

FILED

FEB 04 2025

REAL ESTATE COMMISSION

BY Kelley Valadez

1 Chandon S. Alexander, Esq.
 2 Nevada Bar No. 12033
 3 **SPARTACUS LAW FIRM**
 4 400 South Seventh Street, Suite 100
 5 Las Vegas, Nevada 89101
 6 Tel: (702) 660-1234
 7 Fax: (702) 441-1626
 8 *Attorney for Respondent*

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

9 SHARATH CHANDRA, Administrator,
 10 REAL ESTATE DIVISION, DEPARTMENT
 11 OF BUSINESS AND INDUSTRY, STATE
 12 OF NEVADA,

Case No.: 2024-660

Petitioner,

**RESPONDENT'S MOTION TO STAY
AND CONTINUE, OR IN THE
ALTERNATIVE DISMISS**

vs.

14 ANDREW J. AREVALO,
 15 (S.0184627)

Respondent.

SPARTACUS LAW FIRM
 2777 Paradise Road, Suite 3002
 Las Vegas, Nevada 89109
 T: (702) 660-1234 F: (702) 441-1626

17 COMES NOW, Respondent ANDREW J. AREVALO ("Respondent"), by and through
 18 his counsel of record, Chandon S. Alexander, Esq. of the SPARTACUS LAW FIRM, hereby
 19 moves this Commission to stay and continue these proceedings, or in the alternative dismiss
 20 them, and as grounds therefore states as follows:
 21

I. INTRODUCTION

22 This case presents the unusual circumstance where the Commission is asked to impose
 23 discipline based on a guilty plea that will be withdrawn and charges that will be dismissed with
 24 prejudice in approximately December 2025. As detailed below, Respondent has entered into a
 25 Stipulation for Deferred Judgment and Sentence in his criminal case in Colorado that will
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1 result in the withdrawal of his guilty plea and dismissal of all charges upon successful
2 completion of probation. In recognition of this, the Colorado Real Estate offered Respondent a
3 Stipulation for Diversion in lieu of any formal discipline, imposing a fine of \$250 and a period
4 of probation coextensive with that in the criminal case.

5 Under these circumstances, proceeding with discipline now would be both inefficient
6 and legally problematic, as any discipline imposed would be based on what will become a legal
7 nullity. As such, any discipline would be in violation of Respondent's constitutionally
8 protected right to due process, including Respondent's due process interest in his real estate
9 license. Moreover, in this case, Respondent's guilty plea renders NRS 645.330(2)(a) and NRS
10 645.615(1) unconstitutionally vague as applied to Respondent, as those code sections give no
11 notice that a guilty plea entered into as part of a Stipulation for Deferred Judgment—which the
12 parties expect will ultimately be withdrawn—might serve as a “plea of guilty” sufficient for the
13 Commission to impose discipline under NRS 645.330(2)(a) and NRS 645.615(1).
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16 Although this Motion is being filed slightly beyond the 10-day timeframe contemplated
17 by NAC 645.840(2), the Commission should nevertheless consider it on the merits given the
18 novel constitutional issues presented. Nevada courts have an “oft-stated preference” for
19 resolving cases on their merits rather than procedural technicalities, especially where, as here, a
20 slight delay will not prejudice the opposing party. *See City of Las Vegas v. Int'l Ass'n of*
21 *Firefighters, Loc. No. 1285*, 110 Nev. 449, 451 (1994). To the extent the Commission deems
22 the Motion untimely, Respondent respectfully requests a continuance of the hearing date to
23 render the Motion timely.
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26 Accordingly, as argued herein, the Commission should stay and continue these
27 proceedings or, in the alternative, dismiss them altogether.
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1 **II. FACTUAL BACKGROUND**

2 On December 4, 2023, Respondent entered into a Stipulation for Deferred Judgment
3 and Sentence in Douglas County, Colorado District Court Case No. 2023CR700, whereby he
4 agreed to plead guilty to one count of Second Degree Assault. Declaration of Chandon S.
5 Alexander (“Alexander Decl.”) ¶¶ 3-4.
6

7 Under the terms of the Stipulation, Respondent agreed to a two-year period of
8 supervised probation and other conditions. Most significantly, the Section 4 of the Stipulation
9 provides that if Respondent successfully completes his probation, “the District Attorney will
10 consent to the entry by the Court of an order allowing the Defendant to withdraw his
11 previously entered plea of guilty; and, if the Court so allows the withdrawal of the guilty plea,
12 the District Attorney will thereupon move for dismissal with prejudice of the charge.”
13 Alexander Decl. ¶ 4, Ex. A at 4 [para. 4].
14

15 The Colorado Commission, recognizing the deferred nature of the judgment, entered
16 into a Stipulation for Diversion with Respondent on April 11, 2024. Alexander Decl. ¶¶ 5-6,
17 Ex. B. Under this Stipulation, Respondent agreed to pay a fine of \$250 and serve a period of
18 probation coextensive with his criminal probation. Upon successful completion, the matter will
19 be dismissed without any formal discipline being imposed. *Id.*
20

21 **II. ARGUMENT**

22 **A. The Commission Should Consider This Motion Despite Any Timing**
23 **Requirements Under NAC 645.840(2)**
24

25 To the extent NAC 645.840(2) requires that a “written motion must be served on the
26 opposing party and the Commission at least 10 working days before the time set for the hearing
27 on the motion,” the Commission should nevertheless consider Respondent’s Motion in this
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1 case. This Motion presents constitutional issues of first impression regarding the interplay
2 between a deferred judgment and guilty plea, and the Commission’s disciplinary authority.
3 Although persuasive authority supports Respondent’s position, Nevada courts have not yet
4 addressed the novel issues presented by Respondent’s guilty plea as it relates to NRS
5 645.330(2)(a) and NRS 645.615(1). Given these unique circumstances, Respondent’s
6 constitutional rights—including his fundamental due process interest in his license—should not
7 be impaired by a slight delay in filing this motion within the timeframe contemplated by NAC
8 645.840(2). This approach aligns with Nevada courts’ “oft-stated preference” for resolving
9 cases on their merits rather than on procedural technicalities. *See City of Las Vegas v. Int’l*
10 *Ass’n of Firefighters, Loc. No. 1285*, 110 Nev. 449, 451 (1994).

11
12 To the extent the Commission is inclined to deem the Motion untimely, Respondent
13 respectfully requests that the Commission continue the hearing date, which would have the
14 effect of rendering the Motion timely under NAC 645.840(2).
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16 **B. These Proceedings Should Be Stayed Pending Completion of Respondent’s**
17 **Probation in Colorado**
18

19 The Commission should stay these proceedings because any discipline imposed based
20 on Respondent’s guilty plea will become a legal nullity upon successful completion of his
21 probation in December 2025. At that time, Respondent will be permitted to withdraw his guilty
22 plea and the charges will be dismissed with prejudice.
23

24 Courts have recognized that discipline imposed on a licensee cannot be based on a
25 conviction or plea that has been vacated. For example, in *Manners v. State Bd. of Veterinary*
26 *Med.*, 107 Idaho 950, 952 (1985), the court reversed a license revocation where the underlying
27 felony conviction was vacated, holding that “a felony conviction which has been vacated and
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1 the charge dismissed after the entry of a not guilty plea...cannot be the basis for revocation of a
2 veterinary license.” The court emphasized that, since the felony conviction was the only basis
3 for discipline, the board’s decision could not stand once that conviction was vacated, and
4 reversed the board’s decision to revoke the license. *Id.*

5
6 The same principle applies here. The Commission’s authority to discipline
7 Respondent’s license under NRS 645.330(2)(a) and NRS 645.615(1) requires a valid
8 conviction or guilty plea. When Respondent’s plea is withdrawn in December 2025, there will
9 be no legal basis for any discipline imposed. Thus, it makes little sense for the Commission to
10 expend its resources on proceedings that will ultimately be founded on a legal nullity.

11
12 The Colorado Real Estate Commission’s approach provides a sensible model. By
13 entering into a Stipulation for Diversion, that Commission has crafted a proportional response
14 that acknowledges both the seriousness of the matter and the deferred nature of the judgment.
15 Should Respondent violate his probation in either the criminal matter or before the Colorado
16 Real Estate Commission, there could, of course, be consequences. However, the Colorado Real
17 Estate Commission recognized that it makes little sense to pursue disciplinary proceedings
18 founded on a legal nullity.

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20 This Commission should follow a similar course.

21 **C. In the Alternative, This Matter Should Be Dismissed, As Imposing Discipline**
22 **Would Violate Respondent’s Right to Due Process**

23
24 As is well-recognized, a licensed professional has a property interest in his license to
25 practice that is protected by his constitutional right to due process under the Fifth Amendment.
26 *See Potter v. State Bd. of Medical Examiners*, 101 Nev. 369, 371 (1985). Thus, proceeding
27 with discipline now—knowing that it will be based wholly on a guilty plea that will be
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1 withdrawn and charges that will be dismissed—would violate these due process rights by
2 damaging Respondent’s property interest in his license based on what will become a legal
3 nullity.

4 The due process violation would be complete the moment any discipline is imposed, as
5 Respondent would suffer immediate harm to his property interest in his license based on a plea
6 that will be withdrawn. In light of this, the Colorado Real Estate Commission saw the wisdom
7 of entering into a Stipulation for Diversion with Respondent. It makes little sense for Nevada’s
8 Real Estate Commission to take a different course, as this would be precisely the type of
9 arbitrary government action that due process protections are designed to prevent. *See Kolender*
10 *v. Lawson*, 461 U.S. 352, 357 (1983) (due process clause is designed to prevent “arbitrary and
11 discriminatory enforcement” and unclear standards).

12
13
14 To the extent that the Commission relies on Respondent’s “guilty plea” as the source of
15 its authority to continue these proceedings or impose discipline under NRS 645.330(2)(a) and
16 NRS 645.615(1), the fact that Respondent’s “guilty plea” was entered into as part of a
17 Stipulation of Deferred Judgment *in anticipation of its being withdrawn* renders NRS
18 645.330(2)(a) and NRS 645.615(1) unconstitutionally vague as applied to Respondent. *See*
19 *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972). NRS 645.330(2)(a) and NRS
20 645.615(1) provide no notice that a “plea of guilty,” which all parties anticipate will become a
21 legal nullity—and hence void *ab initio*—could possibly serve as the basis for discipline from
22 the Commission. Had there been such notice, Respondent might not have voluntarily agreed to
23 a plea of guilty, that could jeopardize his license during the term of his probation.

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26 Thus, if the Commission declines to stay these proceedings, they should be dismissed
27 altogether. The Commission retains the authority to reinstitute proceedings if appropriate if
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SPARTACUS LAW FIRM
2777 Paradise Road, Suite 3002
Las Vegas, Nevada 89109
T: (702) 660-1234 F: (702) 441-1626

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Respondent's guilty plea should become final after December 2025, or in the event that there is a probation violation. This approach would avoid the constitutional concerns outlined above while preserving the Commission's ability to take action if warranted after the status of the criminal case is resolved.

IV. CONCLUSION

In light of the foregoing, Respondent respectfully requests that this Commission enter an Order staying these proceedings until completion of Respondent's probation in December 2025; or, the alternative, dismissing these proceedings.

Dated this 4th day of February, 2024.

Respectfully submitted,
SPARTACUS LAW FIRM

/s/ Chandon S. Alexander
Chandon S. Alexander, Esq.
Nevada Bar No. 12033
400 South Seventh Street, Suite 100
Las Vegas, Nevada 89101
Attorney for Respondent

SPARTACUS LAW FIRM
2777 Paradise Road, Suite 3002
Las Vegas, Nevada 89109
T: (702) 660-1234 F: (702) 441-1626

1 **DECL (CRM)**
2 Chandon Spartacus Alexander Esq.
3 **SPARTACUS LAW FIRM**
4 Nevada Bar No. 12033
5 400 South Seventh Street, Suite 100
6 Las Vegas, Nevada 89101
7 Telephone: (702) 660-1234
8 Facsimile: (702) 441-1626
9 Chandon@spartacuslawfirm.com
10 *Attorney for Respondent*

11 **BEFORE THE REAL ESTATE COMMISSION**

12 **STATE OF NEVADA**

13 SHARATH CHANDRA, Administrator,
14 REAL ESTATE DIVISION, DEPARTMENT
15 OF BUSINESS AND INDUSTRY, STATE
16 OF NEVADA,

17 Petitioner,

18 vs.

19 ANDREW J. AREVALO,
20 (S.0184627)

21 Respondent.

Case No.: 2024-660

**RESPONDENT'S MOTION TO STAY
AND CONTINUE, OR IN THE
ALTERNATIVE DISMISS**

22 **DECLARATION OF CHANDON S. ALEXANDER, ESQ. IN SUPPORT OF**
23 **RESPONDENT'S MOTION TO STAY AND CONTINUE, OR IN THE ALTERNATIVE**
24 **DISMISS**

25 CHANDON S. ALEXANDER, ESQ., hereby deposes and states the following under
26 the pains and penalties of perjury:

27 1. That I am an attorney licensed to practice law in the State of Nevada and am
28 Counsel of Record in case number 2024-660;

2. That I have personal knowledge of the facts and circumstances herein and could
testify to the same;

SPARTACUS LAW FIRM
2777 Paradise Road, Suite 3002
Las Vegas, Nevada 89109
T: (702) 660-1234 F: (702) 441-1626

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Tel: (702) 660-1234
Fax: (702) 441-1626
Email: chandon@spartacuslawfirm.com
Attorney for Respondent

SPARTACUS LAW FIRM
2777 Paradise Road, Suite 3002
Las Vegas, Nevada 89109
T: (702) 660-1234 F: (702) 441-1626

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I hereby certify that on the 4th day of February, 2025

I caused the preceding document entitled **RESPONDENT'S MOTION TO STAY AND
CONTINUE, OR IN THE ALTERNATIVE DISMISS** to be served on the following parties

via the U.S. Postal Service:

REAL ESTATE DIVISION
STATE OF NEVADA
3300 W. Sahara Avenue, Suite 350
Las Vegas, Nevada 89102
ATTN: Sharath Chandra

Aaron D. Ford
Christal P. Keegan
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
Attorney for Real Estate Division

/s/ Chandon S. Alexander
An Employee of SPARTACUS LAW FIRM