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5 *Attorney for Respondent*

FILED

OCT 31 2024

REAL ESTATE COMMISSION

BY Kelley Valadez

6 **BEFORE THE REAL ESTATE COMMISSION**

7 **STATE OF NEVADA**

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

11 Petitioner,

12 vs.

13
14 ANDREW J. AREVALO,
(S.0184627)

15 Respondent.

Case No.: 2024-660

Department No.: 6

Code No.: 1104

**RESPONDENT'S ANSWER TO
COMPLAINT**

17
18 COMES NOW, Respondent ANDREW J. AREVALO ("Respondent"), by and through
19 his counsel of record, Chandon S. Alexander, Esq. of the SPARTACUS LAW FIRM, and in
20 response to the Complaint filed by the Real Estate Division of the Department of Business and
21 Industry of the State of Nevada ("Division"), answers as follows:

22 **JURISDICTION**

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24 Respondent admits only that at all relevant times mentioned in the Complaint, he was
25 actively licensed as a salesperson (S.0184627). The remaining allegations in this unnumbered
26 paragraph state only legal conclusions for which no answer is required.

27 **FACTUAL ALLEGATIONS**

1 1. In response to Paragraph 1 of the Complaint, Respondent denies the allegations
2 of this paragraph in their entirety.

3 2. In response to Paragraph 2 of the Complaint, Respondent admits that on
4 December 4, 2023, he entered a plea of guilty to Count One of Assault in the Second Degree, a
5 Class F4 - As an Act of Domestic Violence.

6 3. In response to Paragraph 3 of the Complaint, Respondent admits he was
7 sentenced to two (2) years of supervised probation.

8 4. In response to Paragraph 4 of the Complaint, Respondent admits that on April
9 11, 2024, he entered into a Stipulation for Diversion with the Colorado Real Estate
10 Commission.

11 5. In response to Paragraph 5 of the Complaint, Respondent admits he
12 acknowledged violating § 12-10-217(1)(n) C.R.S.

13 6. In response to Paragraph 6 of the Complaint, Respondent admits he accepted the
14 administrative fine and his Colorado real estate license was placed on probation concurrent
15 with his criminal sentencing.

16 7. In response to Paragraph 7 of the Complaint, Respondent is without sufficient
17 knowledge or information to form a belief as to the truth or falsity of the allegations contained
18 in this paragraph, and on that basis denies the allegations in their entirety.

19 8. In response to Paragraph 8 of the Complaint, Respondent admits that the
20 Division sent an opening investigation letter on July 18, 2024.

21 9. In response to Paragraph 9 of the Complaint, Respondent admits that the
22 Division informed him on September 12, 2024, of its intent to proceed formally.

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VIOLATIONS OF LAW

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1. In response to paragraph 1 alleging a violation of law, Respondent denies the allegations of this paragraph in their entirety.

2. In response to paragraph 2 alleging a violation of law, Respondent denies the allegations of this paragraph in their entirety.

3. In response to paragraph 3 alleging a violation of law, Respondent denies the allegations of this paragraph in their entirety.

DISCIPLINE AUTHORIZED

4. In response to paragraph 4, Respondent denies that discipline is warranted. The remaining allegations in this paragraph state only legal conclusions for which no answer is required.

5. In response to paragraph 5, Respondent denies that discipline is warranted. The remaining allegations in this paragraph state only legal conclusions for which no answer is required.

6. In response to paragraph 6, Respondent denies that discipline is warranted. The remaining allegations in this paragraph state only legal conclusions for which no answer is required.

RESPONDENT ASSERTS THE FOLLOWING AFFIRMATIVE DEFENSES

As separate and distinct affirmative defenses, Respondent alleges as follows:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

Petitioner's Complaint fails to state a claim against Respondent upon which relief can be granted.

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SECOND AFFIRMATIVE DEFENSE

(Laches, Unclean Hands, Equity)

Respondent alleges that the Petitioner’s claims are barred by the equitable doctrines of laches, unclean hands, and/or failure to do equity.

THIRD AFFIRMATIVE DEFENSE

(Void for Vagueness)

NRS 645.330(1), NRS 645.633(1)(d)(2), and NRS 645.615(2) are unconstitutionally vague both facially and as applied to Respondent. The statutes fail to provide fair notice of what conduct is prohibited and grant excessive discretion to enforcement authorities. The term "moral turpitude" in NRS 645.633(1)(d)(2) is particularly vague and standardless, leaving real estate professionals without clear guidance on what conduct might jeopardize their licenses. The requirement to demonstrate "general qualifications" under NRS 645.330(1) similarly fails to provide adequate notice of prohibited conduct or clear standards for enforcement.

FOURTH AFFIRMATIVE DEFENSE

(Equal Protection)

The Division’s selective enforcement of these statutes against Respondent violates the Equal Protection Clause of the Fourteenth Amendment. The Division has not uniformly required licensees with out-of-state convictions or disciplinary actions to face additional Nevada discipline. This disparate treatment of similarly situated licensees lacks a rational basis and appears arbitrary, particularly where the underlying conduct occurred entirely outside Nevada and involved no Nevada citizens. The Division’s actions create an arbitrary

1 classification between licensees disciplined in their home states and those facing additional
2 Nevada discipline. Moreover, Respondent is being selectively targeted based on his gender
3 and/or on the basis of the underlying allegations and/or guilty plea.
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6 **FIFTH AFFIRMATIVE DEFENSE**

7 **(Due Process)**

8 The Division's actions violate both procedural and substantive due process under the
9 Fourteenth Amendment. Procedurally, the Division's attempt to impose discipline based on
10 out-of-state conduct without clear standards or consistent application deprives Respondent of
11 fair notice and a meaningful opportunity to be heard. Substantively, the Division's attempt to
12 impose additional punishment beyond that already imposed by Colorado is arbitrary and lacks
13 a sufficient nexus to Nevada's legitimate regulatory interests. The Division's interpretation of
14 its authority to impose duplicative discipline shocks the conscience and violates fundamental
15 principles of justice.
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18 **SIXTH AFFIRMATIVE DEFENSE**

19 **(First Amendment)**

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21 The Division's actions violate Respondent's First Amendment rights, including in that
22 requiring Respondent to self-report out-of-state conduct constitutes compelled speech in
23 violation of the First Amendment. The Division's attempt to discipline Respondent based on
24 conduct unrelated to his professional speech or conduct creates an unconstitutional condition
25 on his professional license. The Division's broad interpretation of "moral turpitude" creates a
26 chilling effect on licensees' protected speech and associational rights. The Division's
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1 requirement that Respondent demonstrate rehabilitation through specific statements or actions
2 constitutes impermissible compelled speech and belief.

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4 **SEVENTH AFFIRMATIVE DEFENSE**

5 **(Interstate Comity and Full Faith and Credit)**
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8 The Division's attempt to impose additional discipline violates principles of interstate
9 comity and full faith and credit. Colorado has already investigated and imposed appropriate
10 discipline for the same conduct. The Division should defer to or adopt Colorado's disciplinary
11 measures rather than impose duplicative penalties, as this promotes interstate cooperation and
12 consistent regulation of real estate professionals who practice across state lines.
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14 **EIGHTH AFFIRMATIVE DEFENSE**

15 **(Commerce Clause Violation)**
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17 The Division's proposed discipline would violate the Commerce Clause of the United
18 States Constitution by unduly burdening interstate commerce in real estate services. The
19 imposition of duplicative and potentially conflicting requirements on real estate professionals
20 licensed in multiple states, particularly where no Nevada citizens were involved in the
21 underlying incident, creates an impermissible burden on interstate commerce without
22 demonstrating a sufficient local state interest.
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25 **NINTH AFFIRMATIVE DEFENSE**

26 **(Lack of Proportionality and Nexus)**
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1 The Division's proposed action violates principles of proportionality and fundamental
2 fairness. The incident occurred entirely within Colorado, involved no Nevada citizens, and has
3 no direct nexus to Respondent's practice of real estate in Nevada. Colorado, as the home state
4 where the incident occurred, has already imposed appropriate discipline that adequately
5 protects the public interest.
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8 **TENTH AFFIRMATIVE DEFENSE**

9 **(Duplicative Punishment)**

10 The Division's action constitutes improper duplicative punishment. Respondent has
11 already been sanctioned criminally in Colorado and disciplined professionally by the Colorado
12 Real Estate Commission. Nevada's legitimate regulatory interests can be adequately protected
13 by reciprocally enforcing Colorado's disciplinary measures. Any additional punishment would
14 be excessive in relation to Nevada's legitimate regulatory interests.
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17 **ELEVENTH AFFIRMATIVE DEFENSE**

18 **(Administrative Res Judicata and Collateral Estoppel)**

19 Under principles of administrative res judicata and collateral estoppel, the Colorado
20 adjudication of the professional implications of Respondent's conduct should be given
21 preclusive effect. Nevada should be bound by or at minimum give substantial weight to
22 Colorado's findings and conclusions. Relitigation of these issues wastes administrative
23 resources and risks inconsistent results. No new facts or circumstances justify a separate
24 Nevada proceeding.
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TWELFTH AFFIRMATIVE DEFENSE

(Regulatory Conflict and Burden)

The Division’s proposed action violates principles of regulatory comity and creates an undue risk of conflicting obligations. Respondent is already subject to Colorado's probationary requirements, and additional or different Nevada requirements could create impossible or conflicting obligations. Multiple state oversight of the same conduct creates unnecessary regulatory burden when Nevada's legitimate regulatory interests can be served through reciprocal enforcement of Colorado's discipline.

PRAYER FOR RELIEF

WHEREFORE, Respondent prays for relief as follows:

1. That Petitioner take nothing by way of the Complaint;
2. For any such other and further relief as the Real Estate Commission may deem just and proper in this case;

Dated this 31st day of October, 2024.

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

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CERTIFICATE OF SERVICE

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Pursuant to Nev. R. Civ. P. 5(b), I hereby certify that on the 31st day of October 2024,
I caused the preceding document entitled **RESPONDENT'S ANSWER TO COMPLAINT** 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