



COLORADO

**Department of
Regulatory Agencies**

Division of Real Estate

1560 Broadway, Suite 925
Denver, CO 80202-5111

MINUTES

COLORADO REAL ESTATE COMMISSION MEETING April 4, 2023

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MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
April 4, 2023
Colorado Division of Real Estate
Meeting Conducted Via Webinar

A Colorado Real Estate Commission public meeting was conducted via Webinar and was held on April 4, 2023. 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; 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. 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 - February 7, 2022

It was moved by Commissioner Chang and seconded by Commissioner Lynde to approve the Minutes of February 7, 2023 as written.



CREC Minutes_Dec 6,
2022.pdf

Commissioner Rediker abstains. **Motion carried.**

POLICY MATTERS:

A. Code of Ethics -

Director Waters submitted the Code of Ethics for Boards and Commissions. All Board and Commission members as well as stakeholder and task force group members will be required to sign the policy so that all DORA Boards and Commissions operate consistently.

B. 2023 CREC Education Task Force Members

David Donnelly presented a list of individuals to the Commission for consideration for the 2023 CREC Education Task Force.

It was moved by Commissioner Kaltenbach and seconded by Commissioner Rediker to approve the proposed membership to the 2023 CREC Education Task Force.

2023 Education Task Force

Patrick Armbrust	Heather Bustos
Damian Cox	David Donnelly
Jesse Farnlof	Tod Franklin
John Gillam	Patricia Hardy
AJ Jackson	Holly Krell
Rob Lynde	Beth Ann Mott
M. Eric Romero	Charity Vermeer

Motion unanimously carried.

ANNOUNCEMENTS -

- Commissioner Kim Rediker is resigning from the Real Estate Commission as the timing of Commission meetings conflicts with the requirements of her new job. The Division will be assisting the Governor's Office to fill the vacancy as a result of Commissioner Rediker's resignation.
- It was announced that Melissa Phipps has been hired as the Division's Senior Advisor. Ms. Phipps was formerly with the Attorney General's Office and is familiar with all three of the Divisions' Board/Commission programs.

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 #x2022-159 (LH) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-159 (LH) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law.

- A. This was a routine audit opened on 10/04/22. The respondent reported that they manage 41 residential properties and another 8 of her broker-owned properties. The respondent maintains separate trust accounts for the 3rd party property management, security deposits, and her broker-owned properties; however, she has not kept a journal or ledger for any of the accounts and has not been performing monthly 3-way reconciliations of the accounts. The broker does reconcile her bank statements with

her manual reports of transactions to keep track of cleared deposits and withdrawals but was unaware that her monthly "reconciliations" were not compliant until the audit began. The bank statement heading on one of the trust accounts did not include the word trust or escrow which was corrected during the audit. However, the account heading still does not include a label identifying the purpose of the account. Additionally, the respondent has not provided a conflict of interest and license status disclosure to the tenants of her broker-owner properties. The respondent affirmed that she would include the disclosure moving forward but has not provided documentation that she provided this disclosure to her current tenants. The broker has been actively working to become fully compliant in her trust accounting process and reporting as well as practice issues such as conflict of interest and license status disclosures; and

- B. This is a possible violation of:
 - a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - 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 6.17 - duty to disclose conflict of interest and license status; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. She will be required to pay a fine to the Commission in the amount of \$1,000; and
- E. She will be required to successfully complete real estate education in Trust Accounts; and
- F. The respondent will be required to submit to a follow-up audit within three months.

Motion unanimously carried.

B. Complaint #2022-2112 (JC) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-2112 (JC) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law.

- A. During the investigation the respondent admitted to modifying the Seller's Concessions within the Contract to Buy & Sell and then electronically re-signing the buyer's signatures. The respondent states that he signed the CBS with the knowledge and consent of the buyers. The buyers state that they did not recall authorizing the respondent to sign the contract on their behalf; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He will be required to pay a fine to the Commission in the amount of \$500; and
- E. He will be required to successfully complete real estate education in Ethics.

Motion unanimously carried.

C. Complaint #2023-174 (MC) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-174 (MC) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On 11/21/2022, the respondent pled guilty to a Misdemeanor Class One - Assault 3-know/reckless Cause Injury and another misdemeanor offense. He received a Deferred Sentence, that included 15 months of supervised probation, domestic violence evaluation, and court fines and fees in the amount of \$991.50, that have been paid in full. The respondent asserts that he did self-report via the Division's website on 12/16/2022. This cannot be verified, but it cannot be said for certain that he did not; 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. The respondent's real estate broker's license shall be on probation to run concurrent with the criminal sentence.

Motion unanimously carried.

D. Complaint #2022-1016 (DC) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1016 (DC) 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 the buyer in the attempted purchase of the subject property whose sellers were represented by the respondent. The complainant alleged that the respondent inaccurately listed the subject property as having AC. However, that was not the case as the subject property was equipped with an attic fan. The investigation found that the complainant's allegation was factual and that the respondent did update his listing with the accurate information prior to subsequent buyers submitting an offer. The investigation also discovered that the Seller's Property Disclosure was not updated regarding additional reports completed regarding roof damage, and that the respondent did not advise the sellers to update it; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. 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 Contracts and Forms and in Ethics.

Motion unanimously carried.

E. Complaint #2022-1001 & F. Complaint #2022-1922 (AI) -

The investigative reports concerning complaints filed against the respondent in Complaint #2022-1001 and Complaint #2022-1922 (AI) were presented to the Commission with accompanying documentation and information against the same respondent. 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. Complaint 2022-1922: The complainant represented the buyer in the attempted purchase of the subject property. The sellers were represented by the respondent. The complainant alleges that the respondent demonstrated incompetency on multiple levels throughout the transaction which resulted in the contract failing.
- B. Complaint 2022-1001: The respondent was the listing broker of the property purchased by the complainant. After closing, the broker of the buyer who had previously attempted to purchase the property contacted the complainant's broker asking if the respondent had made him aware of an adverse material fact, specifically sewer line damage discovered during the previous inspection from a failed transaction. Nothing about the sewer line was disclosed by the respondent to the complainant's broker; and
- C. This is a possible violation of:
 - a. § 12-10-217(1)(k), C.R.S. - failure to maintain files for 4 years;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - d. Commission Rule 5.12 - earnest money procedures;
 - e. Commission Rule 5.21 - production of documents and records;
 - f. Commission Rule 6.11 - square footage disclosure; and
- D. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- E. His real estate broker's license shall be publicly censured;
- F. The respondent shall pay a fine to the Commission in the amount of \$3,000;
- G. He will be required to successfully complete real estate education in Contracts and in Ethics; and
- H. The respondent's real estate broker's license shall be downgraded to an associate broker level status and he will be required to be supervised at a higher level by an employing broker who agrees in writing for a period of two years.

Motion unanimously carried.

G. Complaint #2022-1040 (CS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1040 (CS) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainants worked with the respondent in the purchase of a property. The complainants alleged that they were misinformed regarding the anticipated reduction

in the HOA fee and that they were misinformed about their ability to use the property for a short-term rental. According to the respondent, this information had been conveyed by the listing agent to the buyers during a showing. During the investigation it was found that the respondent may not have properly disclosed her brokerage relationship to 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. Commission Rule 6.5 - brokerage relationship disclosures in writing; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. She will be required to pay a fine to the Commission in the amount of \$500; and
- E. She will be required to successfully complete real estate education in Contracts and in Brokerage Relationships.

Motion unanimously carried.

H. Complaint #2021-1968 (YY) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1968 (YY) 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 11/30/2022, the respondent pled guilty to Felony Criminal Mischief - \$100,000.00 - \$1 million and Felony Criminal Possession Financial Device - 2+ Devices. She was sentenced to five (5) years of supervised probation, 120 hours community service, and court fines/fees in the amount of \$3,448.50. The respondent did not provide any response in this investigation; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - b. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes;
 - 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; 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 pay a fine to the Commission in the amount of \$7,500.

Motion unanimously carried.

I. Complaint #2021-1922 (BA) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1922 (BA) 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 alleged numerous accounting irregularities related to the management of his properties, however there was insufficient evidence to prove the complainant's allegations. We conducted a financial examination, and as a result CREC alleges the possible violations of license law as follows:
- Commingling of funds;
 - Diversion of funds;
 - Failure to hold money belonging to others in a trust or escrow account;
 - Failure to maintain proper ledgers;
 - Failure to maintain required 3-way reconciliations;
 - Failure to separate money belonging to others by purpose (security deposits/rents);
 - Failure to deposit earnest money in the Brokerage Firm's Trust or Escrow Account within three (3) business days following receipt of funds;
 - Failure to supervise unlicensed employee;
 - Failure to have non-commission approved forms (leases and PMAs) drafted by an attorney; and
- B. This is a possible violation of:
- a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds;
 - c. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - d. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - e. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - f. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
 - g. Commission Rule 5.5 - trust or escrow rents and security deposite separate accounts;
 - h. Commission Rule 5.9 - diversion, conversion prohibited;
 - i. Commission Rule 5.10(b) - failure to properly record funds advanced to owner;
 - j. Commission Rule 5.14 - recordkeeping requirements;
 - k. Commission Rule 5.7(b) - money belonging to others must be deposited within three business days;
 - l. Commission Rule 6.3 - employing broker's responsibilities and supervision;
 - m. Commission Rule 7.1(B) - non-commission approved forms to be drafted by an attorney; 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 \$10,000;
- F. He will be required to successfully complete real estate education in Trust Accounts and in Finance and Property Management; and
- G. The respondent will be required to submit to quarterly audits for the next two years.

Motion unanimously carried.

J. Complaint #2022-892 (KC) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-892 (KC) 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 originated from a complaint that was submitted against a licensed Mortgage Loan Originator (MLO) regarding the complainant's attempt to purchase a property. The complainant alleged that the MLO failed to timely notify her that her loan was denied. The complainant explained she lost her \$1,000 earnest money deposit and had to live in a motel because she had already terminated her lease. The investigation was opened against the respondent, who represented the complainant as a buyer's agent. The investigation found the potential violations that the respondent failed to exercise reasonable skill and care which resulted in the complainant forfeiting her \$1,000 earnest money deposit and failed to establish her brokerage relationship in writing with the complainant; 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. § 12-10-405(1)(b), C.R.S - failure to exercise reasonable skill and care;
 - c. § 12-10-408(2)(b), C.R.S - establish brokerage relationship in writing;
 - d. Commission Rule 6.5 - brokerage relationship disclosures in writing; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall pay a fine to the Commission in the amount of \$1,000; and
- E. She will be required to successfully complete real estate education in Contracts and in Brokerage Relationships.

Motion unanimously carried.

K. Complaint #2022-977 (KC) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-977 (KC) 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 Division received a complaint from a home seller who alleged that the respondent wrote a contract with multiple misrepresentations. The investigation found that even after the specific terms of the Contract to Buy and Sell changed, the respondent failed to document in writing that the purchase went from a cash transaction to a financed purchase, went from an owner-occupant buyer to an investor buyer, and failed to disclose in writing her license status and ownership interest in the purchasing entity. The investigation also documented what appeared to be a discrepancy between the date the Exclusive Right to Buy was signed and effective, with a creation date approximately 13 weeks later; 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)(w), C.R.S. - dishonest dealing;
 - c. § 12-10-408(2)(a)(I), C.R.S - brokerage disclosures;
 - d. § 12-10-217(1)(m), C.R.S - violation of any Commission rule or part 4;
 - e. § 12-10-405-(3)(a), C.R.S. - failure to disclose adverse material fact - occupancy and financing;
 - f. Commission Rule 6.17 B - 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. Her real estate broker's license shall be suspended for a period of 30 days;
 - F. She shall pay a fine to the Commission in the amount of \$5,000;
 - G. She will be required to successfully complete real estate education in Contracts and in Ethics; and
 - H. The respondent's real estate broker's license shall be downgraded to an associate broker level status and she will be required to be supervised at a higher level by an employing broker who agrees in writing for a period of five years.

Motion unanimously carried.

L. Complaint #2023-23 (TL) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-23 (TL) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On January 5, 2023, the respondent reported a Felony 6 conviction in Eagle County, Colorado. The conviction was the result of multiple years of public assistance misuse; 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. She shall pay a fine to the Commission in the amount of \$250; and
- E. The respondent's real estate broker's license shall be placed on probation concurrent with her criminal probation.

Motion unanimously carried.

M. Complaint #2022-2173 (MP) -

The investigative reports concerning a complaint filed against the respondent in Complaint #2022-2173 (MP) 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 December 6, 2022 the respondent was convicted of Theft, a class 4 Felony, in Hamilton County, Ohio. The conviction stems from the respondent stealing approximately \$231,566 from a dance association over a three year period beginning in 2017. The respondent was ordered to pay \$156,566.00 in restitution. The \$156,566 amount ordered was the balance owed after a \$75,000 payment. The respondent has since made an additional \$1,205 payment; 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 and Final Agency Order;
- D. The respondent's real estate broker's license shall be publicly censured;
- E. He will be required to successfully complete real estate education in Ethics;
- F. The respondent's real estate broker's license shall be placed on probation concurrent with his criminal probation;
- G. A practice restriction shall be imposed that prohibits him from handling money belonging to others and he may not have access to trust accounts until the probationary term is complete; and
- H. The respondent may not upgrade his real estate license during the probationary period.

Motion unanimously carried.

N. Complaint #2022-2244 (SR) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-2244 (SR) 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 November 2022, the respondent pled guilty to Assault 3 -Knowingly Reckless Cause Injury a Class 1 Misdemeanor and False Imprisonment, both misdemeanors. On January 31, 2022 the respondent was convicted of 3 Counts of Violation of a Protection Order (Criminal) a Class 1 Misdemeanor. In a separate case on January 31, 2022 the respondent was convicted of Protection Order (Criminal) a Class 1 Misdemeanor. The respondent is serving a concurrent sentence for all convictions of 90 days in jail and 3 years of probation; 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. He will be required to pay a fine to the Commission in the amount of \$1,500; and
- E. The respondent's real estate broker's license shall be placed on probation concurrent with his criminal probation;

Motion unanimously carried.

O. Complaint #2022-1990 (AS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1990 (AS) 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 09/22/2022 the respondent pled guilty to Menacing Real/Simulated Weapon a Class 5 Felony. The conviction resulted from an incident on 05/27/2022, when the respondent was intoxicated at a bar and a verbal altercation arose. During the verbal altercation the respondent's concealed firearm became visible and was considered a threat by the bar employee (victim); 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. He will 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 placed on probation concurrent with his criminal probation.

Motion unanimously carried.

LICENSING MATTERS:

Licensing Matter A - Complaint #2022-2180 (FC) - Licensing Application -

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

In May 2006, the applicant was convicted of a Class 5 Felony, Criminally Negligent Homicide. The applicant was sentenced to 30 months in the Department of Corrections. The applicant has completed all terms for jail and probation and has a \$0 balance.

The applicant had the following misdemeanors:

- 05/2005 - Resisting Arrest;
- 12/2005 - Crimes against Persons-Harassment;
- 06/2006 - Contempt of Court-Violation of Protection Order;
- 08/2006 - Contempt of Court - Violation of Protection Order;
- 08/2010 - Abusive Lang-Threat;
- 05/2011 - Assault Battery DV;
- 12/2013 - Assault Battery.

On February 04, 2019, the applicant was convicted of Illegal Possession of Ammo, Firearm Illegal

Possession and Possession of Marijuana, all Felonies. He was sentenced to 5 years in jail with four years suspended and 2 years of probation. The applicant has completed jail and probation terms. The case is closed.

It was moved by Commissioner Rediker and seconded by Commissioner Kaltenbach to approve the license application with a four-year restriction. The applicant will be on a restricted license requiring a higher level of supervision by an employing broker who agrees in writing for a period of four years. The applicant will be required to report his criminal convictions to an employing broker, and any additional criminal convictions during the restricted period will result in the case being returned to the Commission for further consideration of disciplinary action.

Motion unanimously carried.

Licensing Matter B - Complaint #2023-232 (AE) - 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 2016, the applicant pled guilty to Accessory to a Crime, a class 4 felony. Her probation was terminated early in December of 2021.

It was moved by Commissioner Rediker and seconded by Commissioner Kaltenbach to issue a positive opinion. The Commission requests that upon application for a license that the applicant provide letters of recommendation, including one from an employing broker. The Commission will review the complete license application with the letters of recommendation.

Motion unanimously carried.

Licensing Matter C - Complaint #2023-102 (TH) - Licensing Application -

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

In April 2018, the applicant pled guilty to Shoplifting Under \$500.00, a misdemeanor. All sentencing terms have been completed and 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 D - Complaint #2023-148 (DK) - License Application -

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

On October 11, 2018, the applicant was convicted of Tampering with Physical Evidence-Destroy a Class 6 Felony, and an Assault 3-Know/Reckless Cause Injury a Class 1 Misdemeanor. The applicant was sentenced to 7 months in jail, 3 years of probation, and a fine in the amount of \$12,071.49 with \$600 waived. He was ordered to pay restitution of \$9,073.45 joint

with Co-Defendants, and there is a balance of \$14,367.94. The applicant has completed the jail and probation sentence.

It was moved by Commissioner Lynde and seconded by Commissioner Lynde to defer this license application until the applicant provides proof that he has paid his portion of the fine and restitution. Further, the Commission requests the applicant provide additional letters of recommendation.

Motion unanimously carried.

Licensing Matter E - Complaint #2023-151 (CP) - 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 October 6, 2015, the applicant was summarily suspended in connection with an investigation in which she, among other violations, failed to return earnest money, commingled funds, and misused funds. On November 23, 2015, the applicant accepted a Stipulation and Final Agency Order agreeing to voluntary surrender (in lieu of revocation) of her license and a fine in the amount of \$17,500 plus 10% surcharge for a total of \$19,250. The fine was stayed unless the applicant attempts to reapply for licensure as a real estate broker.

On December 20, 2010, the applicant stipulated to a \$3,200 fine, 80 hours of education, and supervision for a period of at least six (6) months or continuing until she completed five (5) appraisal reports.

On January 17, 2014, the applicant stipulated to a \$1,500 fine, eight (8) hours of education, supervision for a period of at least three (3) months or continuing until she completed six appraisal reports, and submit to random appraisal reviews for a period of three (3) months.

On April 19, 2018, the applicant stipulated to surrender her appraisal certificate (to be treated as revocation), and a \$6,900 total fine. \$5,750 of the fine was stayed unless the applicant attempts to re-apply for certification or licensure as an appraiser.

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

Motion unanimously carried.

Licensing Matter F - Complaint #2023-247 (ER) - 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 October 16, 2019, the applicant was convicted of a Class 3 Drug Felony, Marijuana-Cultivation/30 more Plants, and a Class 1 Misdemeanor Illegal Weapon-Possession. The applicant was sentenced to 180 days in jail, 3 years of probation, and a fine in the amount of

\$3,466.50. The applicant completed all terms for jail and probation and has paid the fine in full. The case is closed.

It was moved by Commissioner Rediker and seconded by Commissioner Kaltenbach to issue a positive opinion

Motion unanimously carried.

ESP MATTERS:

ESP Matter A, Complaint #2020-1646 (JS) - Stipulation Violation -

The Commission was presented with a Stipulation Violation report by Penny Elder regarding ESP Matter A, Complaint #2020-1646 (JS). After discussion, it was moved by Commissioner Rediker 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; revocation and a fine in the amount of \$2,500 (+15% mandatory surcharge).

Motion unanimously carried.

ATTORNEY GENERAL MATTERS:

A. Status of Related Cases 2022-906, 2022-936, 2022-1212, and 2022-1367 (MVR), 2021-1640 (JC), 2021-1356 (TC), and 2021-1384 (JL)

EXECUTIVE SESSION:

At 10:53 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 following purpose:

- To receive an update from counsel on the status of related Cases 2022-906, 2022-936, 2022-1212, and 2022-1367 (MVR), 2021-1640 (JC), 2021-1356 (TC), and 2021-1384 (JL)

Motion unanimously carried.

Executive Session is conducted via Google Hangout Meeting.

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

ADJOURN:

The Real Estate Commission adjourned out of their regular meeting at 11:12 a.m. on April 4, 2023.

Michelle Espinoza, Chair

Graham Kaltenbach, Vice Chair

Joe Chang, Commissioner

Renee Lynde, Commissioner

Kim Rediker, Commissioner

Marcia Waters, Director
Colorado Division of Real Estate