

MINUTES

COLORADO REAL ESTATE COMMISSION MEETING October 4, 2022

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MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
October 4, 2022
Colorado Division of Real Estate
Meeting Conducted Via Webinar

A Colorado Real Estate Commission public meeting was conducted via Webinar and was held on October 4, 2022. Those Commissioners in attendance were Michelle Espinoza - Chair; Joe Chang; and Renee Lynde. Graham Kaltenbach, Vice Chair and Kim Rediker are absent. Also attending were Marcia Waters, Director; Eric Turner, Deputy Director; David Donnelly, Education, Communication and Policy Manager; Penny Elder, ESP Program Manager; Sarah Halloran, Investigations Team Lead; Eddie Rose, Investigations Team Lead; Nicole Tribelhorn, Investigations Team Lead; and other members of the Commission's Staff. Angela Little attended from the Office of the Attorney General.

Notice of the meeting was timely published and the meeting was held pursuant to the Colorado Sunshine Laws, Title 24, Article 6, C.R.S., as amended.

Due to closures of public spaces because of the Coronavirus pandemic, the meeting was conducted via Webinar. The meeting was called to order by Commissioner Espinoza - Chair, at 9:00 a.m.

ORDER OF BUSINESS

Approval of Minutes - August 2, 2022

It was moved by Commissioner Chang and seconded by Commissioner Lynde to approve the Minutes of August 2, 2022 as written.



CREC

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Motion unanimously carried.

PUBLIC PRESENTATION:

- Jordan May
- Toni Heiden

POLICY MATTERS:

A. Selection of Leadership -

It was moved by Commissioner Lynde and seconded by Commission Chang to nominate Michelle Espinoza for a second term as Commission Chair.

Motion unanimously carried.

It was moved by Commissioner Chang and seconded by Commissioner Espinoza to nominate Graham Kaltenbach for a second term as Commission Vice Chair.

Motion unanimously carried.

2023 CREC Meeting Dates -

February 7, 2023
April 4, 2023
June 6, 2023
August 1, 2023
October 3, 2023
December 5, 2023

Agenda Items for Next Meeting -
Security Deposit Options - Commissioner Lynde

COMPLAINT MATTERS:

NOTICE: The following complaint matters contain summaries of investigative findings and disciplinary recommendations of Division staff. Ultimate settlement terms, imposition of discipline or findings of license law violations may differ from those originally considered by the Commission.

A. Complaint #x2022-40 (BB) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-40 (BB) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law.

- A. This was a routine audit initiated on 04/01/22. The respondent reported that she performed only one large sales transaction in the past 12 months. The respondent reported that she served as a transaction broker for a commercial property. The audit process was delayed due to respondent citing client confidentiality. The seller prepared the purchase agreement and buyer and seller elected to have their own attorneys handle the closing. The respondent did not receive (or retain) the purchase agreement or closing statement. After repeated requests by the Division to produce these documents, the respondent contacted the seller who promptly provided the documents. The respondent used a brokerage name in the purchase agreement that is not registered with the Division; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(j), C.R.S. - failure to provide closing statement;
 - b. § 12-10-217(1)(k), C.R.S. - failure to maintain files for 4 years;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - a. Commission Rule 6.10 - advertising;
 - b. Commission Rule 6.20 - transaction file requirements; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. She will be required to pay a fine to the Commission in the amount of \$500; and
- E. She will be required to successfully complete real estate education in Contracts and in Legal Issues.

Motion unanimously carried.

B. Complaint #x2022-41 (AB) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-41 (AB) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law.

- A. This is a Stipulation Audit pursuant to the respondent's Final Agency Order dated 12/15/21. The deficiencies related to the record keeping practices of trust accounts that were found in the previous 2021 audit appear ongoing despite the respondent's efforts to address these deficiencies. The respondent did switch property management software since the previous audit and has been working to address the identified deficiencies found in the previous audit and investigation including hiring a consulting firm. In this current audit, both the respondent's rental and security deposit trust accounts continue to contain negative balances. Also, the respondent was commingling broker funds with money belonging to others and the "corrected" accounting reports provided by the respondent appear to omit many client/owner beneficiaries' ledgers; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. Commission Rule 5.9 - diversion, conversion prohibited;
 - d. Commission Rule 5.10 - commingling prohibited;
 - e. Commission Rule 5.14 - recordkeeping requirements; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. He will be required to pay a fine to the Commission in the amount of \$1,000; and
- E. The respondent will be required to submit to quarterly audits for one year.

Motion unanimously carried.

C. Complaint #x2022-43 (SC) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-43 (SC) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. This was a stipulated audit in which the previous audit identified deficiencies in the trust account record keeping requirements. Similar deficiencies were noted in this audit such as trust account overages and negative balances as well as broker money commingled with money belonging to others; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds;
 - c. Commission Rule 5.9 - diversion, conversion prohibited;
 - d. Commission Rule 5.10 - commingling prohibited;
 - e. Commission Rule 5.14 - recordkeeping requirements; and

- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He will be required to pay a fine to the Commission in the amount of \$1,500; and
- E. The respondent will be required to submit to a follow-up audit within 3 months.

Motion unanimously carried.

D. Complaint #x2022-52 (RT) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-52 (RT) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. A routine audit was opened on the respondent which identified possible issues with an unlicensed management company; failure to disclose potential conflicts of interest and license status; and various property management documents that do not appear to comply with rules regarding commission-approved and attorney drafted forms. As of the date of the report, the respondent has licensed their management company with the Division, and has inserted conflict of interest and license status disclosures into the commission-approved BDT; however, no other corrections have been provided; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - c. Commission Rule 5.11 - money belonging to others - non-real estate activity;
 - d. Commission Rule 6.17 - duty to disclose conflict of interest and license status;
 - e. Commission Rule 7.1 - standard forms; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He will be required to pay a fine to the Commission in the amount of \$1,500;
- E. He will be required to successfully complete real estate education in Trust Accounts and in Property Management; and
- F. The respondent will be required to submit to a follow-up audit within 3 months.

Motion unanimously carried.

E. Complaint #x2022-76 (RD) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-76 (RD) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. This was a limited scope broker-owned property management audit to ensure trust accounts and disclosures were in place for this respondent's broker-owned properties. At the onset of the audit, it appeared that the broker had not been properly disclosing conflict of interest and license status. It also appeared that the broker had not been performing reconciliations and had allowed a business partner (who is not a licensed

broker) to keep money in the trust account for a property that the respondent did not manage nor had any ownership interest. The broker has provided proof of correcting both issues during the audit; and

- B. This is a possible violation of:
 - a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. Commission Rule 5.11 - money belonging to others - non-real estate activity;
 - d. Commission Rule 6.17 - duty to disclose conflict of interest and license status; and
- C. The respondent's settlement offer includes a Letter of Concern with Dismissal.

Motion unanimously carried.

F. Complaint #x2022-90 (RS) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-90 (RS) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. This was a limited scope audit, as part of a larger audit on the respondent's employing broker. This audit focused on the respondent's management of her broker-owned properties. The respondent sent initial responses that required corrections and further explanations. After receiving the respondents final responses, the audit identified that the respondent was disclosing her license status to tenants, but not her ownership in the respective properties. But, the respondent did provide proof of correction of this during the audit. However, the respondent's security deposit account does not appear to be properly set up as a fiduciary account and does not contain a label identifying the purpose of the account. Additionally, it does not appear that the respondent has been performing 2-way reconciliations of the security deposit account. The respondent also stated that because the account is a savings account, past security deposits have been first transferred to her checking/operating account before being paid back to the tenant with a check. The documentation provided by the respondent for the account indicates that it was opened in 03/2022 and has had no withdrawals from 03/2022 to 05/2022. The broker did not provide account information past 05/2022. As of 05/31/2022, the account had a balance of approximately \$3,000 which appears to balance to the respondent's leases and minimum broker-funds required to maintain/open the account; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
 - d. Commission Rule 5.11 - money belong to others - non-real estate activity;
 - e. Commission Rule 6.17 - duty to disclose conflict of interest and license status; and

- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. She will be required to pay a fine to the Commission in the amount of \$500;
- E. She will be required to successfully complete real estate education in Trust Accounts; and
- F. The respondent will be required to submit to a follow-up audit within 3 months.

Motion unanimously carried.

G. Complaint #x2022-64 (CM) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-64 (CM) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. A routine audit was opened on the respondent which identified issues with the brokerage's trust account reconciliations including ongoing negative ledger balances of approximately \$40,000 in the rental trust account. While these negative balances appear to tie to some sort of internal brokerage ledger, the true nature and origin of the negative balances are unknown. There appears to be an ongoing lack of compliant account reconciliations; possible commingling of broker funds; and lack of supervision. Since the original draft of this referral, the broker has provided a few updates to Division staff including information that the broker's personal rental funds have been segregated from other money belonging to others as well as rental money belonging to the brokerage firm's associate broker's rental properties. Additionally, it appears that the respondent has deposited brokerage funds into the trust account to cover the remaining negative balances; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. § 12-10-217(1)(r), C.R.S. - failure to supervise;
 - e. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - f. Commission Rule 5.9 - diversion, conversion prohibited;
 - g. Commission Rule 5.10 - commingling prohibited;
 - h. Commission Rule 5.14 - recordkeeping requirements;
 - i. Commission Rule 7.1 - standard forms; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He shall pay a fine to the Commission in the amount of \$2,500;
- E. He will be required to successfully complete real estate education in Brokerage Administration, Property Management and Trust Accounts; and
- F. The respondent will be required to submit to a follow-up audit within 3 months.

Motion unanimously carried.

NOTE: Complaint Matters were taken out of Agenda order and Complaint I was considered by the Commission prior to Complaint H.

I. Complaint #x2022-84 (WH) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-84 (WH) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. A limited scope audit was opened on the respondent-focusing on broker owned rentals. The respondent was unable to produce a reconciliation, does not have compliant account identifier as required by license law and provided an incomplete lease which does not indicate who keeps interest earned on the account; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - c. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds
 - d. Commission Rule - 5.2 - money belonging to others must be deposited in trust or escrow;
 - e. Commission Rule 5.11 - money belong to others for non-real estate activity;
 - f. Commission Rule 5.9 - diversion and conversion prohibited;
 - g. Commission Rule 5.21 - production of documents and records; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He shall pay a fine to the Commission in the amount of \$2,000;
- E. He will be required to submit to a follow-up audit within 3 months.

Motion unanimously carried.

H. Complaint #x2022-30 (BS) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-30 (BS) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On 03/20/22 a routine audit was opened against the respondent. The audit did not identify any issues outside of the brokerage trust accounts containing negative ledger balances. It appears that this has been ongoing for some time but has now been brought into compliance; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. Commission Rule 5.14 - recordkeeping requirements; and
- C. The respondent's settlement offer includes a Letter of Concern with Dismissal.

Motion unanimously carried.

J. Complaint #2021-1260 (BS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1260 (BS) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On 07/23/2021, the complainant ("C") filed Complaint No. 2021-1260 against the respondent ("R") stating that the "R" was hired to manage his property in Colorado. The "C" alleges that the "R" failed to notify him or receive his permission to modify the lease to remove certain lease violation fees as well as allow the tenants to move into the property with an insurance bond rather than holding security deposit funds. Additionally, the "C" states the "R" charged him for a garbage disposal replacement that was never done as the "C" had already replaced the unit. The "C" also states that the "R" failed to identify unauthorized people and pets at his property that caused damage and he no longer has any financial recourse due to the unauthorized modifications made to the lease by the "R". The "R" acknowledges that he allowed the tenant to move into the "C's" property with a security deposit alternative called Rhino, without the owner's approval. The "R" states that per the management agreement, there is no language in the contract requiring him to inform the owner of this nor is there any requirement for him to notify owners of lease modifications. However, both the Management Agreement and Brokerage Duties Addendum to Property Management Agreement indicate that the "R" was the exclusive landlord agent for the "C" and as such, owed certain uniform duties to his client. The "R" states the "C" was charged for the replacement of the garbage disposal; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. § 12-10-217(1)(r), C.R.S. - failure to supervise associates;
 - c. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - d. § 12-10-404(1)(b) & (c), C.R.S. - single agent duties;
 - e. Commission Rule 7.1 - standard forms; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The real estate broker's license shall be publicly censured;
- E. The respondent shall pay a fine to the Commission in the amount of \$5,000;
- F. His real estate broker's license shall be on probation for a period of one year; and
- G. He will be required to successfully complete real estate education in Brokerage Relationships; Brokerage Administration; Property Management; and in Contracts.

Motion unanimously carried.

K. Complaint #2021-1241 (ZK) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1241 (ZK) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this

matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On 07/21/2021, the complainant (C) filed Complaint No. 2021-1241 against the respondent (R) stating that the "R" was hired to manage their rental property but mismanaged their home. The investigation noted that the "R" allowed unlicensed staff to sign leases; failed to provide proper brokerage relationship disclosures to both owners and tenants; operated under brokerage names different than the brokerage name/trade names licensed with the Division; shared licensed employees among the "R's" different brokerages by allowing licensed brokers with a different brokerage to sign leases for the "R's" brokerage; assessed unauthorized charges to the "C's" account; failed to disclose conflicts of interest regarding affiliated maintenance companies and mark-ups; failed to provide a timely security deposit refund accounting to a previous tenant; initiated collections and a lawsuit against a former tenant and their family member who was not on the lease resulting in a counterclaim where the "R" settled out of court. The tenant alleges she vacated the property due to habitability issues which were not relayed to the property owners. All parties have since settled their disputes and have terminated management services; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(k), C.R.S. - failure to maintain files for 4 years;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - e. § 12-10-217(1)(r), C.R.S. - failure to supervise associates;
 - f. § 12-10-404(1)(b) & (c), C.R.S. - single agent engaged by seller or landlord;
 - g. Commission 5.17 - mark-ups, must obtain prior approval;
 - h. Commission Rule 6.3 - employing broker's responsibilities and supervision;
 - i. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - j. Commission Rule 6.10.A - conducting real estate under more than one name (advertising/names);
 - k. Commission Rule 6.17 - duty to disclose conflict of interest and license status;
 - l. Commission Rule 7.1.B - attorney-drafted forms; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The real estate broker's license shall be publicly censured;
- E. The respondent shall pay a fine to the Commission in the amount of \$7,500;
- F. His real estate broker's license shall be on probation for a period of two years;
- G. He will be required to successfully complete real estate education in Brokerage Relationships; Brokerage Administration; Ethics; and in Property Management;
- H. His real estate license shall be downgraded to an associate broker level for two years and he will be required to requalify for employing broker level status; and
- I. The respondent will be required to submit to a brokerage audit within three months.

Motion unanimously carried.

L. Complaint #x2022-49 (GS) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-49 (GS) was presented to the Commission with accompanying documentation and

information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. This was a routine audit opened on 04/27/2022. The audit identified deficiencies in the broker's Recordkeeping and trust accounting requirements, attorney forms, conflict of interest and license status disclosure requirements, and individual E&O insurance. The broker provided documentation correcting the attorney-drafted forms, conflict of interest and license status disclosures, and E&O Insurance. However, at the time the report was completed, the broker had not provided any trust account 3-way reconciliations for review. On 08/12/2022, the respondent submitted reconciliations for 28 separate bank accounts which appear to be for each property or property owner of his. The accounts may have been opened only recently and appear to be lacking compliant journals and ledgers. The respondent did not provide any reconciliations for security deposits; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - d. Commission Rule 5.14 - recordkeeping requirements;
 - e. Commission Rule 6.17 - duty to disclose conflict of interest and license status;
 - f. Commission Rule 7.1 - standard forms;
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He shall pay a fine to the Commission in the amount of \$1,500;
- E. He will be required to successfully complete real estate education including Property Management and in Trust Accounts; and
- F. He will be required to submit to a follow-up financial and practice audit within three months.

Motion unanimously carried.

M. Complaint #2022-441 (LS) -

the investigative reports concerning a complaint filed against the respondent in Complaint #2022-441 (LS) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainant is a credentialed appraiser and alleges that the respondent attempted to unduly influence her comparable selection and her value opinion to support the contract price of \$1.5 million by using comparable properties from a superior subdivision. This is an alleged violation of the federal appraisal independence regulations. Based on statements made by the complainant to the respondent, the respondent told the complainant that she may not be a good fit to appraise the property. The respondent contacted the loan officer for the transaction and

requested that the appraisal be canceled. The respondent also submitted a complaint to the lender, which was forwarded to the AMC for investigation. The AMC documentation indicated that the listing agent pressured the appraiser to use his comparables and expected the appraisal to reach the targeted value. The documentation also indicated that "undue influence has occurred" and the complaint was routed back to the lender for handling. The complainant declined to perform the appraisal and it was reassigned to a different appraiser who appraised the property at the contract price; and

- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. 12-10-404(1)(e), C.R.S. - failing to comply with applicable state, federal or local laws or regulations;
 - c. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
- C. The respondent's settlement offer includes a Letter of Concern with dismissal.

Motion unanimously carried.

N. Complaint #2021-1773 (TL) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1773 (TL) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainant, who was the listing broker, alleged that the respondent gave his buyers the lockbox code for the final walk through to allow them to access the property without the respondent being present. The complainant explained that the buyers contacted her requesting the new lockbox code because she had changed the code. The complainant stated that the buyers told her that the respondent wasn't with them, therefore she met them at the property for the final walk through. The investigation noted the additional potential violation that the respondent failed to timely establish his brokerage relationship with the buyer in writing and failed to sign the settlement statement; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - c. § 12-10-408(2)(b) C.R.S. - brokerage disclosure in writing;
 - d. Commission Rule 6.5 - brokerage disclosure in writing;
 - e. Commission Rule 6.16 - broker prohibited from sharing access info without consent;
 - f. Commission Rule 6.19 - broker must sign closing statement; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall pay a fine to the Commission in the amount of \$1,500; and
- E. He will be required to successfully complete real estate education in Brokerage Relationships.

Motion unanimously carried.

O. Complaint #2022-880 (FG) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-880 (FG) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The respondent filed a written complaint against himself with the Division of Real Estate. The respondent stated that an audit conducted in 2019 by the California Department of Real Estate identified violations of California's license law regarding record keeping requirements involving trust account regulations & corporate supervision. The respondent stated that in November 2021, he entered into a Stipulation with California in which he, as a licensee and his corporate license, agreed to restricted licenses for two years. The respondent agreed to pay \$6,552.72 for the cost of the audit, pay up to \$8,190.90 for a follow-up audit, revocation of both licenses (Corporate and individual), issuance of restricted licenses upon application, and completion of the required continuing education as well as education in trust fund accounting and handling. The respondent's license was suspended from January 23, 2022 to February 13, 2022 for failure to timely pay for the audit. The respondent currently holds an active Restricted Broker license in California. The investigation also revealed that the respondent's Pennsylvania broker license was suspended in 2011 and that discipline was not disclosed on the respondent's 2018 CREC application. The investigation noted the potential violations that the respondent failed to disclose the suspension in Pennsylvania when he applied for his Colorado broker license, and failed to timely disclose the California discipline to CREC; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(s), C.R.S. - misstatement on license application;
 - b. § 12-10-217(1)(x), C.R.S. - license discipline in other jurisdiction
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - d. Commission Rule 6.23 - immediate notification of discipline in any other jurisdiction; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. His real estate broker's license shall be on probation for a period of two years; and
- E. He will be required to pay a fine to the Commission in the amount of \$1,000.

Motion unanimously carried.

P. Complaint #2022-1097 (CS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1097 (CS) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainant explained that his son paid a deposit of \$43,488 to the respondent, who is a manufactured home dealer and a licensed real estate broker, for the purchase of a manufactured home. The complainant stated that the respondent also took a deposit in the amount of approximately \$21,000 from another party for resale of the same manufactured home. The complainant explained that the manufacturer canceled the order and returned his son's deposit to the respondent. The complainant alleged that the respondent is refusing to return his son's and the other party's deposits; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - c. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - d. Commission Rule 5.11 - money belonging to others not placed in trust account; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The respondent shall be publicly censured;
- E. His real estate license shall be revoked; and
- F. He will be required to pay a fine to the Commission in the amount of \$7,500.

Motion unanimously carried.

Q. Complaint #2022-152 (SK) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-152 (SK) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainant alleges that the respondent executed a lease that showed two different security deposit amounts, neither of which were correct. CREC alleges:
 - A lease executed by the respondent's company was signed by an unlicensed assistant;
 - The lease and Property Management Agreement (non-Commission approved forms) the respondent's company uses do not contain the required attorney drafted disclosure; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. § 12-10-404(1)(b), C.R.S. - failed to exercise reasonable skill and care for the landlord;
 - c. Commission Rule 6.3(B)(6) - failed to take steps to ensure that violations do not occur;
 - d. Commission Rule 7.1(B) - failed to include required disclosure in non-commission approved forms; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall pay a fine to the Commission in the amount of \$1,000; and
- E. He will be required to successfully complete real estate education in Property Management.

Motion unanimously carried.

R. Complaint #2021-1760 (JC) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1760 (JC) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The respondent was the Listing Agent for the complainant (the Seller) but became a transaction broker for the transaction. During the real estate transaction, the Buyer did not qualify for the mortgage based on his debt-to-income ratio. The subject property was a single-family home with an apartment. The apartment had a Tenant that was paying rent to the Seller at the rate of \$1,200.00 a month. It was agreed by all parties (Seller, Buyer, Tenant) that the Tenant would continue renting after the Buyer closed on the property. A plan was devised by the parties with the knowledge and/or assistance of the respondent. That plan included creating a lease that would reflect a higher rent of \$1,500.00 a month, therefore creating a higher income for the buyer allowing him to qualify for the mortgage he needed to purchase the property. However, the higher rent was not being paid by the Tenant, but rather being paid by the Seller to the Buyer outside of closing. There was an email from the respondent explaining to all parties involved on how the distributions of funds should take place after closing, including instructing the Seller to Venmo the money to the Buyer (that money being the difference between \$1,200 and \$1,500 in monthly rent over the course of a year). The Mortgage Loan Originator states he was unaware that the lease created and emailed to him did not reflect the actual rent being paid by the Tenant. This exchange of funds was not represented on the settlement statement; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(g), C.R.S. - unworthy, incompetent practice;
 - b. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. 12-10-407(2)(c) Failing to exercise reasonable skill and care;
 - e. Commission Rule 6.19 - closing responsibility;
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The respondent's real estate broker's license shall be publicly censured;
- E. His real estate broker's license shall be revoked; and
- F. He shall pay a fine to the Commission in the amount of \$10,000.

Motion unanimously carried.

S. Complaint #2021-1969 (EF) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1969 (EF) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to

incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The respondent (Buyer's Broker) showed the complainant's listing (Listing Agent) outside of his scheduled showing time. The showing request for 2:00 pm was denied. The respondent then scheduled a showing for 5:00 pm. Shortly after 3:00 pm, the respondent made a request to show the property at that moment. Again, this request was denied by the Listing Agent due to the fact there were showings already scheduled at 3:00 pm and 3:30 pm. The respondent asked the broker who was scheduled at 3:30 pm if he could show the property while she waited for her clients and showed the property; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice; and
- C. The respondent's settlement offer includes a Stipulation for Diversion; and
- D. He shall pay a fine to the Commission in the amount of \$500.00.

Motion unanimously carried.

T. Complaint #2021-2004 (LJ) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-2004 (LJ) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The respondent was the buyer's agent on a property purchased by the complainant. The property was located in Clear Creek County and serviced by an OWTS also known as a septic system. The respondent drafted an amendment to the purchase contract that stated, "Seller shall provide at Seller's expense, a septic system certificate, as per the requirements of the county's septic program, which certificate shall be delivered to the Buyer on or before five days prior to Closing Date." The respondent did not assist the buyer in receiving the certificate prior to closing and did not appear to discuss with the buyer the options available to them when the certificate was not provided. Additionally, while the respondent did provide a Definitions of Working Relationships page to the buyer, she did not appear to have presented written disclosure to the buyer in the form of a Brokerage Disclosure to Buyer or Exclusive Right to Buy prior to discussing confidential information; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - b. § 12-10-404(1)(b), C.R.S. - reasonable skill and care;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - d. § 12-10-408 (2) C.R.S. - written disclosure prior to discussing confidential information; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall pay a fine to the Commission in the amount of \$2,500.00; and
- E. She will be required to successfully complete real estate education in OWTS (onsite waste water treatment) and in Contracts.

Motion unanimously carried.

U. Complaint #2021-2061 (JS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-2061 (JS) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The respondent was the listing broker on a property purchased by the complainant. The property was located in Clear Creek County and serviced by an OWTS also known as a septic system. The respondent drafted an amendment to the purchase contract that stated, "Seller shall provide at Seller's expense, a septic system certificate, as per the requirements of the county's septic program, which certificate shall be delivered to the Buyer on or before five days prior to Closing Date." The respondent did not assist the seller in providing the documents required by the terms of the amendment. Additionally, the respondent entered into an Exclusive Right to Sell Listing agreement with a seller which had no termination date; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - b. § 12-10-404(1)(b), C.R.S. - reasonable skill and care;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - d. Commission Rule E-11 - listing must have a termination date; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall pay a fine to the Commission in the amount of \$2,500.00; and
- E. He will be required to successfully complete real estate education in OWTS (onsite waste water treatment) and in Contracts.

Motion unanimously carried.

V. Complaint #2022-1212 (MVR) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1212 (MVR) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On 07/21/2022 the Division received a complaint from the personal representative for a decedent's estate. The complaint alleged that the respondent took advantage of an "at-risk" adult by entering into an agreement with him when he was of "questionable capacity and subject to coercion." The decedent was ill at the time of signing and died approximately 3 months later. After the decedent's death the respondent did not provide the personal representative with copies of the signed documents after multiple requests. The decedent received an unknown sum of money in exchange for an agreement including the following provisions: a 40-year term which allowed the respondent to list the property if the homeowner decided to sell. A memorandum was

recorded against the property and acted as a lien, and it also included an early termination fee of 3% of the purchase price or some other value as determined by the respondent if the homeowner listed with another broker; and

- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - b. § 12-10-217(1)(w), C.R.S. - dishonest dealing
 - c. Commission Rule 6.22 (B) - prohibited remedies for compensation;
 - d. Commission Rule 6.25 (2)(c) - must provided requested documents; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The respondent's license shall be publicly censured;
- E. The respondent's real estate broker's license shall be revoked; and
- F. The respondent shall pay a fine to the Commission in the amount of \$7,500.00.

Motion unanimously carried.

W. Complaint #2022-1031 (DP) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1031 (DP) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On June 21, 2022, the respondent self-reported discipline taken against his real estate license in the state of Iowa. On March 14, 2022, the respondent entered into a Consent Order with the Iowa Real Estate Commission. The respondent was ordered to pay a \$1,000.00 fine. All terms of the discipline have been completed; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(x), C.R.S. - license discipline in other jurisdiction;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - c. Commission Rule 6.23 - immediate notification of conviction, plea or violation required; and
- C. The respondent's settlement offer includes a Stipulation for Diversion; and
- D. The respondent shall pay a fine to the Commission in the amount of \$250.00.

Motion unanimously carried.

X. Complaint #2022-1018 (AW) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1018 (AW) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On June 17, 2022, the respondent self-reported discipline taken against his real estate license in the state of Iowa. On March 18, 2022, the respondent entered into a

Consent Order with the Iowa Real Estate Commission. The respondent was ordered to pay a \$500.00 fine. All terms of the discipline have been completed; and

- B. This is a possible violation of:
 - a. § 12-10-217(1)(x), C.R.S. - license discipline in other jurisdiction;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - c. Commission Rule 6.23 - immediate notification of conviction, plea or violation required; and
- C. The respondent's settlement offer includes a Stipulation for Diversion; and
- D. The respondent shall pay a fine to the Commission in the amount of \$250.00.

Motion unanimously carried.

Y. Complaint #2022-1322 (BB) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1322 (BB) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainant alleges that the respondent entered the complainant's listing on two separate occasions without first being given authorization; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall pay a fine to the Commission in the amount of \$500.00; and
- E. He will be required to successfully complete real estate education in Ethics.

Motion unanimously carried.

Z. Complaint #2022-1196 (CM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1196 (CM) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The respondent failed to have a fully executed Exclusive Right to Sell Listing Contract in place prior to listing the subject property in the MLS. Additionally, after listing in the MLS, the respondent failed to obtain Agreements to Amend/Extend Listing Contract on four separate list price reductions; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall pay a fine to the Commission in the amount of \$500.00; and
- E. He will be required to successfully complete real estate education in Contracts.

Motion unanimously carried.

AA. Complaint #2022-34 (BW) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-34 (BW) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainant said that she signed a purchase contract to sell her house to the respondent. She alleged that the respondent said he had a legal claim to the proceeds from the property, even though he was not on the title to her property. The complainant alleged that the respondent did not review the contracts with her and did not inform her of her rights as a seller. After she contacted an attorney, the contract was terminated. During the investigation, it was discovered that the respondent did not have an executed Broker Disclosure to Seller in his file, and he was acting as a transaction-broker for both parties on a property where he was the purchaser; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - c. Commission Rule 6.5- Brokerage Relationship Disclosures in Writing; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall pay a fine to the Commission in the amount of \$500.00; and
- E. He will be required to successfully complete real estate education in Brokerage Relationships and in Contracts.

Motion unanimously carried.

BB. Complaint #2021-1756 (AV) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1756 (AV) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. A buyer's broker filed a complaint against the respondent, who was the listing broker in the transaction, alleging that he did not respond to incomplete inspection repairs in a timely manner, that he did not disclose that he was part owner of the property, and that he advertised appliances that were several years old as being brand new. The investigation discovered that the respondent may have signed the seller's signature on several documents, including the Exclusive Right-to-Sell Listing Contract and the Contract to Buy-and-Sell Real Estate. The respondent began advertising the property in the MLS before an ERTS was executed; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;

- c. § 12-10-217(1)(a), C.R.S. - false advertising;
 - d. § 12-10-404(1)(b), C.R.S. -failed to exercise reasonable skill and care;
 - e. Commission Rule 6.14 (C) - listing must be in writing;
 - f. Commission Rule 6.17 - duty to disclose conflict of interest and license status; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
 - D. The respondent's license shall be publicly censured;
 - E. He shall pay a fine to the Commission in the amount of \$4,500.00. The Commission provides settlement authorization that verification of respondent's purchase of appliances for the consumer may be accepted in lieu of the fine imposed, by the Division or the AGO in settlement negotiations;
 - F. The respondent's real estate broker's license shall be suspended for a period of 6 months;
 - G. He will be required to successfully complete real estate education in Brokerage Relationships, Contracts and in Ethics; and
 - H. His real estate license shall be downgraded to an associate broker level for two years and he will be required to requalify for employing broker level status.

Motion unanimously carried.

CC. Complaint #x2022-105 (MC) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-105 (MC) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. This was a stipulation audit opened on 07/07/2022. The audit identified deficiencies in the broker's Recordkeeping and Trust Accounting requirements due to rental trust ledgers containing continued negative balances. It does appear that the broker has now brought the accounts and recordkeeping into compliance by eliminating the negative balances; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. Commission Rule 5.14 - recordkeeping requirements; and
- C. The respondent's settlement offer includes a Letter of Concern with Dismissal.

Motion unanimously carried.

LICENSING MATTERS:

Licensing Matter A - Complaint #2022-922 (EM) - Licensing Application -

The Commission considered this application for a real estate broker's license together with accompanying documentation and information supplied by the applicant.

CREC reviewed this application at their August meeting. At the time, the applicant had not provided documentation showing that restitution had been paid in full on the 1994 case. CREC

delayed a decision on the case until receiving additional information. The applicant provided documentation showing the restitution has been paid in full.

- In 1989, the applicant was convicted of Attempted Theft, a class 5 Felony. The applicant was sentenced to one year of probation, 60 days in jail, a fine of \$710.00, and ordered to pay restitution in the amount of \$7,484. Restitution has been paid in full.
- In 1992, the applicant was convicted of a Class 3 Misdemeanor - Issuance of Bad Checks. The applicant was sentenced to 6 months of unsupervised probation. The case is closed.
- In 1993, the applicant was convicted of Violation of Restraining Order, an Unclassified Misdemeanor. The fine has been paid in full. The case is closed.
- In 1997, the applicant was convicted of Harassment, a misdemeanor. The applicant has completed probation successfully and paid the fine in full. The case is closed.

It was moved by Commissioner Chang and seconded by Commissioner Lynde to approve the license application.

Motion unanimously carried.

Licensing Matter B - Complaint #2022-1268 (YB) - Preliminary Advisory Opinion -

The Commission considered this application for a preliminary advisory opinion for a real estate broker's license together with accompanying documentation and information supplied by the applicant.

On July 07, 2020, the applicant was convicted of Obstructing a Peace Officer and Harassment-Strike/Shove/Kick - both Misdemeanors. The applicant was sentenced to 2 years of probation and a fine of \$1,827.50. The applicant has successfully completed probation and has paid the fine in full. The case is closed.

It was moved by Commissioner Chang and seconded by Commissioner Lynde to issue a negative opinion.

Motion unanimously carried.

Licensing Matter C - Complaint #2022-1269 (XM) - Preliminary Advisory Opinion -

The Commission considered this application for a preliminary advisory opinion for a real estate broker's license together with accompanying documentation and information supplied by the applicant.

On March 20, 2019, the Colorado Nursing Board found probable cause to believe that the applicant violated section 12-38-117 (1), C.R.S., and issued a Letter of Admonition in accordance with section 12-38-116 (3)(c)(IV). There is public disciplinary action on her license for violations of the nurse practice act due to negligence, patient neglect, and recordkeeping errors.

It was moved by Commissioner Chang and seconded by Commissioner Lynde to issue a negative opinion.

Motion unanimously carried.

ESP MATTERS:

ESP Matter A, Complaint #2021-1825 (MR) - Stipulation Violation -

The Commission was presented with a Stipulation Violation report by Penny Elder regarding ESP Matter A, Complaint #2021-1825 (MF). After discussion, it was moved by Commissioner Chang and seconded by Commissioner Lynde to proceed with a stipulation violation of §12-10-217(1)(m), and seek a Final Agency Order, public censure and a fine in the amount of \$2,500.

Motion unanimously carried.

ESP Matter B, Complaint #x2022-17 (EK) - Counteroffer -

The Commission was presented with a counteroffer presented by Penny Elder regarding ESP Matter B, Complaint #x2022-17 (EK). After discussion it was moved by Commissioner Lynde and seconded by Commissioner Chang to offer alternative settlement direction of a Stipulation for Diversion, coursework in trust accounts, and the submission of compliant 3-way reconciliations for August and September 2022 with supporting documentation.

Motion unanimously carried.

ESP Matter C, Complaint #2022-495 (PG) - Update -

The Commission was presented with an update presented by Penny Elder regarding ESP Matter A, Complaint #2022-495 (PG). After discussion, it was moved by Commissioner Lynde and seconded by Commissioner Chang to proceed with a stipulation violation of §12-10-217(1)(m), and seek a Final Agency Order, public censure, maximum fines and revocation of the real estate broker's license.

Motion unanimously carried.

ATTORNEY GENERAL MATTERS:

A. Complaint #2020-1619 and x2021-25 (JB) - Counteroffer

It was moved by Commissioner Chang and seconded by Commissioner Lynde to defer this matter to the next meeting scheduled for December 6, 2022.

Motion unanimously carried.

B. Complaint #2021-1006 (KM) - Counteroffer

Following discussion, it was moved by Commissioner Chang and seconded by Commissioner Lynde to accept the counteroffer in Complaint #2021-1006 (KM) for a settlement offer of a Stipulation for Diversion to include successful completion of real estate education in Ethics, Brokerage Relationships and in Legal Issues.

Motion unanimously carried.

ADJOURN:

The Real Estate Commission adjourned out of their regular meeting at 11:25 a.m. on October 4, 2022.

Michelle Espinoza, Chair

ABSENT
Graham Kaltenbach, Vice Chair

Joe Chang, Commissioner

Renee Lynde, Commissioner

Absent
Kim Rediker, Commissioner

Marcia Waters, Director
Colorado Division of Real Estate