

MINUTES

COLORADO REAL ESTATE COMMISSION MEETING April 5, 2022

MINUTES - INDEX

	<u>PAGE</u>
ADJOURN	17
ATTORNEY GENERAL MATTERS:	
A. Complaint #2021-271 (JN)	25
B. Complaint #2020-267 (CW)	25
C. Complaint #x2020-79 (NC)	25
COMPLAINT MATTERS:	
A. Complaint #x2021-132 (BB)	4
B. Complaint #x2021-106 (KD)	5
C. Complaint #2021-2117 (FS)	6
D. Complaint #2021-1407 (AG)	6
E. Complaint #2021-1982 (SC)	7
F. Complaint #2021-2114 (DP)	8
G. Complaint #2021-904 (JP)	9
H. Complaint #2021-2096 (JP)	9
I. Complaint #2021-2133 (JP)	9
J. Complaint #2021-1006 (KM)	9
K. Complaint #2021-592 (RW)	9
L. Complaint #2021-1057 (MW)	10
M. Complaint #2021-681 (JM)	11
N. Complaint #2021-944 (AH)	11
O. Complaints #2021-179 & #2021-1128 (DE)	12
P. Complaint #2021-830 (TA)	12
Q. Complaint #2021-907 (CS)	13
R. Complaint #2022-20 (EL)	14
S. Complaint #2022-21 (CB)	14
T. Complaint #2021-1236 (BT)	15
U. Complaint #2022-104 (BM)	15

V. Complaint #2021-2110 (MW)	16
W. Complaint #2021-2216 (MA)	17
X. Complaint #2022-154 (CB)	17
Y. Complaint #2021-1134 (KH)	18
Z. Complaint #2021-902 (BL)	18
AA. Complaint #2021-452 (ES)	19
BB. Complaint #2021-1953 (JS)	20
CC. Complaint #2021-1879 (DN)	20
DD. Complaint #2021-1638 (CG)	21
EE. Complaint #x2021-115 (DW)	22
ESP MATTERS:	
A. Complaint #x2021-130 (CS)	24
B. Complaint #2021-838 (MF)	24
EXECUTIVE SESSION	24
LICENSING MATTERS:	
A. Complaint #2022-145 (BR) - License Application	22
B. Complaint #2022-238 (AJ) - License Application	23
C. Complaint #2022-239 (SM) - Preliminary Advisory Opinion	23
D. Complaint #2022-256 (JB) - License Application	23
E. Complaint #2022-318 (JG) - License Application	24
MINUTES - APPROVAL	
February 1, 2022	4
NON-RULEMAKING HEARING	
Commission Approved Closing Statement	3
POLICY MATTERS:	
A. Legislative Update	4
B. 2022 CREC Education Task Force Members	4

MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
April 5, 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 April 5, 2022. Those Commissioners in attendance were Michelle Espinoza - Chair; Graham Kaltenbach, Vice Chair; Joe Chang; and Kim Rediker. There is one vacancy on the Commission. Also attending were Marcia Waters, Director; Eric Turner, Deputy Director; Natalie Lutz, Senior Advisor; Penny Elder, Expedited Settlement Program Manager; Gary Kujawski, Education, Communication & Policy Program Manager; Sarah Halloran, Investigations Team Lead; Eddie Rose, Investigations Team Lead; Nicole Tribelhorn, Investigations Team Lead; Doreen Archuleta, Board Management; 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.

NON-RULEMAKING HEARING - Commission Approved Forms:

Closing Statement -

Public Comment:

- Scott Thompson, Mesa County Surveyor
- Damian Cox, Attorney and Forms Committee

It was moved by Commission Rediker and seconded by Commissioner Chang to approve the Closing Statement Form as submitted. The mandatory use and approval date of the form will be updated.



Final Closing
Statement (SS60) 4-5

Motion unanimously carried.

The Non-Rulemaking Hearing closed at 9:08 a.m.

ORDER OF BUSINESS

Approval of Minutes - February 1, 2022

It was moved by Commissioner Rediker and seconded by Commissioner Chang to approve the Minutes of February 1, 2022 as written.



CREC Minutes_Feb 1,
2022.pdf

Motion unanimously carried.

PUBLIC PRESENTATION: None

POLICY MATTERS:

A. Legislative Update -

Director Marcia Waters advised the Commission that the Division of Real Estate is following HB1068 - Survey Bill; and HB1061 - BOREA Sunset Bill.

B. 2022 CREC Education Task Force -

It was moved by Commissioner Chang and seconded by Commissioner Kaltenbach to approve the 2022 CREC Education Task Force members as submitted.



Policy Matter B_2022
CREC Education Task

Motion unanimously carried.

C. 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 #x2021-132 (BB) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2021-132 (BB) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law.

- A. This is a Stipulation Audit wherein the broker was previously disciplined for brokerage relationship disclosures and acting as a transaction broker in sales transactions for his father. Although the respondent is no longer acting as a transaction broker when his father is the seller, it appears that he is not providing a Broker's Disclosure to Buyer to the respective customer on the purchasing side. Additionally, the respondent sent emails to these respective customers stating that he will still treat them as transaction broker despite them officially being customers; 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;
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - b. Commission Rule 6.5 - brokerage relationship disclosures in writing; and
- C. The respondent's settlement offer includes a Stipulation for Diversion; and
- D. He will be required to successfully complete real estate education in Brokerage Relationships; Ethics and in Legal Issues.

Motion unanimously carried.

B. Complaint #x2021-106 (KD) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2021-106 (KD) 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 which identified that the broker was holding rent revenues belonging to property management clients in a non-escrow bank account. Also, the security deposit escrow account was not properly titled. Ledgers for individual security deposits were not properly maintained and monthly reconciliations of the bank statements, general journals and individual ledgers were not correctly performed. Additionally, some security deposits had not been transferred out of the non-escrow rental bank account into the security deposit escrow account. Funds belonging to the broker as well as funds with unknown ownership and/or origins had accumulated in the security deposit escrow account. Furthermore, an unlicensed company name was used in lieu of the licensed name of the brokerage in the brokerage's electronic media advertisements and on property management forms and required broker name and brokerage contact information was missing from electronic media. Attorney-prepared property management forms did not uniformly contain required preparing-attorney identifying information. These attorney prepared property management forms included required disclosure language that already appears in standard Commission forms and the standard forms should have been used instead. Lastly, the broker failed to make required disclosures of her ownership and licensed status in the sale of a broker-owned property; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
 - e. Commission Rule 5.3 - accounts I name of brokerage firm or broker;

- f. Commission Rule 5.5 - trust or escrow required for rental receipts and security deposit;
- g. Commission Rule 5.10 - commingling prohibited;
- h. Commission Rule 5.14 - recordkeeping requirements;
- i. Commission Rule 6.17 - duty to disclose conflict of interest and licensed status;
- j. Commission Rule 7.1.A - Commission-approved forms;
- k. Commission Rule 7.1.B - attorney forms;
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. She will be required to successfully complete real estate education in Trust Accounts and in Property Management; and
- E. The respondent will be required to submit to a follow-up audit within six months.

Motion unanimously carried.

C. Complaint #2021-2117 (FS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-2117 (FS) 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 10/12/2021 the respondent was convicted of Assault-know/reckless cause injury a class 1 misdemeanor. The respondent was sentenced to 12 months deferred sentence and probation. The Division does not have record of the respondent notifying the Division within 30 days of the conviction; 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. The respondent's real estate broker's license will be on probation concurrent with the criminal sentence.

Motion unanimously carried.

D. Complaint #2021-1407 (AG) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1407 (AG) 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 08/11/2021, Complaint #2021-1407 was filed against the respondent primarily alleging that the respondent owes the complainant approximately \$68K in net rental

proceeds that the respondent failed to remit from 03/2021 - 07/2021 for nine rental properties previously managed by the respondent. The respondent stated he did not want to cooperate with the investigation and as such, he did not provide any requested documents. Owner statements provided by the complainant appears to show that the respondent did stop disbursing funds to the complainant from 03/2021 - 07/2021. Subpoenaed bank records also indicate that from 10/2020 - 10/2021, the respondent transferred approximately \$790K from the rental account holding money belonging to others into personal accounts of the respondent which in part include approximately \$222K of funds transferred from the account holding security deposits. It is unclear what the respondent's actual account liabilities are as he refused to provide any account reconciliation information or account ledgers. Lastly, emails between the respondent and complainant appear to show that the respondent admits he owes money to the complainant including an email from 01/2022 stating that he was going to transfer the complainant \$30K. As of 03/15/22, the complainant stated that the respondent has returned \$15K of the \$68K and that his attorney will be filing a civil complaint this week against the respondent; and

- B. This is a possible violation of:
 - a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - e. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - f. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
 - g. Commission Rule 5.9 - diversion, conversion prohibited;
 - h. Commission Rule 5.10 - commingling prohibited;
 - i. Commission Rule 5.21 - production of documents and records;
 - j. Commission Rule 6.25 - must submit written response to complaint;
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The respondent's real estate broker's shall be publicly censured;
- E. His real estate broker's license shall be revoked;
- F. He will be required to pay a fine to the Commission in the amount of \$22,500; and
- G. The respondent will be referred to criminal law enforcement.

E. Complaint #2021-1982 (SC) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1982 (SC) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On November 14, 2021, the respondent disclosed his October 14, 2021, criminal convictions for Inflict Corporal Injury on Spouse, a felony, and Abuse/Endanger Child, a misdemeanor. The respondent was sentenced to four years formal probation, four days jail time with credit for two days served, a fine of \$1,240.00 and the following:
 - No contact with victim, direct or indirect;
 - Attend 156 AA meetings, provide proof of completion by 10/14/23;

- Enroll in a 52-week domestic violence program, complete by 6/15/23;
- Complete 125 hours community service by 10/14/22;
- Complete Domestic Violence and Child Abuse classes; and
- One year outpatient therapy with focus on substance abuse and anger management.

The probation is ongoing and any remaining balance for the imposed fines could not be verified; 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 successfully complete real estate education in Ethics; and
- E. The respondent's real estate broker's license will be on probation concurrent with his criminal probation.

Motion unanimously carried.

F. Complaint #2021-2114 (DP) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-2114 (DP) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On August 26, 2021, the respondent pled guilty to Felony Menacing, a Class 5 Felony. The respondent did not disclose this guilty plea within 30 days. The respondent was ordered to complete an unsupervised three-year deferred sentence. The respondent was also ordered to complete 200 hours of community service, attend Anger Management and Cognitive Skills classes, and pay \$1,589.30 in court costs and restitution. All court costs and restitution have been paid in full. The deferred sentence is scheduled to be completed in August of 2024; 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 successfully complete real estate education in Ethics; and
- E. The respondent's real estate broker's license will be on probation concurrent with his deferred sentence.

Motion unanimously carried.

NOTE: Complaints G, H, and I are the same respondent.

- G. Complaint #2021-904 (JP) -
- H. Complaint #2021-2096 (JP) -
- I. Complaint #2021-2133 (JP) -

It was moved by Commissioner Chang and seconded by Commissioner Rediker to dismiss Complaints #2021-904; #2021-2096 and #2021-2133.

Motion unanimously carried.

J. Complaint #2021-1006 (KM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1006 (KM) 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's MLS Listing advertised that the property had central air conditioning. However, on the day of closing, the complainant discovered that, contrary to the MLS Listing, the property did not have central air conditioning. Additionally discovered the day of closing was that the respondent had updated the MLS Listing a week prior to closing, deleting the information regarding the central air conditioning system. After revising the MLS Listing, the respondent did not inform the complainant that the property did not in fact have central air conditioning; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(a), C.R.S. - false advertising;
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. She will be required to successfully complete real estate education in Legal Risk and in Brokerage Relationships.

Motion unanimously carried.

K. Complaint #2021-592 (RW) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-592 (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 was the seller of the subject property. The respondent represented the buyers as a buyer's agent in the purchase of the property. The investigation found that the respondent failed to provide the necessary real estate brokerage duties and failed to retain required transaction documents; and

- B. This is a possible violation of:
 - a. b. § 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. § 12-10-405(1)(b), C.R.S. - single agent engaged by buyer;
 - e. Commission Rule 6.2 - competency - must possession experience, training and knowledge;
 - f. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - g. Commission Rule 6.20 - transaction file requirements; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He will be required to successful complete real estate education in Brokerage Relationships; Contracts and in Ethics.

Motion unanimously carried.

L. Complaint #2021-1057 (MW) -

The investigative reports concerning complaints filed against the respondent in Complaint #2021-1057 (MW) 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 represented the complainant/buyer as a buyer's agent in the attempted purchase of a property. The complainant alleged that the respondent failed to protect his earnest money as he was not available to discuss an issue with insuring the property while the respondent was on vacation. The respondent acknowledged that he did not discuss the waiver of the Property Insurance Termination Deadline with the buyers who then ultimately lost their earnest money due to terminating for the inability to insure the property. The investigation additionally discovered that brokerage relationships disclosures were not provided to the buyers within the proper time frame; 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. § 12-10-405(1)(c), C.R.S. - single agent engaged by buyer;
 - d. Commission Rule 6.5 - brokerage relationship disclosure in writing; 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 Brokerage Relationships, Contracts and in Ethics; and
- F. He will be required to pay a fine to the Commission in the amount of \$7,500. The Commission provides settlement authority that verification of full restitution paid to the consumer may be accepted in lieu of the fine imposed by the Division or the AGO in settlement negotiations.

Motion unanimously carried.

M. Complaint #2021-681 (JM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-681 (JM) 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 purchased a home owned, occupied, and listed by the respondent. The complaint alleged non-disclosure of adverse material facts known by the respondent including carpet flooring with severe pet urine damage that appeared to be covered up by numerous air fresheners; structural settling or sinking of concrete slab in part of the home that appeared to have been concealed by replacing baseboards shortly prior to listing of the property; and what the complainant believes to be prior water intrusion in the basement that was remodeled during the respondent's ownership of the property. In addition, the respondent failed to disclose her license status in writing until at least 14 days after the property went under contract, and the ERTS was created and signed five days after the transaction closing date; 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 6.17 - duty to disclose conflict of interest and license status; and
- C. The respondent's settlement offer includes a Stipulation for Diversion; and
- D. She will be required to successfully complete real estate education in Contracts and in Ethics.

Motion unanimously carried.

N. Complaint #2021-944 (AH) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-944 (AH) 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 that the respondent, while acting as the complainant's seller's agent, offered to provide a commission and closing cost rebate at closing, issued two personal checks totaling \$9,026.00 payable to the complainant at closing, and stopped payment on both. The investigation also found contract deficiencies, an incomplete transaction file, and that the respondent had submitted an offer on a property on behalf of the complainant without an executed brokerage contract; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(c), C.R.S. - deliberate misrepresentation/false promise;
 - 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;

- d. § 12-10-217(1)(k), C.R.S. - failure to maintain files for 4 years;
 - e. Commission Rule 6.20 - transaction file requirements;
 - f. Commission Rule 6.6 - brokerage relationships - listing contract or written disclosure required; and
- C. The respondent's settlement offer includes a Stipulation for Diversion; and
 - D. She will be required to successfully complete real estate education in Ethics, Legal Issues and Risk and in Contracts.

Motion unanimously carried.

O. Complaints #2021-179 and #2021-1128 (DE) -

The investigative reports concerning complaints filed against the respondent in Complaint #2021-179 and #2021-1128 (DE) 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. Complaint #2021-179 - The complainant alleges that the respondent failed to execute rental agreements, failed to provide monthly statements, failed to forward rental proceeds, failed to pay utility bills, and failed to provide tax documents in a timely manner. CREC alleges the respondent diverted funds and failed to provide a written response to the complaint or provide requested documents.
- B. Complaint #2021-1128 - The complainant alleges that the respondent failed to provide rental proceeds, leases and the security deposit after she terminated their management agreement. CREC alleges the respondent failed to provide a written response to the complaint or provide requested documents; and
- C. This is a possible violation of:
 - a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - b. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - e. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - f. Commission Rule 5.15(A) - production of reports to beneficiary;
 - g. Commission Rule 5.21 - production of accounting documents;
 - h. Commission Rule 6.25 (A)(2) - must provide written response to complaint;
 - i. Commission Rule 5.9 - diversion prohibited; and
- D. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- E. The respondent's real estate broker's license shall be publicly censured;
- F. The respondent's real estate broker's license shall be revoked;
- G. He will be required to pay a fine to the Commission in the amount of \$20,000;
- H. The respondent will be referred to criminal law enforcement.

Motion unanimously carried.

P. Complaint #2021-830 (TA) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-830 (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. The complainant alleges that the respondent said he inspected the complainant's property in October of 2020, when he did not, and that the respondent provided photographs of the property the respondent said were taken in October 2020, when they were in fact from an inspection that took place about 9 months prior. CREC alleges the respondent failed to maintain transaction file document, and meet attorney drafted form requirements; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - c. § 12-10-217(1)(a), C.R.S. - knowingly making any representation;
 - d. Commission Rule 6.20 - transaction file requirements;
 - e. Commission Rule 7.1(b) - attorney drafted forms requirements; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. He will be required to successfully complete real estate education in Ethics and in Property Management.

Motion unanimously carried.

Q. Complaint #2021-907 (CS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-907 (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 respondent is the employing broker to the licensee-respondent in case 2020-975. This respondent was asked to provide a detailed explanation of his supervision of the licensee who, at the time of the Listing, had under two years of experience as a real estate broker. The investigation addressed the potential license law violations that the respondent failed to: provide assistance in preparing contracts, monitor the transaction from contracting to closing, review documents with the licensee in preparation for closing, and attend the closing with the licensee. The investigation also addressed the potential license law violation that the respondent, through the brokerage's affiliated renovation company, obtained undisclosed markups for work completed on the complainant's property; 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)(r), C.R.S. - failure to supervise associates;
 - c. Commission Rule 5.17 - mark-ups; must obtain prior written approval;
 - d. Commission Rule 6.3(D) - high level of supervision; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;

- D. He will be required to successfully complete real estate education in Brokerage Administration and in Ethics; and
- E. He will be required to pay a fine to the Commission in the amount of \$7,500. The Commission provides settlement authority that verification of full restitution paid to the consumer may be accepted in lieu of the fine imposed by the Division or the AGO in settlement negotiations.

Motion unanimously carried.

R. Complaint #2022-20 (EL) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-20 (EL) 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 is the employing broker to the licensee-respondent in case 2020-975. This respondent was asked to provide a detailed explanation of his supervision of the licensee who, at the time of the Listing, had under two years of experience as a real estate broker. The investigation addressed the potential license law violations that the respondent, as a delegated supervisor, failed to: provide assistance in preparing contracts, monitor the transaction from contracting to closing, review documents with the licensee in preparation for closing, and attend the closing with the licensee. The investigation also addressed the potential license law violation that the respondent, through an affiliated renovation company, obtained undisclosed markups for work completed on the complainant's property; 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)(r), C.R.S. - failure to supervise;
 - c. Commission Rule 6.3(F) - delegation of supervision; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. She will be required to successfully complete real estate education in Brokerage Administration, Ethics and in Legal Issues and Risks.

Motion unanimously carried.

S. Complaint #2022-21 (CB) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-21 (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 respondent is the employing broker to the licensee-respondent in case 2020-975. This respondent was asked to provide a detailed explanation of his supervision of the licensee who, at the time of the Listing, had under two years of experience as a real

estate broker. The investigation addressed the potential license law violations that the respondent, as a delegated supervisor, failed to: provide assistance in preparing contracts, monitor the transaction from contracting to closing, review documents with the licensee in preparation for closing, and attend the closing with the licensee; 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)(r), C.R.S. - failure to supervise associates;
 - c. Commission Rule 6.3(F) - delegation of supervision; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. He will be required to successfully complete real estate education in Brokerage Administration, and in Ethics.

Motion unanimously carried.

T. Complaint #2021-1236 (BT) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1236 (BT) 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 represented the complainant, under Buyer Agency, in his purchase of a new build home. The complainant stated that the respondent promised to give him a credit for a washer and dryer which never happened. The complainant alleged that when he pressed the respondent for the credit after the closing, the respondent told him that he had received other credits which negated the washer and dryer credit. The complainant also alleged that the respondent failed to attend the closing. In addition to the allegations made by the complainant, this investigation will address the potential violation that the respondent accepted a broker credit from the seller without disclosing the credit to the complainant; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(c), C.R.S. - deliberate misrepresentation/false promise;
 - 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)(t), C.R.S. - undisclosed compensation;
 - e. § 12-10-405(1)(b), C.R.S. - reasonable skill and care - buyer's agent; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. She will be required to successfully complete real estate education in Contracts, Ethics and in Brokerage Relationships.

Motion unanimously carried.

U. Complaint #2022-104 (BM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-104 (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. The complainant stated that the respondent represented him as a buyer agent in his offer to purchase a property. The complainant explained that he terminated the contract under the inspection and signed the documents that the respondent sent to him to accomplish the termination. The complainant alleged that the respondent didn't explain to him that the documents he signed would result in him losing his \$6,000 earnest money deposit. The complainant stated that the respondent later told him that he waived his right to the \$6,000 earnest money deposit and that she kept \$4,000 and gave the remaining \$2,000 to the seller. The complainant stated that he felt "...cheated and taken advantage of..." The complainant also alleged that the respondent never provided him with all of the transaction documents he executed, which made it hard for him to figure out what happened with his earnest money. The investigation also noted the potential violation that the respondent failed to timely enter into/extend her buyer agency agreements with the complainant; and
- B. This is a possible violation of:
 - a. § 12-10-405(1)(c), C.R.S. - failure to promote interest of buyer;
 - 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. § 12-10-405(1)(b), C.R.S. - failure to exercise reasonable skill and care;
 - e. Commission Rule 6.14 (A)(2) - broker must deliver duplicates of all documents prepared to consumer;
 - f. Commission Rule 6.14 (D) - listing must be in writing; 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 will be required to pay a fine to the Commission in the amount of \$12,500. The Commission provides settlement authority that verification of full restitution paid to the consumer may be accepted in lieu of the fine imposed by the Division or the AGO in settlement negotiations; and
- G. The respondent will be required to successfully complete real estate education in Brokerage Relationships; Brokerage Administration and in Ethics.

Motion unanimously carried.

V. Complaint #2021-2110 (MW) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-2110 (MW) 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 August 9, 2021, the respondent was convicted of Marijuana Cultivation 7 to 30 plants; Drug Felony 4, in Douglas County, Colorado. The respondent received a deferred judgment and sentence that is set to expire on September 11, 2023. The

conviction was not reported to the Colorado Real Estate Commission. The respondent did not submit a complete response to the requests; 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;
 - 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 successfully complete real estate education in Ethics; and
- E. The respondent's real estate broker's license shall be on probation until the end of his deferred sentence.

Motion unanimously carried.

W. Complaint #2021-2216 (MA) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-2216 (MA) 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 29, 2021, the respondent self-reported discipline against his Oregon Real Estate License. The respondent stated the discipline was a result of an Oregon audit. The investigation revealed that the respondent was reprimanded in Oregon. The respondent was required to take 27 hours of advanced property management continuing education. The respondent's license is active and both Oregon and Colorado; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(x), C.R.S. - license discipline in another jurisdiction; and
- C. The respondent's settlement offer includes a Stipulation for Diversion; and
- D. He will be required to successfully complete real estate education in Trust Accounts.

Motion unanimously carried.

X. Complaint #2022-154 (CB) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-154 (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. On September 14, 2021, in Steamboat Springs, Colorado, police were dispatched to a domestic disturbance at the respondent's residence. It was reported the respondent had hit his wife and acted aggressively towards their child. The respondent pled guilty to misdemeanor assault and received a deferred judgment and sentence; 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 successfully complete real estate education in Ethics; and
- E. The respondent's real estate broker's license shall be on probation concurrent with his criminal sentence.

Motion unanimously carried.

Y. Complaint #2021-1134 (KH) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1134 (KH) 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's ex-husband filed a complaint alerting the Division of Real Estate that the respondent had misused her notary seal and forged his name. On September 14, 2021, the respondent was convicted of Official Misconduct of a Notary. The respondent admitted that she had signed her then husband's name to a Quit Claim Deed and had notarized the Deed as well; and
- B. This is a possible violation of:
- C. § 12-10-217(1)(w), C.R.S. - dishonest dealing; and
- D. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- E. The respondent's real estate broker's license shall be publicly censured;
- F. Her real estate broker's shall be revoked;
- G. The respondent shall pay a fine to the Commission in the amount of \$2,500.

Motion unanimously carried.

Z. Complaint #2021-902 (BL) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-902 (BL) 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 alleging that the respondent, working as a buyer's agent, failed to protect the interests or follow the instruction of his client. The complainant alleged that this put her \$10,000 in earnest money at risk. The respondent had known the sellers previously and had been working as a seller's agent for over one year when he relinquished his seller agency duties and became a buyer's agent for the purchase of the seller's home. The respondent wrote an offer with a conditional sale deadline, but did not extend the deadline when the conditional property had not closed prior to the deadline. The complainant alleged that the respondent failed to make clear that the "non-refundable" language in a

counterproposal did not protect her when she had to terminate the purchase contract. The complainant alleged that the respondent did not represent her interests when he failed to draft an earnest money release to return her earnest money. The respondent stated that he did not draft a written release because a verbal negotiation had previously been rejected. During a portion of the transaction the respondent was working with an inactive/expired license. The respondent stated it was an oversight because email notifications from the Division were going to an email address he no longer used; 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;
 - c. § 12-10-405(1)(b), C.R.S. - reasonable skill and care as buyer's agent;
 - d. Commission Rule 6.26 - actions when license is expired or inactive; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order; and
- D. He will be required to successfully complete real estate education in Brokerage Relationships, Contracts and in Ethics.

Motion unanimously carried.

AA. Complaint #2021-452 (ES) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-452 (ES) 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 had been licensed less than one year when he entered into a personal transaction with the seller of a residential property. The respondent executed an Exclusive Right to Sell Listing Agreement with the seller acting as a transaction broker and also entered into a Contract to Buy and Sell Real Estate on the same property as the buyer. The respondent did not enter the property into the MLS for sale to the open market contrary to the Exclusive Right to Sell Agreement. The respondent did not enter into a Licensee Buy-Out Addendum. The sale did not close because the seller died shortly after entering into the agreements and the seller's estate alleged misconduct by the respondent. The respondent ultimately agreed to terminate the contract. The respondent stated that he received guidance from his team lead on the proper way to conduct the transaction; 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. § 12-10-403(4)(c), C.R.S. - use of standard forms;
 - d. § 12-10-407(2)(a), C.R.S. - reasonable skill and care as a transaction broker;
 - e. Commission Rule 6.6 - brokerage relationships - listing contract or written disclosure required;
 - f. Commission Rule 7.1(a) - standard forms; and
- C. The respondent's settlement offer includes a Stipulation for Diversion; and

- D. He will be required to successfully complete real estate education in Brokerage Relationships, Contracts and in Ethics.

Motion unanimously carried.

BB. Complaint #2021-1953 (JS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1953 (JS) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The Division opened the complaint in conjunction with complaint 2021-452 to investigate the supervision of an associate broker who had been licensed approximately one year when a complaint was filed against him for alleged misconduct. This complaint was opened to investigate if there had been a high level of supervision as required. The respondent stated that he did not review contracts, did not monitor transactions from contracting to closing, and did not provide assistance in preparing contracts. The respondent stated that others within the organization completed those responsibilities and he was "looped in" if there was a problem. The respondent did not appear to have a written delegation of authority for the supervision of others; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. § 12-10-217(1)(r), C.R.S. - failure to supervise associates per Rule 6.3;
 - c. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - d. 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. He will be required to successfully complete real estate education in Brokerage Administration and in Contracts; and
- E. The respondent's real estate broker's license shall be downgraded to an independent broker level for a period of two years.

Motion unanimously carried.

CC. Complaint #2021-1879 (DN) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1879 (DN) 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 opened this complaint in conjunction with complaint 2021-452 to investigate the supervision of an associate broker who had been licensed approximately one year when a complaint was filed against him for alleged

misconduct. The Associate Broker stated that he received instructions from the respondent on a personal transaction. The respondent stated that she was not the responsible broker and had never signed a delegation of authority. She stated that she had never presented herself as an employing or managing broker and acted more as a sales coach. She stated that while she met with him regularly, they discussed his goals and production, but she didn't recall if she gave him contractual instruction with the subject transaction. She stated that she trained the inside sales associates who initially contacted a seller and that the CRM software they were trained to use included fields for confidential information that eventually was accessed by the associate broker; 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. § 12-10-407(3)(c), C.R.S. - disclosure of motivation;
 - d. Commission Rule 6.7 - brokers or teams working with consumers on both sides of the same transaction;
 - e. Commission Rule 6.17 - access information - disclosure of conflict of interest; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. He will be required to successfully complete real estate education in Brokerage Administration, Ethics and in Contracts;
- E. For a period of two years, the respondent's employing broker may not delegate authority to the broker to supervise; and
- F. The respondent may not upgrade to an employing broker level license for a period of two years.

Motion unanimously carried.

DD. Complaint #2021-1638 (CG) -

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1638 (CG) 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 condo was listed for sale. The complainant was residing in his condo during the listing period. At approximately 11:30 am on October 3, 2021 the respondent scheduled a showing for the complainant's condo. The showing was scheduled for 1:30 pm, however, at approximately 11:30 am the respondent checked out a key at the building's front desk and accessed the condo while the complainant was still home. The respondent did not have an Exclusive Right to Buy or Disclosures to Buyer documents for his clients; 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; and

- D. He will be required to successfully complete real estate education in Brokerage Relationships and in Ethics.

Motion unanimously carried.

EE. Complaint #x2021-115 (DW) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2021-115 (DW) 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 report is based on a routine audit opened on 11/01/2021. The audit identified deficiencies in the areas of Standard Forms & Recordkeeping Requirements of Trust Accounts. As of the date of this report, the respondent provided an updated property management agreement and lease which now appear to contain the required disclosures. However, the broker has not provided compliant 3-Way Reconciliations for either trust account. The 12/13/21 3-Way reconciliations for the security deposit trust account continues to appear to contain a non-compliant journal and the rental trust account shows approximately \$8K in negative ledger balances as well as a reconciled bank statement, journal, and ledger each with a different ending balance that do not agree with each other; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. Commission Rule 5.9 - diversion, conversion prohibited;
 - d. Commission Rule 5.14 - recordkeeping requirements;
 - e. Commission Rule 7.1 - standard forms; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He will be required to successfully complete real estate education in Trust Accounts; and
- E. The respondent will be required to submit to a follow-up audit within three months.

Motion unanimously carried.

LICENSING MATTERS:

Licensing Matter A - Complaint #2022-145 (BR) - 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 January 02, 2020, the applicant pled guilty to a Class 2 Misdemeanor -Carrying a Concealed Weapon Knife/Gun. The applicant was sentenced to 1-year of probation and a fine of \$1184.00. The applicant completed all probation terms and has paid the fine in full. The case is closed.

On March 03, 2021, the applicant pled guilty to a Petty Offense Disorderly Conduct-Offensive Gesture. The applicant was sentenced to two days in jail, the sentence suspended, and a fine of \$61.00. The applicant has paid his fine in full. The case is closed.

It was moved by Commissioner Rediker and seconded by Commissioner Kaltenbach to approve the license application. The applicant will be required to notify any employing broker of his criminal convictions for a period of two years.

Motion unanimously carried.

Licensing Matter B - Complaint #2022-238 (AJ) - 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 December 12, 2002, the applicant pled guilty to Robbery/Aggravated-Unspecified a Class 3 Felony. The applicant was sentenced to 5 years in the Department of Corrections, two years of parole and she was ordered to pay restitution. The applicant has completed parole successfully. The case is closed.

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

Motion unanimously carried.

Licensing Matter C - Complaint #2022-239 (SM) - 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 August 10, 2021, the applicant pled guilty to Weapon -Prohibited Use -Drunk w/Gun, a Class 2 Misdemeanor. The applicant was sentenced to 1-year deferment, 1-year of probation, and a fine of \$464.00. The applicant has a review date of July 12, 2022, and has paid the fine in full.

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

Motion unanimously carried.

Licensing Matter D - Complaint #2022-256 (JB) - 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 September 25, 2019, the applicant pled guilty to Assault 2 Cause-Heat of Passio, a Class 6 Felony and Reckless Endangerment, a Class 3 Misdemeanor. The applicant was sentenced to 15 days in jail with 1-day credit for time served, 2 years of probation, and a fine of \$498.50. The applicant has completed all terms of probation and has paid the fine in full. The case is closed.

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

Motion unanimously carried.

Licensing Matter E - Complaint #2022-318 (JG) - 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 February 02, 2015, the applicant pled guilty to Misdemeanor Theft. The applicant was sentenced to 30 days in jail with 29 days suspended and a fine \$1125.00. The applicant has paid the fine in full. The case is closed.

On September 02, 2015, the applicant pled guilty to Theft \$50-\$300, a Petty Offense. The applicant was sentenced to a fine of \$313.50. The applicant has paid the fine in full. The case is closed.

On March 21, 2016, the applicant pled guilty to Theft-Shoplifting and Trespass-After Notice, both Misdemeanors. The applicant was sentenced to 60 days in jail and a fine of \$1,125.00. The applicant has completed the jail time and has paid the fine in full.

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

Motion unanimously carried.

ESP MATTERS:

ESP Matter A, Complaint #x2021-130 (CS) - Stipulation Update -

The Commission was presented with a Stipulation Update by Eddie Rose regarding ESP Matter A, Complaint #x2021-130 (CS). The respondent signed the Final Agency Order on February 4, 2022.

ESP Matter B, Complaint #2021-838 (MF) - Stipulation Violation -

The Commission was presented with a report of a Stipulation Violation from Penny Elder regarding ESP Matter B, Complaint #2021-838 (MF). After discussion, it was determined that the case would be deferred to the next meeting to see if Ms. Elder could gain the respondent's compliance.

EXECUTIVE SESSION:

At 11:36 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 # 2021-271 (JN) - Counteroffer from Respondent - Senior Assistant Attorney General Angela Little
- B. Complaint # 2020-267 (CW) - Legal Assessment of Referred Violations-- Senior Assistant Attorney General Angela Little

C. Complaint # x2020-79 (NC) - Legal Assessment of Case Status - Senior Assistant Attorney General Devin Laiho

Motion unanimously carried.

Executive Session is conducted via Google Hangout Meeting.

The Commission adjourned out of Executive Session at 11:58 a.m. and resumes meeting via Zoom webinar that is open to the public.

ATTORNEY GENERAL MATTERS:

A. Complaint #2021-271 (JN) -

It was moved by Commissioner Kaltenbach and seconded by Commissioner Rediker to reject the counteroffer in Complaint #2021-271 (JN).

Motion unanimously carried.

B. Complaint #2020-267 (CW) -

It was moved by Commissioner Rediker and seconded by Commissioner Chang to provide settlement guidance to the Attorney General's Office in Complaint #2020-267 (CW) to include violations of § 12-10-217(1)(c), C.R.S. - deliberate misrepresentation/false promise; and § 12-10-217(1)(w), C.R.S. - dishonest dealing. Sanctions will include a Final Agency Order, public censure; a fine in the amount of \$5,000 (plus 15% mandatory surcharge) and real estate education in Ethics.

Motion unanimously carried.

C. Complaint #2020-79 (NC) -

It was moved by Commissioner Rediker and seconded by Commissioner Chang to provide settlement guidance to the Attorney General's Office in Complaint #2020-79 (NC) for sanctions to include a Stipulation for Diversion, and real estate education in Legal Issues and Risk. In addition, the respondent will be required to submit to a follow-up audit within three months.

Commission Kaltenbach is opposed. **Motion carried.**

ADJOURN:

The Real Estate Commission adjourned out of their regular meeting at 12:20 p.m. on April 5, 2022.

Michelle Espinoza, Chair

Graham Kaltenbach, Vice Chair

Joe Chang, Commissioner

Kim Rediker, Commissioner

Vacancy

Marcia Waters, Director
Colorado Division of Real Estate