



COLORADO

Department of
Regulatory Agencies

Division of Real Estate

1560 Broadway, Suite 925
Denver, CO 80202-5111

MINUTES

COLORADO REAL ESTATE COMMISSION MEETING

December 6, 2022

MINUTES - INDEX

	<u>PAGE</u>
ADJOURN	19
ATTORNEY GENERAL MATTERS:	
A. Complaint #2020-1619 & x2021-25 (JB)	19
B. Complaint #2022-20 (EL)	19
C. Complaint #2022-21 (CB)	19
COMPLAINT MATTERS:	
A. Complaint #2021-1661 (JF)	4
B. Complaint #2021-1913 (AM)	5
C. Complaint #2021-2132 (JF)	5
D. Complaint #2021-1543 (SH)	6
E. Complaint #x2022-115 (SK)	7
F. Complaint #2022-1632 (SA)	7
G. Complaint #2022-593 (RW)	8
H. Complaint #2022-693 (AW)	8
I. Complaint #2022-1619 (BE)	9
J. Complaint #2022-540 (FZ)	9
K. Complaint #2022-170 (CM)	10
L. Complaint #2021-2104 (GS)	10
M. Complaint #2022-1362 (DC)	10
N. Complaint #2022-147; #2022-254; #2022-271; #2022-343; #2022-935; & #2022-1432 (AG)	11
O. Complaints #2021-2144 (RY)	12
P. Complaint #2022-178 (CH)	13
Q. Complaint #2022-181 (KB)	13
R. Complaint #2022-1577 (SD)	14
S. Complaint #2022-1578 (AF)	14

EXECUTIVE SESSION	18
EXPEDITED SETTLEMENT MATTERS (ESP)	
A. Complaint #2021-1896 (B)	18
B. Complaint #2021-2110 (MW)	18
LICENSING MATTERS:	
A. Complaint #2022-1473 (BM) - License Application	15
B. Complaint #2022-1671 (EJ) - License Application	15
C. Complaint #2022-1742 (JP) - License Application	16
D. Complaint #2022-1723 (ET) - Preliminary Advisory Opinion	16
E. Complaint #2022-1670 (CM) - License Application	16
F. Complaint #2022-1778 (TS) - Preliminary Advisory Opinion	17
G. Complaint #2022-1784 (YQ) - Preliminary Advisory Opinion	17
MINUTES - APPROVAL	
October 4, 2022	3
POLICY MATTERS:	
A. Forms Global List	3
B. Alan Stein Retirement	4
C. Security Deposit Options	4

MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
December 6, 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 December 6, 2022. Those Commissioners in attendance were Michelle Espinoza - Chair; Graham Kaltenbach - Vice Chair; Joe Chang; Renee Lynde; and Kim Rediker. 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 - October 4, 2022

It was moved by Commissioner Lynde and seconded by Commissioner Chang to approve the Minutes of October 4, 2022 as written.



CREC

Minutes_October 4, 2022

Commissioner Kaltenbach and Commissioner Rediker abstain from voting. **Motion carried.**

POLICY MATTERS:

A. Forms Global List -

It was moved by Commissioner Rediker and seconded by Commission Lynde to authorize the Forms Committee to proceed with working on three specific forms - Manufactured Housing Form; Earnest Money Release Form and an Addendum to Sellers Property Disclosure Form as discussed.

Motion unanimously carried.

B. Alan Stein Retirement from Forms Committee -

The Commission thanks Alan Stein for his commitment and 38-year service on the Forms Committee and wish him well in his next endeavors.

C. Security Deposit Options -

Commissioner Lynde introduced the topic of security deposit options for Commission discussion.

Agenda Items for Next Meeting - None

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 #2021-1661 (JF) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1661 (JF) 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. On 10/08/2021, Complaint No. 2021-1661 was filed anonymously against the respondent stating that the respondent was operating an unlicensed property management company. At the time of the complaint, the respondent was licensed under a brokerage where her sales transactions were handled but was also operating a separate unlicensed property management company. The respondent stated the reason she operated her property management company without a license for 10-years is because she received information from a now former Division staff member who told her she did not need to license her property management company under certain exemptions. However, the respondent did license the property management company after the complaint was brought to her attention. The property management company was licensed as of 01/18/2022. Additionally, the respondent was not providing brokerage disclosures to owners or tenants but is now doing so. Furthermore, the respondent was not holding money belonging to others in trust accounts nor was she performing monthly accounting or reconciliations of the funds. However, the respondent has since provided documentation showing that the accounts are now set up as trust accounts and she provided 3-way reconciliations for July and August 2022 for both trust accounts which appear compliant; 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)(g), C.R.S. - failure to timely place deposit funds;
 - c. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - a. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
 - b. Commission Rule 5.14 - recordkeeping requirements;
 - c. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - d. Commission Rule 6.10.A. - advertising; 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 \$1,000; and
- E. She will be required to successfully complete real estate education in Property Management and in Trust Accounts.

Motion unanimously carried.

B. Complaint #2021-1913 (AM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1913 (AM) 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. On 11/05/2021, Complaint No. 2021-1913 was filed against the respondent on behalf of CREC in direct relation to Complaint No. 2021-1661. The investigation found that the respondent allowed a broker associate to manage an unlicensed property management company while licensed under his brokerage. The respondent acknowledged that he allowed the broker associate to perform property management with the understanding that her property management company was exempt from needing a real estate license. The respondent was never involved in or compensated for the activities of the unlicensed property management company. Upon being notified of the license requirement, the respondent had the broker associate transfer their license over to the newly licensed property management company; 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 per Rule E-31;
 - c. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
 - d. Commission Rule 5.3 - accounts in name of brokerage firm or broker;
 - e. Commission Rule 5.14 - recordkeeping requirements;
 - f. Commission Rule 6.2 - competency - must possess experience, training and knowledge;
 - g. Commission Rule 6.3 - employing broker's responsibilities and supervision; 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 \$500; and
- E. The respondent will be required to successfully complete real estate education in Brokerage Administration.

Motion unanimously carried.

C. Complaint #2021-2132 (JF) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-2132 (JF) 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 12/10/2021, the complainant filed Complaint No. 2021-2132 against the respondent stating the respondent sign crossed on a transaction that the complainant had active listing agreements and brokerage relationships with both the seller and buyer of the property. The respondent states that she entered into an exclusive right to sell agency agreement with the seller after he told her that he had terminated his previous listing with his first agent. However, the respondent admits that she did not ask the buyer if she was in a brokerage relationship with another broker before she presented the buyer with and entered into an exclusive right to buy contract as a transaction broker. The respondent stated she takes responsibility and will ensure that in all future transactions she will get termination in writing from the other parties; 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 6.15 - sign crossing; 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 \$1,000; and
- E. The respondent will be required to successfully complete real estate education in Ethics.

Motion unanimously carried.

D. Complaint #2021-1543 (SH) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1543 (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 complaint states that the respondent was hired by the complainants as their agent, to manage their rental property. The complaint alleges that the respondent failed in his fiduciary duties to protect their rental property because he failed to conduct a valid background/credit check on the applicants/tenants and failed to perform a property inspection when initially requested. After a property inspection was ultimately performed, the property tested positive for methamphetamine and was condemned by the city and the tenants were evicted. Currently, the property is still not habitable, and the respondent and his DBA settled with the complainants.
- B. after a lawsuit was filed; and
- C. 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(1)(b), C.R.S. - single-agent duties - exercise reasonable skill and care;
 - d. Commission Rule F-1(B) - standard forms; and
- D. The respondent's settlement offer includes a Stipulation for Diversion;
- E. He will be required to successfully complete real estate education in Brokerage Relationships and in Property Management; and

- F. The respondent's real estate broker's license shall be on probation for a period of two years.

Motion unanimously carried.

E. Complaint #x2022-115 (SK) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-115 (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. On 10/08/2021, Complaint No. 2021-1661 was filed anonymously against the respondent stating that the respondent was operating an unlicensed property management company. At the time of the complaint, the respondent was licensed under a brokerage where her sales transactions were handled but was also operating a separate unlicensed property management company. The respondent stated the reason she operated her property management company without a license for 10-years is because she received information from a now former Division staff member who told her she did not need to license her property management company under certain exemptions. However, the respondent did license the property management company after the complaint was brought to her attention. The property management company was licensed as of 01/18/2022. Additionally, the respondent was not providing brokerage disclosures to owners or tenants but is now doing so. Furthermore, the respondent was not holding money belonging to others in trust accounts nor was she performing monthly accounting or reconciliations of the funds. However, the respondent has since provided documentation showing that the accounts are now set up as trust accounts and she provided 3-way reconciliations for July and August 2022 for both trust accounts which appear compliant; 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 5.2 - money belonging to others must be deposited in trust or escrow;
 - c. Commission Rule 5.3 - accounts in name of brokerage firm or broker;
 - d. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - e. Commission Rule 6.17 - duty to disclose conflict of interest and license status;
 - f. 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 \$1,000; and
- E. He will be required to successfully complete real estate education in Property Management and in Trust Accounts.

Motion unanimously carried.

F. Complaint #2022-1632 (SA) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1632 (SA) 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. During the investigation of Complaint No. 2022-593, it was discovered that the respondent co-represented the seller of the subject property. In Complaint No. 2022-593, the buyer discovered water damage to the master bedroom subfloor after closing. The buyer alleges that the respondent failed to disclose a water leak that her seller informed her of shortly after listing the property; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - b. § 12-10-404(3)(a), C.R.S. - failure to disclose material fact - seller's agent;
 - 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. She will be required to pay a fine to the Commission in the amount of \$1,000; and
- E. She will be required to successfully complete real estate education in Ethics.

Motion unanimously carried.

G. Complaint #2022-593 (RW) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-593 (RW) 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 buyer of the subject property, discovered water damage to the master bedroom subfloor after closing. The complainant alleges that the respondent failed to disclose a past water leak that her seller informed her of shortly after listing the property; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - b. § 12-10-404(3)(a), C.R.S. - failure to disclose material fact - seller's agent;
 - 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. She shall pay a fine to the Commission in the amount of \$1,000; and
- E. She will be required to successful complete real estate education in Ethics.

Motion unanimously carried.

H. Complaint #2022-693 (AW) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-693 (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. The complainant was represented by the respondent in both the sale of the complainant's property and in the purchase of the respondent's property. The respondent failed to provide contingency language and a Conditional Sale Deadline for the sale of the complainant's property. Additionally, the respondent failed to amend several deadlines, as well as the Exclusive Right to Sell Listing Contract and the Exclusive Right to Buy Listing contract upon expiration; 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. § 12-10-407(1)(b), C.R.S. - exercise reasonable skill and care as a transaction broker;
 - c. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. She shall pay a fine to the Commission in the amount of \$1,000; and
- E. She will be required to successfully complete real estate education in Brokerage Relationships and in Contracts.

Motion unanimously carried.

I. Complaint #2022-1619 (BE) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1619 (BE) 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 pled guilty to four felonies for vehicular assault and vehicular homicide on 10/14/2022. The respondent was sentenced to 18 years in the Department of Corrections, 13 years parole upon release and court costs/fees in the amount of \$1,873.50. Additionally, restitution has been reserved on an ongoing basis; 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; and
- D. He will be required to pay a fine to the Commission in the amount of \$250.

Motion unanimously carried.

J. Complaint #2022-540 (FZ) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-540 (FZ) 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 arrived at her broker-owned listing during a showing to find a buyer struggling with the lock box. She approached the buyer, who explained that her real estate broker, the respondent, gave her the lock box code. The respondent acknowledged that she gave the lock box code to her buyer because she was running late from a different showing appointment; 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 6.16 - access information - broker prohibited from sharing without prior authorization; 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; and
- E. She will be required to successfully complete real estate education in Ethics.

Motion unanimously carried.

K. Complaint #2022-170 (CB) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-170 (CB) 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 complaint alleged that the respondent, who was the listing broker, did not disclose adverse material facts known to her. According to the complainants, who purchased the subject property, they were told after closing that a home inspection report existed that was not provided to them. The complainants said that if they had seen that report, they would not have purchased the property because it indicated that the property had major issues. During the investigation, it was also discovered that the respondent may not have properly disclosed her brokerage relationship with the buyer and the seller when she represented both parties. It was also discovered that the respondent did not sign two contract 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. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - d. Commission Rule 6.9 - change of status disclosure 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 \$2,000;
- E. She will be required to successfully complete real estate education in Brokerage Relationships and in Ethics.

Motion unanimously carried.

L. Complaint #2021-2104 (CM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-2104 (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 buyer's broker for a successful transaction filed a written complaint against the listing broker, who was a broker-owner for the property, alleging that he misrepresented the status of contracted repair work, was dishonest in his dealings, refused to communicate with him, did not provide documentation for changing title companies, and did not complete the repair items that he agreed to correct on the Inspection Resolution. The respondent did not respond to the Real Estate Commission's multiple requests for missing response documents and did not respond to multiple requests for an interview. During the investigation, it was discovered that the respondent may have been practicing real estate while his license was inactive; 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)(c), C.R.S. - deliberate misrepresentation/false promise;
 - d. Commission Rule 5.21 - production of documentation and records;
 - e. Commission Rule 6.17 - duty to disclose conflict of interest and license status;
 - f. Commission Rule 6.25 must submit written response to complaint;
 - g. Commission Rule 6.26 - actions when license suspended, revoked, expired or inactive; 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 public censured;
- E. The respondent's real estate broker's license shall be revoked; and
- F. He shall pay a fine to the Commission in the amount of \$15,000.

Motion unanimously carried.

NOTE: Complaint M. #2022-1362 (DC) was removed from the Commission's consideration.

N. Complaints #2022-147; #2022-254; #2022-271; #2022-343; #2022-935; & #2022-1432 (AG) -

The investigative reports concerning complaints filed against the respondent in Complaints #2022-147; #2022-254; #2022-271; #2022-343; #2022-935; & #2022-1432 (AG) - were 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 Colorado Division of Real Estate received six complaints against the respondent, an employing broker, alleging that the respondent was providing MLS 'entry only'

service, not performing minimum required brokerage duties, and using non-Commission approved forms. The investigation found that the respondent was using non-Commission approved listing contracts, did not assist clients with contracts or negotiations, falsely advertised being able to provide MLS services in all MLS systems in Colorado, and his clients were conducting all negotiations with the other parties or agents directly. The respondent was unable to produce a fully executed settlement statement for a closed transaction and indicated that he did not receive, review, or sign settlement statements for all transactions in Colorado; 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)(k), C.R.S. - failure to maintain files for 4 years;
 - c. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - d. § 12-10-217(1)(a), C.R.S. - false advertising;
 - e. § 12-10-407(2)(b) C.R.S. - failure to exercise reasonable skill and care as a transaction broker;
 - f. Commission Rule 6.2 - competency - must possess experience, training and knowledge;
 - g. Commission Rule 6.19 -closing responsibility;
 - h. Commission Rule 6.20 - transaction file requirements;
 - i. Commission Rule 7.1 - standard forms; 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 will be required to pay a fine to the Commission in the amount of \$20,000.

Motion unanimously carried.

O. Complaint #2021-2144 (RY) -

The investigative report concerning a complaint filed against the respondent in Complaint #20212144 (RY) 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/Buyers' Agent alleged that, despite providing the respondent with a copy of his buyer agency agreement with the buyers, the respondent engaged in sign-crossing by entering into a buyer agency agreement with the complainant's buyers. The investigation noted the additional potential violation that the respondent failed to timely establish his brokerage relationship with the buyer in writing; 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 relationship in writing;
 - d. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - e. Commission Rule 6.9 - change of status in writing;
 - f. Commission Rule 6.15 - sign crossing; 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; and
- E. He will be required to successfully complete real estate education in Brokerage Relationships.

Motion unanimously carried.

P. Complaint #2022-178 (CH) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-178 (CH) 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 investigation was opened based upon an ongoing investigation. The complainant/ Buyers' Agent in the related case alleged that, despite providing the respondent with a copy of his buyer agency agreement with the buyers, the respondent and co-respondent engaged in sign-crossing by entering into a buyer agency agreement with the complainant's buyers. The investigation noted an additional potential violation that the respondent failed to timely establish his brokerage relationship with the buyer in writing; 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 relationship in writing;
 - d. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - e. Commission Rule 6.9 - change of status in writing;
 - f. Commission Rule 6.15 - sign crossing; 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; and
- E. He will be required to successfully complete real estate education in Brokerage Relationships.

Motion unanimously carried.

Q. Complaint #2022-181 (KB) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-181 (KB) 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 investigation was opened against the respondent based upon ongoing investigations. The respondent is the employing broker and responsible for the supervision of the co-respondents. The complainant/Buyers' Agent in the related case alleged that despite providing the respondent's co-respondents with a copy of his buyer agency agreement, the co-respondents engaged in sign-crossing by entering into

a buyer agency agreement with the complainant's buyers. The investigation revealed that the respondent was aware of the complainant's buyer agency agreement and advised her co-respondents to move forward with their representation of the complainant's buyers. In addition, the respondent failed to timely review her co-respondents files to ensure that they had timely established their brokerage relationship with the buyer in writing; 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 6.3 - employing broker's responsibilities and supervision;
 - d. Commission Rule 6.15 - sign crossing; 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 \$5,000; and
- E. She will be required to successfully complete real estate education in Brokerage Relationships.

Motion unanimously carried.

R. Complaint #2022-1577 (SD) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1577 (SD) 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. In December 2021 the respondent was operating a motor vehicle under the influence of alcohol when she had a rollover accident in which she and her passenger sustained serious injuries. In July 2022 the respondent pleaded guilty to Vehicular Assault - Reckless and received a Deferred Judgment and Sentence. She was sentenced to 36 months of supervised probation; 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)(n), C.R.S. - conviction/plea to specified crimes;
 - 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. She shall pay a fine to the Commission in the amount of \$500; and
- E. Her real estate broker's license will be on probation concurrent with criminal probation.

Motion unanimously carried.

S. Complaint #2022-1578 (AF) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1578 (AF) 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 complaint was opened on behalf of CREC after the respondent failed to disclose a misdemeanor Domestic Violence, Assault conviction in Jefferson County, Colorado; 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)(n), C.R.S. - conviction/plea to specified crimes;
 - 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; and
- D. She shall pay a fine to the Commission in the amount of \$500.00; and
- E. Her real estate broker's license will be on probation concurrent with criminal probation.

Motion unanimously carried.

LICENSING MATTERS:

Licensing Matter A - Complaint #2022-1473 (BM) - Licensing Application -

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

The applicant attested on her Colorado real estate broker application that her real estate license has not ever been disciplined in any other jurisdiction. However, it was discovered that her license was disciplined on Sept. 6, 2012 for violating the following 4 sections of the Virginia Real Estate Board.

- Unworthiness and incompetence - The Board imposed 2 years license probation, 4 hours of continuing education pertaining to property management, and a \$2,500.00 fine.
- Improper brokerage commission - The Board imposed a 4-month license suspension, 3 legal updates, and a \$1,500.00 fine.
- Maintenance and management of escrow accounts - The Board imposed 2 years' license probation, provide quarterly reports to the Board, 4-month license suspension, 3 hours of continuing education pertaining to escrow, and a \$2,000.00 fine.
- Misrepresentation - The Board imposed the sanction of a \$500.00 fine.

It was moved by Commissioner Rediker and seconded by Commissioner Lynde to deny the license application.

Motion unanimously carried.

Licensing Matter B - Complaint #2022-1671 (EJ) - Licensing Application -

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

On 09/20/2022, the applicant submitted an application for an Independent Level Real Estate Broker - Individual Proprietor. The applicant disclosed that he was previously licensed in Colorado as an Employing Level Real Estate Broker. During the investigation of the applicant's previous license history, it was found that the applicant signed a Stipulation and Final Agency Order on 01/08/2008, wherein his broker's license was suspended for 90 days. Additionally, he was assessed a fine in the amount of \$2,500.00, 12 hours of education, and public censure. The applicant completed the terms of the Stipulation. Again on 07/02/2012, the applicant signed a Stipulation and Final Agency Order wherein his real estate broker's license was revoked. The applicant was also assessed a fine in the amount of \$7,000.00 and public censure. The fine has been paid in full.

It was moved by Commissioner Rediker and seconded by Commissioner Kaltenbach to defer consideration of this application until the next CREC meeting scheduled for February 7, 2023.

Motion unanimously carried.

Licensing Matter C - Complaint #2022-1742 (JP) - Licensing Application -

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

The applicant plead guilty to Assault 3, a misdemeanor, and ordered to complete a deferred sentence. The applicant is set to complete unsupervised probation in November 2022. The applicant has paid all fines and court fees. Probation has been completed and a protection order was vacated.

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

Motion unanimously carried.

Licensing Matter D - Complaint #2022-1723 (ET) - 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.

In 2007 the Pueblo Police Department was conducting an investigation surrounding threats made on a social media account belonging to the applicant. While executing a search warrant at the applicant's residence, firearms were discovered. The applicant pleaded guilty to 2 Counts in U.S. District Court (Federal Court). Count 1: Possession of a Firearm- Obliterated Serial Number and Count 2: Possession of an Unregistered Firearm - Sawed off Shotgun. The applicant received 5 years of Probation. The applicant completed his probation in 2013.

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

Motion unanimously carried.

Licensing Matter E - Complaint #2022-1670 (CM) - Licensing Application -

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

On March 30, 2021, the applicant was convicted of a Misdemeanor - Disturbing the Peace with Loud Unreasonable Noise. The applicant was sentenced to 1-year probation and 10 anger management classes. The applicant has completed all terms of probation. The case is closed.

It was moved by Commissioner Rediker and seconded by Commissioner Kaltenbach to approve the license application.

Motion unanimously carried.

Licensing Matter F - Complaint #2022-1778 (TS) - 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.

In February 2007, the applicant pled guilty to a Misdemeanor Possession of Marijuana. The applicant was sentenced to 6 months of probation and a fine of \$700.00. The applicant has completed all terms of probation and paid the fine in full. The case is closed.

In June 2013, the applicant pled guilty to Battery w/Bodily Harm, a Class 3 Felony. The applicant was sentenced to 2 years of probation. Probation was revoked, and he was re-sentenced to 18 months in the State Prison with 28 days credit. Restitution was ordered in the amount of \$7,000.00 and there is a remaining balance of \$107.00 which was referred to a collection agency.

In June 2013, the applicant pled no contest to Battery upon a Law Enforcement Officer, a Class 3 Felony. His probation was concurrent with the above case. There is a remaining balance of \$874.00 on this case, and the amount was referred to a collection agency.

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

Motion unanimously carried.

Licensing Matter G - Complaint #2022-1784 (YQ) - 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.

In December 2019, the applicant pled guilty to Criminal Mischief \$750-1,000, an Act of Domestic Violence, a Class 1 Misdemeanor. The applicant was sentenced to 2 years of probation, 364 days of jail suspended upon completion of probation, and a fine in the amount of \$1,531.50. The applicant was ordered to take parenting and anger management classes. The applicant completed probation successfully and has paid the fine in full. The case is closed.

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

Motion unanimously carried.

ESP MATTERS:

ESP Matter A, Complaint #2021-1896 (BC) - Stipulation Violation -

The Commission was presented with a Stipulation Violation report by Penny Elder regarding ESP Matter A, Complaint #2021-1896 (BC). After discussion, it was moved by Commissioner Kaltenbach 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 #2021-2110 (MW) - Stipulation Violation -

The Commission was presented with a Stipulation Violation report presented by Penny Elder regarding ESP Matter B, Complaint #2021-2110 (MW). After discussion it was moved by Commissioner Rediker and seconded by Commissioner Kaltenbach 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.

EXECUTIVE SESSION:

At 10:51 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) for the purpose of receiving legal advice regarding violations of license law:

- To confer with counsel to receive legal advice regarding AG Matter A., case numbers 2020-1619 & x2021-25 (JB), and receive a counteroffer from respondent in the case;
- To confer with counsel to receive legal advice regarding AG Matter B., case number 2022-20 (EL), and receive a counteroffer from respondent in that case;
- To confer with counsel to receive legal advice regarding AG Matter C., case number 2022-21 (CB), and receive a counteroffer from respondent in that case.

Motion unanimously carried.

Executive Session is conducted via Google Hangout Meeting.

The Commission adjourned out of Executive Session at 11:19 a.m. and resumes meeting via Zoom webinar that is open to the public.

ATTORNEY GENERAL MATTERS:

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

It was moved by Commissioner Rediker and seconded by Commissioner Lynde to authorize the Attorney General's Office to proceed with alternative settlement arrangements as outlined in guidelines by the Commission in Executive Session in Complaints #2020-1619 and #2021-25 (JB).

Motion unanimously carried.

B. Complaint #2022-20 (EL) - Counteroffer

Following discussion, it was moved by Commissioner Rediker and seconded by Commissioner Kaltenbach to accept the counteroffer in Complaint #2022-20 (EL) for a settlement offer of a Stipulation for Diversion with a fine in the amount of \$500 (+15% mandatory surcharge) and successful completion of 34 hours in real estate education to include 24 hours in Brokerage Administration, 4 hours in Ethics and 6 hours in Legal Issues and Risks.

Motion unanimously carried.

C. Complaint #2022-21 (CB) - Counteroffer

Following discussion, it was moved by Commissioner Rediker and seconded by Commissioner Lynde to accept the counteroffer in Complaint #2022-21 (CB) for a settlement offer of a Stipulation for Diversion with a fine in the amount of \$500 (+15% mandatory surcharge) and successful completion of 28 hours in real estate education to include 24 hours in Brokerage Administration, and 4 hours in Ethics.

Motion unanimously carried.

ADJOURN:

The Real Estate Commission adjourned out of their regular meeting at 11:22 a.m. on December 5, 2022.

Michelle Espinoza, Chair

Graham Kaltenbach, Vice Chair

Joe Chang, Commissioner

Renee Lynde, Commissioner

Kim Rediker, Commissioner

Marcia Waters, Director
Colorado Division of Real Estate