



COLORADO

**Department of
Regulatory Agencies**

Division of Real Estate

1560 Broadway, Suite 925
Denver, CO 80202-5111

MINUTES

COLORADO REAL ESTATE COMMISSION MEETING June 4, 2024

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MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
June 4, 2024
Colorado Division of Real Estate
Meeting Conducted Via Webinar

A Colorado Real Estate Commission public meeting was conducted via Webinar and was held on June 4, 2024. Those Commissioners in attendance were Michelle Espinoza - Chair; Erika Doyle; Renee Lynde; and Autymn Rubal. Graham Kaltenbach - Vice Chair is absent. Also attending were Marcia Waters, Director; Eric Turner, Deputy Director; David Donnelly, Education, Communication and Policy Manager; Melissa Phipps, Senior Advisor; 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.

The meeting was conducted via Webinar. The meeting was called to order by Commissioner Espinoza - Chair, at 9:02 a.m.

WELCOME -

Director Marcia Waters welcomes new Real Estate Commissioners Erika Doyle and Autymn Rubal. Commissioner Doyle, from Grand Junction will be representing real estate brokers and Commissioner Rubal from Denver will be a public representative.

ORDER OF BUSINESS

Approval of Minutes - April 2, 2024

It was moved by Commissioner Lynde and seconded by Commissioner Espinoza to approve the Minutes of April 2, 2024 as written.



CREC Minutes_April
2, 2024.pdf

Commissioner Doyle and Commissioner Rubal abstain from voting. **Motion carried.**

CE Credit for Attending -

Deputy Director Eric Turner announced that per Commission Rule 4.5H, CE credit will be granted for qualifying attendance at a Real Estate Commission meeting that lasts a minimum of two (2) hours.

POLICY MATTERS: 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. Complaints A. #x2023-101 (JC) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2023-101 (JC) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. This was a routine audit in which the respondent's sales transaction files were audited. The respondent had only three (3) transactions in the past 12 months. One (1) of the transactions was a sale where the respondent acted as an exclusive single agent/listing broker for two (2) clients who are both licensed CO RE brokers that were acting as wholesalers on a property they didn't own but had POAs from the true owner of the property. The wholesalers were unrelated to the true owner and didn't disclose their license status to either the respondent or the owner. The respondent's services mainly involved listing the property in the MLS as he never visited the property or communicated with the true owner. The respondent was aware the wholesalers had entered into a purchase contract for \$200K with the true owner prior to the respondent listing the property. The respondent's transaction file for this sale had missing documents that were later provided; but, he didn't retain an earlier offer presented from the buyer. The property was originally listed at \$250K (6/15/23) and subsequently lowered to \$209K (7/5/23) when a \$180K offer was presented (7/25/23) to the wholesalers. The MLS reflected the contract being accepted immediately, but it was not actually signed by either party until 9/27/23. The property closed for \$100K less than it was originally listed for & \$55K less than the wholesalers originally contracted with the true owner; and
- B. 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. § 12-10-404(1)(b & c), C.R.S. - single agent duties and obligations;
 - e. Commission Rule 6.2 - must possess experience, training, and knowledge;
 - f. 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 pay a fine to the Commission in the amount of \$5,000;
- E. He will be required to successful complete real estate education in Ethics; and
- F. The respondent's real estate broker's license shall be downgraded for a period of two years requiring a high level of supervision.

Motion unanimously carried.

B. Complaint #2023-2505 (CO) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-2505 (CO) 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 complaint was opened as a result of Audit No. X2023-101. The respondent, along with another licensed broker (2023-2504) obtained a power of attorney from a property owner to carry out a wholesale transaction as the seller. The respondent signed an as-is purchase contract of unknown origin with the property owner for \$200K on 6/1/23. On 6/06/23 he convinced the owner to execute a POA. On 6/15/23, he then signed an ERS with a listing broker for \$250K. (X2023-101). The respondent did not inform either the property owner or the listing agent of his CO RE license status. On 7/3/23, he signed an Amend/Extend to ultimately lower the price to \$209K. Then on 7/25/23, a \$180,000 offer was presented. On 9/28/23, the respondent convinced the property owner to amend their contract from \$200K to \$145K solely in an effort to secure his assignment fee, which after closing was approximately \$27,000. The property closed for approximately \$105K less than it was originally listed for & approximately \$55K less than the respondent originally contracted with the owner; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(b), C.R.S. - making false promise to influence;
 - b. § 12-10-217(1)(c), C.R.S. - deliberate misrepresentation/false promise;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - e. Commission Rule 6.17 - duty to disclose conflict of interest and license status; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The real estate broker's license shall be publicly censured;
- E. The real estate broker's license shall be revoked; and
- F. He will be required to pay a fine to the Commission in the amount of \$10,000.

Motion unanimously carried.**C. Complaints #2023-2504 (GP) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2023-2504 (GP) 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 complaint was opened as a result of Audit No. X2023-101. The respondentk along with another licensed broker (2023-2505) obtained a power of attorney from a property owner to carry out a wholesale transaction as the seller. The respondent signed an as-is purchase contract of unknown origin with the property owner for \$200K on 6/1/23. On

6/06/23 he convinced the owner to execute a POA. On 6/15/23, he then signed an ERS with a listing broker for \$250K. (X2023-101). The respondent did not inform either the property owner or the listing agent of his CO RE license status. On 7/3/23, he signed an Amend/Extend to ultimately lower the price to \$209K. Then on 7/25/23, a \$180,000 offer was presented. On 9/28/23, the respondent convinced the property owner to amend their contract from \$200K to \$145K solely in an effort to secure his assignment fee, which after closing was approximately \$27,000. The property closed for approximately \$105K less than it was originally listed for & approximately \$55K less than the respondent originally contracted with the owner; and

- B. This is a possible violation of:
 - a. § 12-10-217(1)(b), C.R.S. - making false promise to influence;
 - b. § 12-10-217(1)(c), C.R.S. - deliberate misrepresentation/false promise;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - e. Commission Rule 6.17 - duty to disclose conflict of interest and license status; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The real estate broker's license shall be publicly censured;
- E. The real estate broker's license shall be revoked; and
- F. He will be required to pay a fine to the Commission in the amount of \$10,000.

Motion unanimously carried.

D. Complaint #2023-1199 (BS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1199 (BS) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On 06/20/23, the complainant filed Complaint No. 2023-1199 against the respondent. The complainant entered into an Exclusive Right to Sell (ERS) with the respondent to list and sell the complainant's house in Montrose, CO. The ERS included a contingency that the seller could cancel the contract if she could not find a replacement property in Denver. Only three (3) days after executing the ERS, an offer was presented and a counterproposal was executed. However, the counterproposal did not include the seller's contingency provision that was listed in the ERS. The complainant alleges that a few days after the counterproposal was executed, while visiting Denver attempting to search for a new property, she called the respondent stating that she could not find a property in Denver and requested to terminate the contract but alleges that the respondent told her she could not or she would be sued by the buyers. The respondent denies that this took place, and there is no written documentation to support that the complainant did request to terminate the contract. Various documents provided conflict with the seller contingency provision in that the complainant stated that she needed to sell her home in Montrose before she would be able to purchase a home in Denver; and
- B. This is a possible violation of:

- a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice; and

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to dismiss the complaint with a Letter of Concern.

Motion unanimously carried.

E. Complaint #2023-1654 (AA) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1654 (AA) was 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. The complainant alleges that the respondent listed a property on the MLS without having a valid Exclusive Right to Sell Listing Contract with the sellers as the Listing Contract was not executed by the parties. The investigation found that the respondent listed the property on the MLS for nearly a year without an executed Listing Contract. The respondent also amended the list price four different times without appropriate documentation. None of the documents in the transaction file had been executed; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. § 12-10-408(2)(b), C.R.S. - broker disclosures in writing;
 - d. Commission Rule 6.14(C) - listing must be 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 \$1,000; and
- E. She will be required to successful complete real estate education in Brokerage Relationships and in Contracts.

Motion unanimously carried.

F. Complaint #2023-585 (BB) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-585 (BB) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complaint alleges that several real estate brokers, who are not licensed in Colorado, listed a commercial property with the assistance of the respondent, who is licensed in Colorado to practice real estate. The allegation could not be substantiated. However, the investigation found issues with respondent's failure to establish a required broker relationship; as well as issues with his transaction documents, including the retention of, and closing responsibilities; 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. § 12-10-408, C.R.S. - written agreements;
- c. § 12-10-217(1)(k), C.R.S. - failure to maintain files for 4 years;
- d. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
- e. Commission Rule 6.6 - brokerage relationships -listening contract or written disclosure required;
- f. Commission Rule 6.19 - closing responsibility;
- g. Commission Rule 7.1 - standard forms; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent will be required to pay a fine to the Commission in the amount of \$2,500; and
- E. He will be required to successfully complete real estate education in Contracts,

Motion unanimously carried.

NOTE: Complaint G (#2023-2541) and Complaint H (#2024-324) were taken out of Agenda order.

H. Complaint #2024-324 (BK) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-324 (BK) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainant, who was the seller of the subject property, alleged that the respondent, who represented the buyers, shared the property's access information with several third parties without prior authorization from the complainant or the Listing Broker. The complainant explained that after the home inspection the respondent provided the access information to several trades people for further inspection of various areas of the home. The respondent failed to draft an Amend/Extend changing the earnest money amount provided by 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 6.16 - access information - broker prohibited from sharing without prior authorization;
- F. The respondent's settlement offer includes a Stipulation for Diversion; and
- G. The respondent will be required to pay a fine to the Commission in the amount of \$1,000.

Motion unanimously carried.

G. Complaint #2023-2541 (KD) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-2541 (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 and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainant, who was the buyer in a transaction, alleges that the respondent, who was the buyer's agent, failed to advise the complainant to obtain expert advice as to material matters, specifically mediation. Additionally, the complainant alleges that the respondent failed to obtain the assistance of an employing broker, supervisory broker, or legal counsel as the respondent stated she had regarding the request for mediation with the Sellers. The complainant also requested transaction documents that were not provided by the respondent. The investigation found that the respondent failed to establish a brokerage relationship with the complainant until the day of closing; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - c. § 12-10-408(2)(b) C.R.S. - must have written agency agreement prior to performing licensed duties;
 - d. Commission Rule 6.25 - must submit written response to complaint;
 - e. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - f. Commission Rule 6.24 - electronic records and production of records; and
- 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. She will be required to pay a fine in the amount of \$3,000 to the Commission;
- F. She will be required to successfully complete real estate education in Brokerage Relationships and in Ethics; and
- G. The real estate broker will be required to submit to a high level of supervision for a period of two years upon reinstatement of the license.

Motion unanimously carried.

I. Complaint #2024-193 (TS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-193 (TS) 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 04/20/2022, the respondent pled guilty to a Class 1 Misdemeanor Assault 3 - Know/Reckless Cause Injury. She was sentenced to two years supervised probation (that has since been amended to unsupervised), with various substance evaluations/treatments and \$1,044.50 in court costs and fees that are paid in full. On 12/06/2023, she subsequently pled guilty to a Class 1 Misdemeanor Protection Order Violation - Criminal. She was sentenced to 12 months supervised probation with various substance evaluations/treatments and \$894.50 in court costs and fees that are past due. The respondent failed to submit a written response and requested documents to the Commission in connection with the charges as stated in the Notification Letter; 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;
 - e. Commission Rule 6.25 - must submit written response to complaint; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. She will be required to pay a fine in the amount of \$1,000 to the Commission;
- E. The respondent's legal fines must be paid in full prior to reinstating the license;
- F. Her real estate broker's license will be on probation concurrent with her criminal sentence upon reactivation of the broker's license.

Motion unanimously carried.

J. Complaint #2023-1566 (JC) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1566 (JC) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The investigation found that there were numerous errors in preparing and managing contract documents; 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 6.5 - brokerage relationship disclosures in writing;
 - d. Commission Rule 6.9 - change of status disclosure in writing;
 - e. Commission Rule 6.14(C) - listing must be in writing; 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 Brokerage Relationships and in Contracts.

Motion unanimously carried.

K. Complaint #2023-1650 (LN) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1650 (LN) 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 property that was listed by the respondent. The complainant alleged that the respondent had documentation from a plumbing

company indicating that the sewer line needed immediate repair. However, the documentation was not provided to the complainant prior to closing as agreed upon in the Inspection Resolution; and

- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - b. § 12-10-404(1)(b), C.R.S. - reasonable skill and care;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The respondent's real estate license shall be publicly censured;
- E. She will be required to pay a fine in the amount of \$1,000 to the Commission; and
- F. She will be required to successfully complete real estate education in Contracts and in Ethics.

Motion unanimously carried.

L. Complaint #2024-194 (TR) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-194 (TR) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On 12/1/2023, the respondent pled guilty to Assault 3 - know/reckless cause injury, a class 1 misdemeanor. The respondent was ordered to pay \$841.50 in court costs and fees. There is a remaining balance of \$316.50. The respondent was ordered to complete twelve months of supervised probation, which is ongoing.; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes;
 - b. § 12-10-217(1)(p), C.R.S. - failure to immediately notify CREC;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - d. Commission Rule 6.23 - immediate notification of conviction, plea or violation required; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He will be required to pay a fine to the Commission in the amount of \$500; and
- E. His real estate broker's license shall be on probation concurrent with the criminal sentence.

Motion unanimously carried.

M. Complaint #2023-1616 (EW) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1616 (EW) 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 investigation found that there were potential violations concerning the preparation of contract paperwork; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - c. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - d. Commission Rule 6.6 - brokerage relationships - listing contract or written disclosure required;
 - e. Commission Rule 6.14(C) - listing must be in writing;
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall be required to pay a fine to the Commission in the amount of \$2,500; and
- E. She will be required to successfully complete real estate education in Brokerage Relationships; and in Contracts.

Motion unanimously carried.

N. Complaint #2023-2409 (MS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-2409 (MS) 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 investigation noted that the respondent did not obtain an executed Brokerage Duties Addendum to Property Management form with the landlord or an executed Radon Disclosure to Tenant form; and
- B. This is a possible violation of:
 - a. § 12-10-408(2)(b), C.R.S. - brokerage disclosure in writing;
 - 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 6.5 - brokerage relationship disclosures in writing;
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He shall be required to pay a fine to the Commission in the amount of \$2,500; and
- E. The respondent shall be required to successfully complete real estate education in Brokerage Relationships.

Motion unanimously carried.

O. Complaint #2023-71 (RJ) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-71 (RJ) 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/Seller's Agent alleged that, despite explaining explicitly to the respondent to quit communicating with his Seller, the respondent engaged in sign-crossing by entering into a listing agreement with the complainant's seller. The investigation noted the additional potential violations that the respondent failed to timely establish his brokerage relationship to the seller, failed to timely change his brokerage relationship with the buyer, and failed to sign off on the settlement statements; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - c. § 12-10-408(2)(b), C.R.S. - brokerage relationship in writing;
 - d. Commission Rule 6.5 - brokerage relationship disclosures in writing;
 - e. Commission Rule 6.15 - sign crossing;
 - f. Commission Rule 6.19 - broker must sign closing statement; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall be required to pay a fine to the Commission in the amount of \$2,500; and
- E. He will be required to successfully complete real estate education in Brokerage Relationships.

Motion unanimously carried.

P. Complaint #2022-1952 (AG) -

The investigative report concerning a complaint filed against the respondent in Complaint #2022-1952 (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. The complainant, who was the respondent's former employing broker, alleged that while acting as a listing broker under Seller Agency, the respondent began representing the buyer, under Buyer Agency thus creating dual agency. The complainant further alleged that the respondent authorized the buyer to move into the vacant property prior to closing and collected \$1,775 which he deposited into his own personal bank account. The complainant alleged that the respondent failed to have the buyer and seller enter into a written preoccupancy agreement or rental agreement. Finally, when the buyer had a survey of the property it was discovered that there was an encroachment. The complainant alleged that the respondent failed to file an objection, or move the deadlines, which caused the buyer to forfeit their \$4,000 earnest money deposit. The investigation also noted the potential violation that the respondent failed to respond to the Commission's multiple requests for response to this investigation; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(b), C.R.S. - making false promise to influence;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. § 12-10-217(1)(g), C.R.S. - failure to timely place deposit funds;
 - d. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;

- e. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds;
 - f. § 12-10-217(1)(k), C.R.S. - maintain transaction file;
 - g. § 12-10-217(1)(k), C.R.S. - produce transaction file;
 - h. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - i. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - j. § 12-10-404(1)(b), C.R.S. - exercise reasonable skill and care for the seller;
 - k. § 12-10-405(1)(b), C.R.S. - exercise reasonable skill and care for the buyer;
 - l. § 12-10-406, C.R.S. - dual agency prohibited;
 - m. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
 - n. Commission Rule 5.7 - time limits for deposit of money belonging to others;
 - o. Commission Rule 5.9 - diversion, conversion prohibited
 - p. Commission Rule 6.25 - must submit written response to complaint; and
 - q.
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
 - D. The respondent's real estate broker's license shall be publicly censured;
 - E. The respondent's real estate broker's license shall be revoked; and
 - F. He will be required to pay a fine to the Commission in the amount of \$37,500.

Motion unanimously carried.

Q. Complaint #2023-114 (CT) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-114 (CT) 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, the employing broker of the respondent on a previous complaint, failed to supervise the respondent by allowing and encouraging him to engage in sign-crossing. The respondent's supervisee had less than 2 years of experience at the time of the transaction. The Complainant/Seller's Agent alleged that, despite explaining explicitly to the respondent's supervisee to quit communicating with his Seller, the respondent engaged in sign-crossing by entering into a listing agreement with the complainant's seller. The investigation revealed that the respondent failed to confirm statements made by the seller that she no longer had an active agreement with the complainant. In addition, the respondent failed to timely review his supervisee's transaction documents to ensure that they had timely established their brokerage relationship to the seller, failed to timely change his brokerage relationship with the buyer, and failed to ensure that someone from the brokerage sign off on the settlement statements; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - c. § 12-10-217(1)(r), C.R.S. - failure to supervise associates;
 - d. Commission Rule 6.3 - employing broker's responsibilities and supervision;
 - e. Commission Rule 6.15 - sign crossing;

- f. Commission Rule 6.19 - broker must sign closing statement; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall be required to pay a fine to the Commission in the amount of \$2,500; and
- E. He will be required to successfully complete real estate education in Supervision.

Motion unanimously carried.

R. Complaint #2023-2102 (FK) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-2102 (FK) 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 Listing Agent for the property. The respondent scheduled a showing for the property. The Listing Agent alleged that the respondent provided the lockbox code to a buyer. The respondent provided a written response denying the allegation and stating it was false. The respondent was interviewed and during her interview she denied providing the lockbox code to her Buyer's mother. After the respondent was interviewed, a Ring doorbell video was provided to the Division of Real Estate, which shows the respondent's Buyer's individual arriving at the Property without the respondent. As the Buyer's mother was approaching the front door another showing was finishing. The video provided shows the Buyer's mother repeating the lockbox code out loud. This incident was being observed by live video through Ring doorbell. The Buyer's mother never gained access to the property on her own. Ultimately the Listing Agent went to the property to conduct the showing. The respondent was provided a copy of the video and was then re-interviewed. The respondent did not have a Buyer's Agreement with this Buyer/Client; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - c. § 12-10-217(1)(c), C.R.S. - deliberate misrepresentation/false promise ;
 - d. Commission Rule 6.16 - access information - broker prohibited from shring without prior authorization; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. He shall be required to pay a fine to the Commission in the amount of \$2,500; and
- E. He will be required to successfully complete real estate education in Ethics and in Brokerage Relationships.

Motion unanimously carried.

S. Complaint #2023-176 (JP) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-176 (JP) 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 the buyer who purchased the respondent's listing. She stated that she purchased the property based on misrepresentations made by the respondent. Part of the respondent's buyer's packet, which was given to at least three potential buyers outlined income potential for which the property was not zoned. The document did not indicate anywhere that a special variance would be required to use the property in the way described. The respondent failed to provide the complainant with information relevant to the physical condition of the property that he had learned from a previous contract. The respondent counseled the sellers to remove an item of disclosure on a revised Sellers Property Disclosure. It was a disclosure made to previous buyers but excluded from the complainant at the time of her purchase; 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. § 12-10-404(3)(a), C.R.S. - disclose adverse material facts to buyer;
 - d. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - e. Commission Rule 6.2 - competency - must possess experience, training and knowledge; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall be required to pay a fine to the Commission in the amount of \$2,000; and
- E. He will be required to successfully complete no less than 6 hours of real estate education in Zoning/Rural Properties.

Motion unanimously carried.

T. Complaint #2024-453 (NVS) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-453 (NVS) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On March 4, 2024, the respondent self-reported a conviction of Assault and Threatening a person in Denver County Court. The conviction stems from an incident on July 4, 2023. The respondent was found guilty of threatening and the assault of a contractor who he believed was taking too long to complete a kitchen remodel; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes;
- C. The respondent's settlement offer includes a Stipulation for Diversion; and
- D. The respondent shall be required to pay a fine to the Commission in the amount of \$250.

Motion unanimously carried.

U. Complaint #2023-1353 (NR) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1353 (NR) 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 signed (electronically) her name on a lease 3 days after the complainant left the company. CREC alleges that the respondent, the owner of a property management company, in the course of operating her property management business, commingled and diverted security deposit funds – moving at least \$50,000 into her business operating account with no documentation or explanation– improperly marked up maintenance invoices, maintained negative ledger balances, failed to maintain records, failed to produce records, advertised under a company name other than her own, and violated a lawful commission order. The respondent also owns the maintenance company in question, and is currently required to be under a high-level of supervision pursuant to a previous Stipulation and Final Agency Order; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(m), C.R.S. - violation of stipulation;
 - b. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - c. § 12-10-217(1)(i) C.R.S. - converting, diverting, commingling funds;
 - d. § 12-10-217(1)(k), C.R.S. - failure to maintain records for 4 years;
 - e. § 12-10-217(1)(m), C.R.S. - violation of any Commission Rule or part 4;
 - f. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - g. § 12-10-217(1)(t), C.R.S. - undisclosed compensation;
 - h. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
 - i. § 12-10-404(1)(b), C.R.S. - lack of skill and care;
 - j. § 12-10-404(1)(c)(VI), C.R.S. - failure to timely place deposit funds;
 - k. Commission Rule 5.1 - establishment of internal accounting controls;
 - l. Commission Rule 5.9 - diversion, conversion prohibited;
 - m. Commission Rule 5.10 - commingling prohibited;
 - n. Commission Rule 5.15 - must maintain supporting records detailed cash received/dispensed;
 - o. Commission Rule 5.17 - mark-ups, must obtain prior written;
 - p. Commission Rule 5.14 - recordkeeping requirements/negative ledger balances;
 - q. Commission Rule 5.21 - production of documents and records;
 - r. Commission Rule 6.10 - advertising;
 - s. Commission Rule 6.25(c) - production of records; 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 will be required to pay a fine to the Commission in the amount of \$45,000.

Motion unanimously carried.

V. Complaint #2023-2517 (FRAM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-2517 (FRAM) 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 appears to be operating an unlicensed property management company in Boulder, Colorado. The owner of the company seemed unaware of their non-compliance and believed they were operating under a licensed employing broker; and
- B. This is a possible violation of:
 - a. § 12-10-202, C.R.S. - license required;

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to refer this case to the Attorney General's Office for a warning letter.

Motion unanimously carried.

LICENSING MATTERS:

Licensing Matter A - Complaint #2024-774 (JR) - 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 05/02/2024, the applicant submitted an application for Employing Level Real Estate Broker disclosing that her Georgia real estate broker license had been disciplined in 2006. She explained that during a routine audit conducted by the Georgia Real Estate Commission it was found that she had converted her signature into a JPG format that would then be affixed to documents by herself and staff. The Georgia Real Estate Commission found that her brokerage failed to ensure that only licensed personnel performed those acts that require a license. Additionally, the Georgia citation noted that she became a party to the falsification of contracts by allowing other people to sign her name as the listing agent.

It was moved by Commissioner Rubal and seconded by Commissioner Doyle to approve the license application.

Commissioner Lynde is opposed. **Motion carried.**

Licensing Matter B - Complaint #2024-630 (JS) - License Application -

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

The applicant received a Letter of Admonition on 02/09/2024 from the Colorado State Board of Nursing due to her failure to meet her obligation as a mandatory reporter under section 19-3-304, C.R.S.

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

Motion unanimously carried.

Licensing Matter C - Complaint #2024-566 (CJ) - 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 December 04, 2018, the applicant was convicted of a Class 1 Misdemeanor, Assault 3-know/reckless cause injury. The applicant was sentenced to 18 months of probation and a fine of \$293.50. The applicant has completed probation and has paid the fine in full. The case is closed.

On March 01, 2021, the applicant was convicted of a Class 3 Misdemeanor, Criminal Mischief-Under \$300.00. The applicant was sentenced to 6 months of probation and a fine of \$343.00. The applicant has completed probation and has paid the fine in full. The case is closed.

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

Motion unanimously carried.

Licensing Matter D - Complaint #2024-664 (OC) - 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 26, 2023, the applicant was convicted of Harassment-Follow Person in a Public Place, a Class 1 Misdemeanor. The applicant was sentenced to a 24-month deferred sentence. The deferment was revoked, and he was re-sentenced to 3 years of probation and a fine of \$276.50. The applicant's deferred sentence is still ongoing and is set to end in 2026. The applicant has paid the fine in full and is in good status with probation.

On June 01, 2023, the applicant was convicted of Harassment-Follow Person in a Public Place, a Class 1 Misdemeanor. The applicant was sentenced to a 3-year deferred sentence and a fine of \$341.50. The applicant's deferment is in good standing with probation and he has paid the fine in full. Both cases are concurrent

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to deny the license application on the basis that rehabilitation is incomplete since the applicant remains on probation.

Motion unanimously carried.

Licensing Matter E - Complaint #2024-801 (BT) - 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 14, 2021, the applicant was convicted of Trespass-Dwelling a Class 5 Felony, and a Class 3 Misdemeanor Harassment-Inconvenient Hours. The applicant was sentenced to 4-years deferred sentence and 2 years of probation with a fine of \$549.00. The applicant's deferment and probation are ongoing until January 14, 2025. The fine has been paid in full.

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to deny the license application on the basis that rehabilitation is incomplete since the applicant remains on probation.

Motion unanimously carried.

ESP MATTERS:

ESP Matter A, Complaint #2023-1159 (CL) - Stipulation Violation -

The Commission was presented with a stipulation violation report by Deputy Director Eric Turner regarding ESP Matter A, Complaint #2023-1159 (CL). Following discussion, it was moved by Commissioner Lynde and seconded by Commissioner Doyle to proceed with a violation of § 12-10-217(1)(m), C.R.S. to include a Final Agency Order, public censure and a fine in the amount of \$2,500 (plus mandatory 15% surcharge). The respondent must meet the terms of the original stipulation and she may not reactivate her license until the original stipulation terms are complete.

Motion unanimously carried.

ESP Matter B, Complaint #2023-1912 (KM) - Stipulation Violation -

The Commission was presented with a stipulation violation report by Deputy Director Eric Turner regarding ESP Matter B, Complaint #2023-1912 (KM). Following discussion, it was moved by Commissioner Lynde and seconded by Commissioner Doyle to proceed with a violation of § 12-10-217(1)(m), C.R.S. to include a Final Agency Order; public censure; 3-month license suspension; and a fine in the amount of \$2,500 (plus mandatory 15% surcharge). The respondent must complete the terms of the original stipulation and complete the overdue coursework before the suspension period concludes.

Motion unanimously carried.

NOTE: ESP Matter C, #2023-2038 (RW) was removed from the Agenda and the Commission's consideration. The respondent in the case complied with stipulation terms.

ESP Matter D, Complaint #2023-2225 (SP) - Stipulation Violation -

The Commission was presented with a stipulation violation report by Deputy Director Eric Turner regarding ESP Matter D, Complaint #2023-2225 (SP). Following discussion, it was moved by Commissioner Lynde and seconded by Commissioner Doyle to proceed with a violation of § 12-10-217(1)(m), C.R.S. to include a Final Agency Order; public censure; and a fine in the amount of \$2,500 (plus mandatory 15% surcharge). The respondent must meet the terms of the original stipulation and he may not reactivate his license until the original stipulation terms are complete.

Motion unanimously carried.

ESP Matter E, Complaint #2023-2223 (JS) - Final Agency Order Stipulation Violation -

The Commission was presented with a Final Agency Order stipulation violation report by Deputy Director Eric Turner regarding ESP Matter E, Complaint #2023-2223 (JS). Following discussion, it was moved by Commissioner Lynde and seconded by Commissioner Doyle to proceed with a violation of § 12-10-217(1)(m), C.R.S. to include a Final Agency Order; public censure; revocation of the real estate broker's license; and a fine in the amount of \$2,500 (plus mandatory 15% surcharge).

Motion unanimously carried.

ESP Matter F, Complaint #2023-2150 (PV) - Stipulation Violation -

The Commission was presented with a stipulation violation report by Deputy Director Eric Turner regarding ESP Matter F, Complaint #2023-2150 (PV). Following discussion, it was moved by Commissioner Lynde and seconded by Commissioner Doyle to proceed with a violation of § 12-10-217(1)(m), C.R.S. to include a Final Agency Order; public censure; and a fine in the amount of \$2,500 (plus mandatory 15% surcharge). The respondent must meet the terms of the original stipulation and she may not reactivate her license until the original stipulation terms are complete.

Motion unanimously carried.

ESP Matter G, Complaint #2023-1966 (WB) - Stipulation Violation -

The Commission was presented with a stipulation violation report by Deputy Director Eric Turner regarding ESP Matter G, Complaint #2023-1966 (WB). Following discussion, it was moved by Commissioner Lynde and seconded by Commissioner Doyle to proceed with a violation of § 12-10-217(1)(m), C.R.S. to include a Final Agency Order; public censure; and a fine in the amount of \$2,500 (plus mandatory 15% surcharge). The respondent must meet the terms of the original stipulation and he may not reactivate his license until the original stipulation terms are complete.

Motion unanimously carried.

ESP Matter H, Complaint #2023-1735 (ER) - Stipulation Violation -

The Commission was presented with a stipulation violation report by Deputy Director Eric Turner regarding ESP Matter H, Complaint #2023-1735 (ER). Following discussion, it was moved by Commissioner Lynde and seconded by Commissioner Doyle to proceed with a violation of § 12-10-217(1)(m), C.R.S. to include a Final Agency Order; public censure; and a fine in the amount of \$2,500 (plus mandatory 15% surcharge). The respondent must meet the terms of the original stipulation and he may not reactivate his license until the original stipulation terms are complete.

Motion unanimously carried.

ADJOURN:

The Real Estate Commission adjourned out of their regular meeting at 11:10 a.m. on June 4, 2024.

Michelle Espinoza, Chair

ABSENT

Graham Kaltenbach, Vice Chair

Erika Doyle, Commissioner

Renee Lynde, Commissioner

Autymn Rubal, Commissioner

Marcia Waters, Director
Colorado Division of Real Estate