



COLORADO

Department of
Regulatory Agencies

Division of Real Estate

1560 Broadway, Suite 925
Denver, CO 80202-5111

MINUTES

COLORADO REAL ESTATE COMMISSION MEETING

December 3, 2024

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MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
December 3, 2024
Colorado Division of Real Estate
Meeting Conducted Via Webinar

A Colorado Real Estate Commission public meeting was conducted via Webinar and was held on December 3, 2024. Those Commissioners in attendance were Michelle Espinoza - Chair; Renee Lynde - Vice Chair; Erika Doyle; Autymn Rubal and Eriqueca Sanders. Also attending were Marcia Waters, Director; David Donnelly, Education, Communication and Policy Manager; Melissa Phipps, Senior Advisor; 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. Gina Simonson, Irina Grohne, and Zach Fitzgerald 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.

The meeting was conducted via Webinar. The meeting was called to order by Commissioner Espinoza - Chair, at 9:00 a.m.

CE Credit for Attending -

David Donnelly, Communication and Policy Manager, conducted a poll so that those attendees wishing to receive CE credit for attending the meeting could submit their request. Per Commission Rule 4.5H, CE credit will be granted for qualifying attendance at a Real Estate Commission meeting that lasts a minimum of two (2) hours.

ORDER OF BUSINESS

Approval of Minutes - October 1, 2024

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to approve the Minutes of October 1, 2024 as written.



CREC

Minutes_October 1, 2024

Commissioner Sanders recuses herself from voting. **Motion carried.**

NOTE: The Division welcomes Eriqueca Sanders to the Real Estate Commission. Ms. Sanders brings 20 years of industry experience. Welcome aboard!

EXECUTIVE SESSION:

At 9:06 a.m. it was moved, seconded and approved by more than two-thirds vote by the Commission that pursuant to §24-6-402(3)(a)(II), C.R.S., to convene the Colorado Real Estate Commission into Executive Session for the purpose of receiving legal advice pursuant to C.R.S.

§24-6-402(3)(a)(II) concerning disputes that are the subject of pending or imminent court action and/or for the purpose of receiving legal advice regarding:

- A. Complaint #2023-49 (JL) - Counteroffer
- B. Receive Legal Advice/Training Concerning Confidentiality and Ex Parte Communication
- C. Receive Legal Advice Concerning Assessment of Criminal Convictions
- D. Forms Global List

Motion unanimously carried.

Executive Session is conducted via Google Hangout Meeting.

The Commission adjourned out of Executive Session at 9:57 a.m. and resumes meeting via webinar that is open to the public.

ATTORNEY GENERAL MATTERS:

A. Complaint #2023-49 (JL) - Counteroffer

Following discussion in Executive Session, it was moved by Commissioner Lynde and seconded by Commissioner Doyle to approve the counteroffer as presented by legal counsel in Complaint #2023-49 (JL). The settlement offer includes a Final Agency Order, payment of a fine to the Commission in the amount of \$5,000 (plus mandatory 15% surcharge); and 16 total hours of coursework in Brokerage Administration and in Brokerage Relationships.

Motion unanimously carried.

POLICY MATTERS:

Forms Global List -

Director Marcia Waters presented the Forms Committee Global List. The Commission provided input and direction.

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 #2023-1210 (ML) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1210 (ML) 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 06/21/2023, the complainant filed Complaint No. 2023-1210 against the respondent stating the complainant was the seller in the transaction and the respondent represented the buyer. The complainant stated the respondent gave the buyer the lock box code to access the property without authorization. The respondent did ask the listing agent for access to the property to allow a contractor into the property. However, the respondent acknowledged that she gave the lock box code to the buyer instead of the contractor. The respondent acknowledged she should not have given the code to the buyer. The respondent stated the buyer did inform her that the seller was aware that the buyer had been given lock box code and that the listing agent had changed the code; 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 6.16 - access information - broker prohibited from sharing without authorization; and
- C. The respondent's settlement offer includes a Stipulation for Diversion; and
- D. She will be required to pay a fine to the Commission in the amount of \$500.

Motion unanimously carried.

B. Complaint #2023-1762 (AT) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1762 (AT) 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 9/06/23, the complainant filed Complaint 2023-1762 against the respondent stating that the respondent failed to provide the septic inspection report to the complainant's client in a timely manner. The complainant alleges that the respondent deliberately failed to share the inspection report with the buyer because the respondent's client told him not to until they received the "Acceptance Document" from the county which would detail if repairs were required on the septic by the county. The complainant continuously asked for the report and was continuously told by the respondent that the respondent would provide the report. The respondent did not actually provided the report until 2 days prior to closing. The respondent told the complainant on one occasion that there was nothing to worry about in the septic inspection report despite the report containing information that the tank was experiencing problems that would later require replacement of the tank. The "Acceptance Document" stated that the county was not requiring repairs to the system, but that the system had issues that needed to be addressed. The respondent acknowledged that his brokerage policy is to report/disclose information to relevant parties within 48 hours of receiving the information, but that the respondent did not discuss this with his client and the respondent did not seek guidance from his brokerage on this transaction. The complainant informed the respondent and his client, that the repairs required by the county are separate and different from his duty to disclose adverse material facts known to him including the information identified in the inspection report; 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. § 12-10-404(3)(a), C.R.S. - single agent engaged by seller - failure to disclose adverse material facts; and
- 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. He will be required to pay a fine to the Commission in the amount of \$5,000; and
- F. He will be required to successfully complete real estate education in Brokerage Relationships and in Ethics.

Motion unanimously carried.

C. Complaint #x2024-6 (AT) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2024-6 (AT) 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. The broker engages in sales, long term rentals (255 doors) and short-term (20 doors) rentals, holding money belonging to others for both the long- and short-term rental business. For the long-term rental account, the reconciliations appear to show substantial negative balances and the reconciliation for the short-term rentals did not include a ledger and updated requests excluded the short-term reconciliation all together. Initial Signature Cards indicated that the respondent (the ER) did not have access to the trust funds, but that was corrected during the audit. Despite initially affirming that no markups were occurring on maintenance, the audit determined that one vendor's invoices were consistently marked and receipts for materials were not obtained or retained. The brokerage was using more than one DBA for the company and/or utilizing a team name that does not appear to comply. Lastly, it appears that the BDT has not been provided in advance of receiving confidential information; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(l), 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. § 12-10-217(1)(m), C.R.S. - failure to account for funds received;
 - d. Commission Rule 5.9 - diversion, conversion prohibited;
 - e. Commission Rule 5.14 - recordkeeping requirements;
 - f. Commission Rule 6.10 - advertising;
 - g. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - h. Commission Rule 5.17 - mark-ups, must obtain prior written; 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 \$2,500;
- E. He will be required to successfully complete real state education in Trust Accounts; and
- F. The respondent will be required to submit to two follow-up audits in the next 12 months.

Motion unanimously carried.

D. Complaint #x2024-23 (FG) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2024-23 (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 signed a stipulation, requiring two follow-up audits within in two years. During the course of the audit, the respondent was given opportunities to provide evidence of having compliant trust accounts, and the accounts continue to be non-fiduciary in nature. Radon Disclosures, BDT and BDA were not being provided, but during the course of the audit, the respondent provided evidence of correction. E&O deductibles were not within the allowed limits but was corrected during the audit. The brokerage was not using the registered DBA but has made some corrections in that area. Attorney drafted forms did not have the required disclosures, but most of the forms have been updated. The Radon Disclosure appears to be a generic form drafted by a licensed Colorado attorney for the "landlord" but not the specific brokerage. The respondent did not provide a copy of the request costs associated with their RBP plan, so the investigator was unable to determine if markups existed. There were additional billing and trust account anomalies, but no indication of a pattern of markups or trust account variances. The following needs to be corrected by the second audit:
 - 1. Advertising needs to be done in the name of the DBA;
 - 2. Broker needs to provide the auditor with information regarding how property showings are managed, who is performing maintenance and who verifies the condition of the rental properties;
 - 3. Radon disclosure must comply with 7.1.B or 7.1.E;
 - 4. Provide supporting documentation to the Commission when fees are charged that are not consistent with the amounts stated in the lease or property management agreement; and
 - 5. Provide the documents requested by the examiner regarding the RPM agreements; 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. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
 - d. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - e. Commission Rule 7.1 - standard forms;
 - f. Commission Rule 6.10 - advertising;
 - g. Commission Rule 5.14 - recordkeeping requirements; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent will be required to pay a fine to the Commission in the amount of \$2,500;

- E. He will be required to successfully complete real estate education in Trust Accounts and in Contracts; and
- F. The respondent will be required to submit to a follow-up audit within 6 months pursuant to the original stipulation.

Motion unanimously carried.

E. Complaint #2024-1425 (AA) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-1425 (AA) 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 a rental property owner of twenty-three (23) properties managed by the respondent, alleged that he did not receive his rental proceeds and/or the accounting records for the month of June 2024. The investigation found potential violations related to trust accounts, 3-way reconciliations, commingling, and license status disclosure; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - 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 6.2 - competency - must possess experience, training and knowledge;
 - f. 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. The respondent will be required to pay a fine to the Commission in the amount of \$5,000 and
- 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.

F. Complaint #2024-1563 (MD) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-1563 (MD) 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 07/25/2024, the respondent pled guilty to Child Abuse - Knowing/Reckless - Bodily Injury, a Class 1 Misdemeanor and Vehicular Assault - DUI Added, a Class 4 Felony. The

respondent has been ordered to pay \$708.50, which has not been paid. The respondent was ordered to complete 5 years of unsupervised probation, which is ongoing; and

- B. This is a possible violation of:
 - a. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes;
 - b. § 12-10-217(1)(p), C.R.S. - failure to immediately notify CREC;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. Commission Rule 6.23 - immediate notification of conviction, plea or violation required; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent will be required to pay a fine to the Commission in the amount of \$500; and
- E. Her real estate broker's license shall be on probation concurrent with the criminal sentence.

Motion unanimously carried.

G. Complaint #2024-1367 (SH) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-1367 (SH) 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 is a Colorado Real Estate licensee, alleges that the respondent is operating his brokerage in an unethical manner and committing fair housing violations and entry only real estate services. The fair housing violations were not supported, but the respondent appears to have violations pertaining to minimum service requirements, brokerage relationships, disclosure documents, standards forms, and the collection and retention of mandatory sales transaction real estate documents; 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. § 12-10-217(1)(k), C.R.S. - failure to maintain files for 4 years;
 - d. § 12-10-405 C.R.S. - single agent engaged by buyer;
 - e. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - f. Commission Rule 7.1 - standard forms; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. He will be required to pay a fine in the amount of \$4,000 to the Commission;
- E. He will be required to successfully complete real estate education in Brokerage Relationships and in Contracts; and
- F. The respondent's real estate broker's license shall be downgraded to associate broker level requiring a high level of supervision for two years.

Motion unanimously carried.

H. Complaint #2024-1564 (TA) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-1564 (TA) 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 13, 2024, the respondent pled guilty to Assault 3 - Knowingly Causing Injury, a class 1 misdemeanor. The respondent was ordered to complete 12 months of supervised probation and to pay \$813.50 which has been paid in full; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. § 12-10-217(1)(p), C.R.S. - failure to immediately notify CREC;
 - d. Commission Rule 6.23 - immediate notification of conviction, plea or violation required; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He will be required to pay a fine in the amount of \$500 to the Commission; and .
- E. His real estate broker's license shall be on probation concurrent with the criminal sentence.

Motion unanimously carried.

NOTE: Complaint I - #2023-2510 (AH) was removed from the Commission's consideration.

J. Complaint #2024-1674 (BM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-1674 (BM) 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 09/13/2024, the respondent pled guilty to a Class 1 Misdemeanor - Assault 3 - Know/Reckless Cause Injury. He was sentenced with supervised probation for 12 months and court fines and fees in the amount of \$844.50 that have been paid in full; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes; 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 \$250; and
- E. His real estate broker's license shall be on probation concurrent with the criminal sentence.

Motion unanimously carried.

K. Complaint #2024-1743 (YV) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-1743 (YV) 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 is the listing broker for the subject property, alleges that respondent provided to her buyer the lockbox code that the buyer utilized to enter the subject property without the respondent in attendance for the scheduled showing; 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 6.16 - access information - broker prohibited from sharing without prior authorization; and
- C. The respondent's settlement offer includes a Stipulation for Diversion; and
- D. She will be required to pay a fine in the amount of \$500 to the Commission.

Motion unanimously carried.

L. Complaint #2023-2377 (TW) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-2377 (TW) 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, who was both the listing broker and selling broker, was aware at the time he purchased his property that the subdivision which was developed by the respondent had no drainage system. The complainant also alleges that the respondent was aware at the time he purchased his property that the subdivision would flood due to the lack of drainage system. Further, the complainant alleges that the respondent, as a town Board of Trustee member, was aware that the town had vetoed plans to fix the drainage problems that were caused by the respondent during development of the subdivision. Additionally, the investigation found that the respondent may have violated the Rules identified below; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. § 12-10-217(1)(k), C.R.S. - failure to maintain files for 4 years;
 - d. Commission Rule 6.3 - employing broker's responsibilities and supervision;
 - e. Commission Rule 6.4 - brokerage firm's policies;
 - f. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - g. Commission Rule 6.6 - brokerage relationships - listing contract or written disclosure required;
 - h. Commission Rule 6.7 - brokers or teams working with consumers on both sides of the same transaction;

- i. Commission Rule 6.17 - duty to disclose conflict of interest and license status;
 - j. Commission Rule 6.20 - transaction file requirements; and
- 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. She will be required to pay a fine in the amount of \$7,500 to the Commission; and
- F. She will be required to successfully complete real estate education in Brokerage Relationships and in Contracts;
- G. The respondent's real estate broker's license shall be downgraded to associate broker level requiring a high level of supervision for two years.

Motion unanimously carried.

M. Complaint #2023-502 (XL) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-502 (DL) 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 when he fell behind on his rent, he and the respondent (who is the property manager and owner) agreed that he would bring the lease current by paying rent and late fees for October, November and December 2022 in the amount of \$1,400. The complainant would also prepay three months' rent in the amount of \$1,200. The complainant gave the respondent \$2,600 in cash. The complainant alleged that the respondent told him that the prepaid rent would be returned to him on a prorated basis once the respondent found a new tenant. The respondent denies she said the money would be returned. The complainant alleged that the respondent rented his unit right away and refused to return his three months of prepaid rent. Finally, the complainant alleged that the respondent failed to return his \$325 security deposit or provide him with an accounting of his security deposit. The investigation noted the potential violations that the respondent: Failed to ensure the agreement between the complainant and the respondent was in writing; Failed to maintain funds of others in a trust account; Commingled funds of others by keeping security deposits in an operating account; Continued to commingle funds with the security deposit funds once security deposit funds were moved into their own account; Engaged in real estate brokerage under a company name she was not licensed under; Failed to disclose to tenants, in writing, that she is the owner of the building and a licensed real estate broker, and Failed to establish in writing her brokerage relationship with tenants; and
- B. This is a possible violation of:
 - a. § 12-10-203(9), C.R.S. - conduct business under licensed name;
 - b. § 12-10-408(2)(c)(l), C.R.S. - brokerage disclosure in writing;
 - c. § 12-10-217(1)(g), C.R.S. - failure to timely place deposit funds;
 - d. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - e. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds;
 - f. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;

- g. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
- h. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
- i. Commission Rule 5.3 - accounts in name of brokerage firm or broker;
- j. Commission Rule 5.5 - trust or escrow required for rental receipts and security deposit;
- k. Commission Rule 5.7 - time limits for deposit of money belonging to others;
- l. Commission Rule 5.10 - commingling prohibited;
- m. Commission Rule 5.11 - security deposits for broker's own property must be placed in trust;
- n. Commission Rule 6.5 - brokerage relationship disclosures in writing;
- a. Commission Rule 6.14 (A)(1)- contracts must accurately reflect financial terms of transaction;
- b. 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 real estate broker's license shall be publicly censured;
- E. The respondent shall be required to pay a fine to the Commission in the amount of \$7,500; and
- F. She will be required to successfully complete real estate education in Trust Accounts, Property Management and in Contracts.

Motion unanimously carried.

N. Complaint #2024-1567 (LM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-1567 (LM) 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 February 11, 2024, the Thornton Police Department was dispatched to the home of the respondent's mother and stepfather. On June 12, 2024, the respondent pled guilty to Assault 3-know/reckless Cause Injury, a class 1 misdemeanor in Adams County, Colorado. The respondent was sentenced to 1 year of probation and court costs and fees. The conviction is deferred and the probation is ongoing; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes;
 - b. § 12-10-217(1)(p) C.R.S. - failure to immediately notify CREC;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. Commission Rule 6.23 - immediate notification of conviction, plea or violation required; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. She shall be required to pay a fine to the Commission in the amount of \$500; and
- E. The respondent's real estate broker's license shall be on probation concurrent with the criminal probation.

Motion unanimously carried.

O. Complaint #2024-1868 (AW) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-1868 (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 March 2, 2024, the Parker, Colorado Police Department responded to a domestic violence report at the respondent's residence. The respondent had punched her husband in the face during an altercation over a cell phone. The respondent was disciplined in 2017 for assault and failure to report a conviction to the Colorado Real Estate Commission. In 2019, the respondent completed the terms of the stipulated agreement; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall be required to pay a fine to the Commission in the amount of \$500; and
- E. Her real estate broker's license shall be on probation concurrent with criminal probation.

Motion unanimously carried.

P. Complaint #2023-2492 (ST) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-2492 (ST) 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 (tenant) alleges that the respondent (property manager) improperly disposed of her personal property after the complainant and her roommates vacated the property 11 days prior to the end of the term of the lease. The rent had been paid in full. The respondent was timely notified that the complainant would be returning prior to the end of the term of the lease to retrieve her property. The complainant says that when she went to retrieve her belongings, the locks had been changed so she could not enter the property. The respondent notified the complainant 5 days prior to the end of the term of the lease that her belongings had been "tossed"; and
- B. This is a possible violation of:
 - a. § 12-10-404(b), C.R.S. - skill and care;
 - b. § 12-10-217(1)(q) C.R.S. - unworthy, incompetent practice;
 - c. § 12-10-217(1)(m) C.R.S. - violation of any Commission rule or part 4; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;

- D. The respondent shall be required to pay a fine to the Commission in the amount of \$1,500; and
- E. She will be required to successfully complete real estate education in Property Management.

Commissioner Doyle is opposed. **Motion carried.**

Q. Complaint #2024-1238 (PT) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-1238 (PT) 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's allegations were failure to represent the client's best interests, dishonest dealing, failure to account for documents, and making substantial misrepresentations in the transaction for the property located in Bailey, CO. There did appear to be merit for some of these allegations. The respondent was the sole broker in this transaction and failed to properly disclose the various brokerage relationships to either party. It was the complainant's understanding that the respondent was acting as a buyer's agent. The seller also believed that the respondent was representing the buyer because she had not signed a listing agreement. Her previous listing agreement with another broker had expired prior to the offer written by the respondent on behalf of the buyers; 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. § 12-10-408(2)(b), C.R.S. - exercise reasonable skill and care as a transaction broker;
 - d. § 12-10-407(3), C.R.S. - information not to be disclosed by transaction broker without approval;
 - e. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - f. Commission Rule 7.4.B. - prohibited provisions - compensation in additional provisions; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall be required to pay a fine to the Commission in the amount of \$2,500; and
- E. He will be required to successful complete real estate education in Brokerage Relationships and in Contracts.

Motion unanimously carried.

R. Complaint #2024-1333 (TR) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-1333 (TR) 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 5, 2024, the respondent pled guilty to Violation of Protection Order - Civil, a class two misdemeanor. The respondent was ordered to pay a \$326.00 fine. The court confirmed that the fine has been paid. The respondent has failed to provide a response to the Division's notification letter and final notice to comply; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes;
 - b. § 12-10-217(1)(p) C.R.S. - failure to immediately notify CREC;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. Commission Rule 6.25 - must submit written response to complaint;
 - e. 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. He shall be required to pay a fine to the Commission in the amount of \$750.

Motion unanimously carried.

S. Complaint #2024-250 (SO) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-250 (SO) 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 news article alleged the theft of HOA monies by the respondent who was the designated agent for 12-15 HOAs. These HOA's alleged that the respondent falsified bank documents, billed for services not done, double-billed, and stole money from the HOA's. Law enforcement seized all of the respondent's and her brokerage's documents, records, computers, and cell phones which prevented the respondent from providing necessary documents for this investigation. Bank records and statements for bank accounts associated with the respondent and her brokerage were obtained via subpoenas. A review of the accounts appears to show a pattern of misappropriation of funds. Over 2 years, the respondent appears to have moved approximately \$214K of HOA money among 8 different HOA bank accounts. Additionally, \$312K of HOA money was electronically transferred to the respondent's brokerage accounts with minimal to no explanation. The respondent appears to have double-billed management fees to at least 3 HOAs. Eight out of 15 HOAs didn't have access to their own accounts. The respondent wrote checks to herself directly from HOA accounts and a large volume of checks were written to her affiliated company for various management services, which appears to have been a source of the double-billing. Also, the bank statements for the accounts used for property management show several instances where security deposit money was transferred into the rental account to cover owner payments due to insufficient funds only to be transferred back a few days later. On 10/27/24, the respondent was charged with five counts of felonies involving theft between \$100,000

and \$1,000,000, cybercrime, check fraud, and money laundering. The respondent turned herself into the authorities on 10/29/24. Trial is pending; and

- B. This is a possible violation of:
 - a. § 12-10-217(1)(l), 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. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - d. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - e. Commission Rule 5.9 - diversion, conversion prohibited; and
- 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. The respondent's real estate broker's license shall be revoked; and
- F. She shall be required to pay a fine to the Commission in the amount of \$10,000, or the maximum allowable.

Motion unanimously carried.

T. Complaint #x2024-9 (JB) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2024-9 (JB) 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 news article alleged the theft of HOA monies by a licensed associate supervised by the respondent. These HOAs alleged that the respondent's associate (and daughter) falsified bank documents, billed for services not done, double-billed, and stole money from the HOAs. Law enforcement seized all of the respondent's brokerage's documents, records, computers, and cell phones which prevented the respondent from providing necessary documents for this audit. Bank records and statements for bank accounts associated with the respondent and the brokerage were obtained via subpoenas. A review of the accounts appears to show a pattern of misappropriation of funds. The respondent and/or his associate appeared to move \$214K of HOA money among 8 different HOA bank accounts. Additionally, \$312K of HOA money was electronically transferred to the respondent's brokerage accounts with minimal to no explanation. The respondent appears to have double-billed management fees to at least 3 HOAs. Eight out of 15 HOAs didn't have access to their own accounts. Under the respondent's supervision, his associate wrote checks to herself directly from HOA accounts and a large volume of checks were written to their affiliated company for various management services, which appears to have been a source of the double-billing. Also, the bank statements for the accounts used for property management show several instances where security deposit money was transferred into the rental account to cover owner payments due to insufficient funds only to be transferred back a few days later. On 10/27/24, the respondent was charged with five counts of felonies involving theft between \$100,000 and \$1,000,000, cybercrime, check fraud, and money laundering. The respondent's associate turned herself into the authorities on 10/29/24. Trial is pending; 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)(l), 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)(q), C.R.S. - unworthy, incompetent practice;
 - e. § 12-10-217(1)(r), C.R.S. - failure to supervise associates;
 - f. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - g. Commission Rule 5.9 - diversion, conversion prohibited;
 - h. Commission Rule 5.22 - employing or independent broker responsible for firm's compliance with Chapter 5 rules;
 - i. Commission Rule 6.3 - employing broker's responsibilities and supervision; and
- 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. The respondent's real estate broker's license shall be revoked; and
 - F. He shall be required to pay a fine to the Commission in the amount of \$20,000, or the maximum allowable.

Motion unanimously carried.

LICENSING MATTERS:

Licensing Matter A - Complaint #2024-1701 (KN) - 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 January 25, 1999, the applicant entered into a Voluntary Cessation of Practice Agreement and Order with the Colorado Board of Pharmacy.

On July 12, 2001, the applicant entered into a Stipulation and Final Agency Order with the Colorado Board of Pharmacy. The applicant stipulated to a three-month license suspension and a probationary period of three years.

On August 3, 2004, the applicant entered into a Stipulation and Final Agency Order with the Colorado Board of Pharmacy. The stipulation called for a six-month license suspension, five years of Board probation, five years of Peer Assistance Services and license restriction. Board probation for this case was violated.

On January 4, 2011, the applicant entered into a Stipulation and Final Agency Order with the Colorado Board of Pharmacy. The applicant agreed to a relinquishment of license with no reapplication for two years; relinquishment to be treated as revocation; and cease work in a pharmacy outlet, wholesale outlet or other pharmaceutical business.

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to issue a positive opinion.

Motion unanimously carried.

ESP MATTERS:

ESP Matter A, Complaint #2024-963 (TB) - Stipulation Violation -

The Commission was presented with a stipulation violation report by Penny Elder, ESP Program Manager, regarding ESP Matter A, Complaint #2024-963 (TB). Following discussion, it was moved by Commissioner Lynde and seconded by Commissioner Doyle to proceed with a violation of § 12-10-217(1)(m), C.R.S. to include a Final Agency Order, public censure; and a fine in the amount of \$2,500 (plus mandatory 15% surcharge).

Motion unanimously carried.

ADJOURN:

The Real Estate Commission adjourned out of their regular meeting at 12:10 p.m. on December 3, 2024.

Michelle Espinoza, Chair

Renee Lynde, Vice Chair

Erika Doyle, Commissioner

Autymn Rubal, Commissioner

Eriqueca Sanders, Commissioner

**Marcia Waters, Director
Colorado Division of Real Estate**