colorado Stipulation for Diversion is**
11 **Considered Disciplinary Sanctions Go to the Merits of the Case, Which is**
12 **Inappropriate for a Motion to Dismiss.**

13 Arguments on the merits are generally inappropriate for a motion to dismiss under Nevada law
14 because such motions are limited to assessing the legal sufficiency of the complaint without delving into
15 factual disputes.¹² Nevada courts have consistently emphasized that motions to dismiss under NRC
16 12(b)(5) are subject to a rigorous standard of review, requiring courts to presume all factual allegations
17 in the complaint as true and to draw all reasonable inferences in favor of the plaintiff.¹³ The purpose of
18 this procedural rule is to determine whether the plaintiff has stated a claim upon which relief can be
19 granted, not to resolve factual disputes or evaluate the merits of the case.

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21 ⁸ Upon Question No. 10 of the April 2025 renewal application, RESPONDENT reported “No” to
22 having any disciplinary sanctions imposed by any real estate regulatory agency or commission since the
23 last renewal, despite the April 11, 2024 Order for Stipulation before the Colorado Real Estate
24 Commission. *NRED 000056*.

25 Upon Question No. 11 of the April 2025 renewal application, RESPONDENT reported “No” to
26 having ever been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to a
27 misdemeanor, gross misdemeanor, or felony since the last renewal, despite his self-report filed with the
28 Division July 16, 2024. *NRED 000056*.

⁹ *NRED 000015*.

¹⁰ *NRED 000056*.

¹¹ *Id.*

¹² *Engelson v. Dignity Health*, 542 P.3d 430 (2023), *Brady v. Bank of America, N.A.*, 130 Nev.
1157 (2014).

¹³ *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 226, 181 P.3d 670, 671 (2008).

¹³ *Id.* reaffirmed by *Engelson v. Dignity Health*, 139 Nev. Adv. Op. 58, 542 P.3d 430, 437
(Nev. App. 2023).

1 In Nevada, administrative fines are often considered disciplinary sanctions when they are imposed
2 as part of a regulatory framework to address violations and enforce compliance, and Nevada law supports
3 this interpretation, see *Dutchess Business Services, Inc. v. Nevada State Bd. of Pharmacy*, 124 Nev. 701
4 (2008), and *Nassiri v. Chiropractic Physicians' Bd.*, 130 Nev. 245 (2014). Further, NRS 645.630 and
5 NRS 645.633 explicitly integrates fines into the disciplinary processes.

6 The Colorado “Order in the matter of disciplinary actions against [Arevalo’s] Real Estate License
7 FA.100029811” required Arevalo to pay a fine of \$287.50, and further placed him on probation for a
8 period to run concurrent with the term of his sentencing in case number 2023CR700, and our position is
9 that is considered disciplinary sanctions.¹⁴

10 **C. The Commission is Limited to its Statutory and Regulatory Mandates.**

11 The Commission does not have jurisdiction over motions to dismiss for prosecutorial
12 vindictiveness.¹⁵ Arevalo’s arguments in this regard are misplaced because this type of issue is addressed
13 within judicial proceedings since that involves constitutional claims and procedural safeguards that are
14 outside the scope of the administrative authority.¹⁶ As stated herein, the First Amended Complaint is
15 supported by legitimate reasons, was justified and filed for objective reasons, and Arevalo has failed to
16 demonstrate vindictiveness.¹⁷

17 Similarly, Arevalo’s request for its attorney’s fees and costs should be denied because the
18 Commission does not have express statutory authorization to make such award.¹⁸ NRS 622.400 however
19 does permit the Division to recover reasonable attorney fees and costs incurred during investigative,
20 administrative, and disciplinary proceedings.

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23 ¹⁴ NRED 000018–000022.

24 ¹⁵ In *Dutchess Business Services, Inc. v. Nevada State Bd. of Pharmacy*, 124 Nev. 701 (2008), the
25 Nevada Supreme Court clarified that administrative hearings conducted by the Board of Pharmacy were
26 not quasi-criminal proceedings and did not involve adjudication of criminal violations. Instead, criminal
27 violations under Chapter 585 were reserved for prosecution by the Attorney General or district attorney
28 in proper courts. This distinction underscores that administrative bodies do not have authority to
adjudicate matters involving prosecutorial discretion or constitutional claims, such as prosecutorial
vindictiveness. See also *Matter of Ross*, 99 Nev. 1 (1983), *State v. Second Judicial District Court in and
for County of Washoe*, 134 Nev. 783 (2018), *Sheriff, Washoe County v. Marcus*, 116 Nev. 188 (2000).

¹⁶ *Id.* and NRS 645.050 Real Estate Commission; powers and duties.

¹⁷ *Hughes v. State*, 125 Nev. 1045 (2009).


¹⁸ *Zenor v. State, Department of Transportation*, 134 Nev. 109 (2018).

1 **III. CONCLUSION**

2 For all the foregoing reasons, the State requests the Commission DENY Arevalo's Motion to
3 Dismiss in its entirety.

4
5 DATED this 4 day of August 2025.

6 STATE OF NEVADA
7 Department of Business and Industry
8 Real Estate Division

9 By: 
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DATED this 4th day of August 2025.

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