

## MINUTES

### COLORADO REAL ESTATE COMMISSION MEETING June 7, 2022

### MINUTES - INDEX

	<u>PAGE</u>
ADJOURN	24
ATTORNEY GENERAL MATTERS:	
A. Complaint #x2021-91 (SK)	24
B. Complaint #2020-1681 (SL)	24
COMPLAINT MATTERS:	
A. Complaint #x2021-135 (RD)	11
B. Complaint #x2021-134 (VK)	11
C. Complaint #x2022-17 (EK)	12
D. Complaint #x2021-16 (HN)	13
E. Complaint #2021-65 (KW)	13
F. Complaint #2022-258 (KA)	13
G. Complaint #2022-260 (SM)	14
H. Complaint #2022-259 (EH)	15
I. Complaint #2022-228 (MM)	15
J. Complaint #2022-513 (MB)	16
K. Complaint #2021-985 (SP)	16
L. Complaint #2022-794 (LM)	16
M. Complaint #2021-1247 (AG)	17
N. Complaint #2021-1302 (RM)	17
O. Complaints #2021-1251 (JP)	18
P. Complaint #2021-1406 (AA)	18
Q. Complaint #2021-1528 (KB)	19
R. Complaint #2021-1928 (AT)	20
S. Complaint #2022-274 (KH)	20
T. Complaint #2022-273 (AT)	20
U. Complaint #2021-215 (AD)	20

<b>EXECUTIVE SESSION</b>	
CPS #1	4
AG Matters	23
<b>LICENSING MATTERS:</b>	
A. Complaint #2022-216 (CH) - Preliminary Advisory Opinion	21
B. Complaint #2022-830 (CS) - License Application	22
C. Complaint #2022-646 (AT) - License Application	22
D. Complaint #2022-855 (JF) - License Application	22
E. Complaint #2022-801 (JL) - License Application	22
F. Complaint #2022-794 (LM) - Preliminary Advisory Opinion	23
<b>MINUTES - APPROVAL</b>	
April 5, 2022	3
<b>POLICY MATTERS:</b>	
A. Commission Position Statements	4-10
<b>PUBLIC COMMENT:</b>	3 & 4

**MINUTES**  
**COLORADO REAL ESTATE COMMISSION MEETING**  
**June 7, 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 June 7, 2022. Those Commissioners in attendance were Michelle Espinoza - Chair; Joe Chang; Renee Lynde; and Kim Rediker. Graham Kaltenbach, Vice Chair is excused. Also attending were Marcia Waters, Director; Eric Turner, Deputy Director; Natalie Lutz, 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.

Due to closures of public spaces because of the Coronavirus pandemic, the meeting was conducted via Webinar. The meeting was called to order by Commissioner Espinoza - Chair, at 9:00 a.m.

**ORDER OF BUSINESS**

**Approval of Minutes - April 5, 2022**

It was moved by Commissioner Rediker and seconded by Commissioner Chang to approve the Minutes of April 5, 2022 as written.



CREC Minutes\_April  
5, 2022.pdf

**Motion unanimously carried.**

**PUBLIC PRESENTATION:**

- Catherine Chipman, Real Estate Broker
- Jordan May, Attorney
- Chloe Springer, License Applicant

**POLICY MATTERS:**

**A. Proposed Commission Position Statement Revisions -**

Deputy Director Eric Turner and Natalie Lutz, Senior Advisor introduced the Proposed Commission Position Statements for the Commission.

## Public Comment on Proposed Commission Position Statements

- Scott Peterson
- Keith Alba
- Chuck Kelley

### EXECUTIVE SESSION:

At 9:52 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. Commission Position Statement #1 - Contracts provided by Principals Selling Real Property.

### Motion unanimously carried.

Executive Session is conducted via Google Hangout Meeting.

The Commission adjourned out of Executive Session at 10:03 a.m. and resumes meeting via Zoom webinar that is open to the public.

### Commission Position 1 - Contracts provided by Principals Selling Real Property

It was moved by Commissioner Chang and seconded by Commissioner Rediker to table Commission Position Statement #1 until the August 2, 2022 Real Estate Commission Meeting.

### Motion unanimously carried.

### Commission Position 2 - Broker Commissions

It was moved by Commissioner Rediker and seconded by Commissioner Chang to adopt Commission Position Statement #2.



Commission Position  
2 - Broker Commissio

### Motion unanimously carried.

### Commission Position 3 - RESPA and Referral Fees

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #3.



Commission Position  
3 - RESPA and Referr

### Motion unanimously carried.

#### **Commission Position 4 - Broker's Payment or Rebating a Portion of an Earned Commission**

It was moved by Commissioner Rediker and seconded by Commissioner Chang to adopt Commission Position Statement #4.



Commission Position  
4 - Broker's Payment

**Motion unanimously carried.**

#### **Commission Position 5 - Interest Bearing Trust or Escrow Accounts**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #5.



Commission Position  
5 - Interest Bearing Ti

**Motion unanimously carried.**

#### **Commission Position 6 - Release of Earnest Money Deposits**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #6.



Commission Position  
6 - Release of Earnest

**Motion unanimously carried.**

#### **Commission Position 7 - Assigning Listing Contracts, Relationships and Commissions**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #7.



Commission Position  
7 - Assigning Listing C

**Motion unanimously carried**

#### **Commission Position 8 - Compensation and Assignment of Commission**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #8.



Commission Position  
8 - Compensation and

**Motion unanimously carried**

**Commission Position 9 - Working with a For Sale by Owner (FSBO)**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #9.



Commission Position  
9 - Working with a Fo

**Motion unanimously carried**

**Commission Position 10 - Sale of Manufactured Homes by Brokers**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #10.



Commission Position  
10 - Sale of Manufact

**Motion unanimously carried**

**Commission Position 11 - Sale of Items Other Than Real Estate**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #11.



Commission Position  
11 - Sale of Items Oth

**Motion unanimously carried**

**Commission Position 12 -Short-Term Rentals**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #12.



Commission Position  
12 - Short Term Rent

### **Motion unanimously carried**

#### **Commission Position 13 - Office Policy Manuals**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #13.



Commission Position  
13 - Office Policy Mar

### **Motion unanimously carried**

#### **Commission Position 14 - Broker Buying Property**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #14.



Commission Position  
14 - Broker Buying Pr

### **Motion unanimously carried**

#### **CP-15 - Leasing and Property Management**

##### **Public Comment on CP 15**

- Keith Alba

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #15.



Commission Position  
15 - Leasing and Prop

### **Motion unanimously carried**

#### **Commission Position 16 - Acting as a Transaction-Broker in Particular Types of Transactions**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #16.



Commission Position  
16 - Acting as a Trans.

### **Motion unanimously carried**

### **Commission Position 17 - Single Agent vs. Transaction-Broker**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #17.



Commission Position  
17 - Single Agent vs. 1

### **Motion unanimously carried**

### **Commission Position 18 - Settlement Service Provider Selection**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #18.



Commission Position  
18 - Settlement Serv

### **Motion unanimously carried**

### **Commission Position 19 - Closing Instructions for Title Company Held Deposits**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #19.



Commission Position  
19 - Closing Instructi

### **Motion unanimously carried**

### **Commission Position 20 - Licensed and Unlicensed Real Estate Administrative Professionals ("REAPs")**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #20.



Commission Position  
20 - Licensed and Unl

### **Motion unanimously carried**

### **Commission Position 21 - Auctioning Real Property**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #21.



Commission Position  
21 - Auctioning Real F



**Motion unanimously carried**

**Commission Position 22 - Conflicts of Interest**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #22.



Commission Position  
22 - Conflicts of Interest

**Motion unanimously carried**

**Commission Position 23 - Lease Options, Lease Purchase Agreements, and Installment Land Contracts**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #23.



Commission Position  
23 - Lease Options Le

**Motion unanimously carried**

**Commission Position 24 - Apartment Building or Complex Management**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #24.



Commission Position  
24 - Apartment Buildi

**Motion unanimously carried**

**Commission Position 25 - Resolving Inspection Issues**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #25.



Commission Position  
25 - Resolving Inspect

**Motion unanimously carried**

**Commission Position 26 - Reducing the Buyer Pool**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #26.



Commission Position  
26 - Reducing the Buy

**Motion unanimously carried**

**Commission Position 27 - Broker Disclosure of Adverse Material Facts**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #27.



Commission Position  
27 - Broker Disclosure

**Motion unanimously carried**

**Commission Position 28 - Minimum Service Requirements**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #28.



Commission Position  
28 - Minimum Service

**Motion unanimously carried**

**Commission Position 29 - Holding Money Belonging to Others for Activities Not Involving Real Estate Brokerage Services**

It was moved by Commissioner Chang and seconded by Commissioner Rediker to adopt Commission Position Statement #29.



Commission Position  
29 - Holding Money B

**Motion unanimously carried**

It was moved by Commissioner Rediker and seconded by Commissioner Chang to retire the previous 46 CPS statements and allow staff to make non-substantive and clerical changes to the newly adopted Commission Position Statements as necessary.

**Motion unanimously carried**

**B. Agenda Items for Next Meeting - CPS #1**

## 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 #x2021-135 (RD) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2021-135 (R) 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. A routine audit was opened on 12/27/21 and the following was observed: The respondent ("R") was holding security deposits (SD) in two bank accounts with only one set of ledgers and journal. However, the "R" updated the process during the audit to now include a segregated ledger for the SD accounts. Additionally, the journals for the trust accounts do not include resulting cash balances after each transaction and appear non-compliant although the "R" has indicated that he will ensure this is corrected moving forward. The "R" was also improperly advancing funds and did not have a broker's ledger for the money being held to cover vendor payments when owners did not have sufficient funds and negative ledger balances. The "R" appears to have corrected this process during the audit. Furthermore, the "R" has funds from broker-owned rentals within the primary rental trust account but has committed to remove them. The "R" also was not properly disclosing the Conflict of Interest and License Status on his broker owned properties but has corrected this during the audit. The "R" was obtaining the BDT at the time of the lease after collecting confidential information. However, the "R" has added he language to the application and the official BDT will be used moving forward; 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;
  - a. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
  - b. Commission Rule 5.9 - diversion, conversion prohibited;
  - c. Commission Rule 5.10 - commingling prohibited;
  - d. Commission Rule 5.14 - recordkeeping requirements;
  - e. Commission Rule 6.17 - duty to disclose conflict of interest and license status;and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. 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 3 months.

**Motion unanimously carried.**

### B. Complaint #x2021-134 (VK) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2021-134 (VK) was presented to the Commission with accompanying documentation and

information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law.

- A. On 12/27/2021, a routine audit was opened on the respondent ("R"). On 12/31/2021, the "R" allowed their real estate license to expire and their son to take over the employing broker duties of the brokerage. The audit identified issues with the brokerage trust account headings; non-compliant account journals; conflict of interest and license status disclosures; attorney drafted forms; and unlicensed staff executing leases on 3rd party property management agreements; and
- B. This is a possible violation of:
  - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
  - b. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
  - c. Commission Rule 5.14 - recordkeeping requirements;
  - d. Commission Rule 6.17 - duty to disclose conflict of interest and license status;
  - e. Commission Rule 7.1 - standard forms; and
- C. The respondent's settlement offer includes a Dismissal with a Letter of Concern.

**Motion unanimously carried.**

**C. Complaint #x2022-17 (EK) -**

The investigative report concerning a complaint filed against the respondent in Complaint #x2022-17 (EK) 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 02/11/2022, a routine audit was opened on the respondent ("R") due to a related audit (X2021-135) where the former employing broker of the brokerage allowed their son to take over the employing broker duties of the brokerage. The audit identified issues with the brokerage trust account headings; non-compliant account journals; conflict of interest and license status disclosures; attorney drafted forms; and unlicensed staff executing leases on 3rd party property management agreements; and
- B. This is a possible violation of:
  - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
  - b. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
  - c. Commission Rule 5.14 - recordkeeping requirements;
  - d. Commission Rule 6.17 - duty to disclose conflict of interest and license status;
  - 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 3 months.

**Motion unanimously carried.**

**D. Complaint #x2021-16 (HN) -**

The investigative report concerning a complaint filed against the respondent in Complaint #x2021-16 (HN) was presented to the Commission with accompanying documentation and information.

It was moved and seconded by the Commission to dismiss the complaint. The Real Estate Commission will evaluate further accounting rules to address different real estate models.

**Motion unanimously carried.**

**E. Complaint #x2021-65 (KW) -**

The investigative report concerning a complaint filed against the respondent in Complaint #x2021-65 (KW) 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 audit was based on the Stipulation for Diversion the broker signed in April 2021. The prior audit found deficiencies with the broker's record keeping practice of both the rental and security deposit trust accounts including negative balances in the security deposit trust account. The broker has adjusted their operations to gain compliance with license law since the previous audit; however, the broker has been unable to provide monthly 3-way reconciliations that balance or reconcile as of this date; 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 5.8 - transfer of security deposits;
  - d. Commission Rule 5.9 - diversion, conversion prohibited;
  - e. Commission Rule 5.10 - commingling prohibited;
  - f. Commission Rule 5.14 - recordkeeping requirements;
- 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 6 months.

**Motion unanimously carried.**

**F. Complaint #2022-258 (KA) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2022-258 (KA) 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 04/13/21, the respondent entered a guilty plea for Assault 3-know/reckless Cause Injury, a class 1 misdemeanor and was sentenced to a 12-month deferred sentence as well as domestic violence evaluation and treatment and parenting classes. On 03/17/22, the respondent entered a guilty plea for Violation of P/o-Criminal, a class 1 misdemeanor and was sentenced to 12 months of probation. Case records appear to show that the deferred sentence was revoked on the first case; however, the respondent has stated that the deferred sentence is still active and that the probation for the 2 cases will now run concurrent together beginning 04/02/2022. Both cases appear to show outstanding court fees totaling \$912.50 and \$916.15, respectively. Lastly, the respondent did not notify the Division of the first conviction within 30 days from the plea date; however, the respondent did timely notify the Division of the second 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. She 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 her criminal sentence.

**Motion unanimously carried.**

**G. Complaint #2022-260 (SM) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2022-260 (SM) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On February 8, 2022, the respondent entered a guilty plea to Assault 2 - Strangulation - Heat of Passion, a Class 6 Felony. The respondent was ordered to complete an 18-month deferred sentence with supervised probation and pay \$1,372.00 in court costs and fines. The deferred sentence is ongoing, and all fines have been paid. The respondent was also ordered to complete a mental health evaluation, a substance abuse evaluation, substance abuse monitoring, a domestic violence evaluation, and consume no alcohol or non-prescription drugs; 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 shall pay a fine to the Commission in the amount of \$500;
- E. The respondent's real estate broker's license shall be on probationary status to run concurrent with the criminal sentence.

**Motion unanimously carried.**

#### **H. Complaint #2022-259 (EH) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2022-259 (EH) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On February 1, 2022, the respondent plead guilty to Violation of a Protection Order, a Class 3 Misdemeanor. The respondent was ordered to complete 18 months of unsupervised probation, 20 days jail time (stayed with credit for 1 day served) and pay \$219.50 in court costs and fees. The probation is ongoing, and all fees have been paid; and
- B. This is a possible violation of:
  - a. § 12-10-217(1)(n), C.R.S. -conviction/plea to specified crimes; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. She shall pay a fine to the Commission in the amount of \$500;
- E. The respondent's real estate broker's license shall be on probationary status to run concurrent with the criminal sentence.

#### **Motion unanimously carried.**

#### **I. Complaint #2022-228 (MM) -**

The investigative reports concerning complaints filed against the respondent in Complaint #2022-228 (MM) 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 02/03/2022, the Respondent entered a plea of guilty for Marijuana - Conc - Conspiracy, Felony 3. The Respondent self-reported his plea of guilty to the Division of Real Estate one day later on 02/04/2022. He said he was involved in a marijuana sales transaction that resulted in his arrest after he arranged to sell 22 pounds of marijuana to a confidential informant. Two years of probation was ordered and will continue through 02/03/2024; and
- B. This is a possible violation of:
  - a. § 12-10-217(1)(n), C.R.S. -conviction/plea to specified crimes; and
- F. The respondent's settlement offer includes a Stipulation for Diversion;
- G. He shall pay a fine to the Commission in the amount of \$500;
- H. The respondent's real estate broker's license shall be on probationary status to run concurrent with the criminal sentence.

#### **Motion unanimously carried.**

**J. Complaint #2022-513 (MB) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2022-513 (MB) 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 02/28/2022, the Respondent was given a two (2) year Deferred Judgment and Sentence for a Felony 4 - Second Degree Burglary. The Deferred Judgment and Sentence included a supervised probation term of two (2) years and Domestic Violence Evaluation, Substance Abuse Assessment, Prohibited Use of Recreational Marijuana and No Violation of Protection Order. His court fines and fees were \$303.50 and restitution in the amount of \$13,175.53. At the time of the investigation, there were no payment plan in place for restitution; and
- B. This is a possible violation of:
  - a. § 12-10-217(1)(n), C.R.S. -conviction/plea to specified crimes; and
- I. The respondent's settlement offer includes a Stipulation for Diversion;
- J. The respondent's real estate broker's license shall be on probationary status to run concurrent with the criminal sentence and/or repayment of restitution, whichever is later.

**Motion unanimously carried.**

**K. Complaint #2021-985 (SP) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2021-985 (SP) 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 was the listing broker of the property purchased by the Complainant. The Complainant alleged that the Respondent did not disclose damage to the property caused by lightning. The investigation found that the Respondent was aware of the damage to a portion of the siding. The Respondent did not disclose the damage because she believed the damage had been repaired; and
- B. This is a possible violation of:
  - a. § 12-10-404(3)(a), C.R.S. - adverse material facts;
- 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, and in Legal Issues.

**Motion unanimously carried.**

**NOTE: Complaint L #2022-794 (LM) was relocated to Licensing Matter F.**



**M. Complaint #2021-1247 (AG) -**

the investigative reports concerning a complaint filed against the respondent in Complaint #2021-1247 (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. A complaint was filed by the owner of a home that was listed for sale alleging that the respondent accessed her property outside of showing time window without her or her listing agent's permission. The complainant further alleged that the property was left unsecured after the respondent left. The respondent represented that access authorization was obtained from the listing agent prior to entering the property, however this was disputed by the listing agent and the telephone records; and
- B. This is a possible violation of:
  - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
- 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.

**Motion unanimously carried.**

**N. Complaint #2021-1302 (RM) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1302 (RM) 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 advertised a property for rent that was never actually available for rent and misrepresented the property status. The investigation found that the respondent used, owned or operated multiple websites that appear to have continued to advertise at least one property for rent and for sale approximately 8 months after it sold. The respondent advertised in a manner that may mislead the public concerning the identity of the respondent's brokerage firm and provided links to on-line rental applications (that required an application fee) for a brokerage firm he was not licensed under.; and
- B. This is a possible violation of:
  - a. § 12-10-217(1)(a), C.R.S. - false advertising;
  - b. § 12-10-217(1)(c), C.R.S. - deliberate misrepresentation/false promise;
  - c. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
  - d. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
  - e. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
  - f. Commission Rule 6.10 - advertising; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. His real estate broker's license shall be publicly censured;
- E. The respondent shall pay a fine to the Commission in the amount of \$2,500; and
- F. He will be required to successfully complete real estate education in Ethics.

**Motion unanimously carried.**

**O. Complaint #2021-1251 (JP) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1251 (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. Complainant, who made an offer on a property listed by Respondent, stated that his inspection found the following problems with the property: possible mold in the attic, structural roof problems, and problems with the foundation. Complainant stated that when they contacted the HOA, it was at that time that the HOA told them that they were aware of the problems because they were provided a copy of an inspection from a previous failed transaction. Complainant alleged that Respondent failed to disclose material facts regarding the property and failed to provide a Seller's Property Disclosure. The investigation also noted the potential violation that Respondent failed to maintain complete transaction files for a period of four years.; 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;
  - c. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
  - d. § 12-10-404(3)(a), C.R.S. - failure to disclose know adverse material facts;
  - e. Commission Rule 6.20 - transaction file requirements; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. His real estate broker's license shall be publicly censured; and
- E. He will be required to successfully complete real estate education in Ethics and in Contracts.

**Motion unanimously carried.**

**P. Complaint #2021-1406 (AA) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1406 (AA) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. A representative with the First Judicial District Attorney's office filed a verbal complaint with the Division of Real Estate on behalf of two Complainants, a son and father. The Father Complainant listed his property with Respondent. The DA Representative alleged that shortly after closing the Respondent had the Father Complainant wire \$140,000 of his sale proceeds to the Respondent so he could invest in Bitcoin on the Father Complainant's behalf. The Complainant alleged the Respondent promised the Father Complainant a high rate of return on his investment.

The DA Representative alleged that Respondent engaged in predatory practices against the Father Complainant. The investigation revealed that Respondent caused Father Complainant to pay, for Crypto investing, approximately \$150,041.88 via cash, checks, Venmo & bank transfers. In addition, Father Complainant alleged that he provided Respondent with \$60,000 in gold coins for the purpose of Crypto investing. The investigation also noted the potential violation that the Respondent failed to maintain transaction documents for a period of four years; and

- B. This is a possible violation of:
  - a. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
  - b. § 12-10-217(1)(k), C.R.S. - failure to maintain files for 4 years;
  - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
  - d. Commission Rule 6.20 - transaction file requirements; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. His 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 the Commission a fine in the amount of \$7,500.

**Motion unanimously carried.**

**Q. Complaint #2021-1528 (KB) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1528 (KB) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The Complainant alleged that the Respondent failed to properly represent his interests when she listed his property for sale. The seller instructed the Respondent that he wanted to retain the mineral rights when he sold the property. The Respondent questioned whether the seller owned the mineral rights and stated that mineral rights, "usually aren't conveyed with properties in Colorado." He told her that he did in fact own the mineral rights. The Respondent stated that in a phone call with the seller she asked him to provide proof of ownership and did not mention it again. The Respondent did not counsel the seller to consult with a mineral rights expert or title company; 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. § 12-10-404(1)(c)(V), C.R.S. - advise seller to obtain expert advice;
  - d. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule;
  - 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 pay a fine to the Commission in the amount of \$1,000;
- E. She will be required to successfully complete real estate education in Contracts and in Mineral Rights.

**Motion unanimously carried.**

**R. Complaint #2021-1928 (AT) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2021-1928 (AT) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The Respondent self-reported his criminal conviction. The Respondent leased a retail space and was allowing another individual to use part of the space. The other individual was murdered at the retail space while the Respondent was out of town. A witness provided a statement to police regarding marijuana at the scene. The Respondent was charged with Possession With Intent To Distribute, a class F Drug Felony. The Respondent was sentenced to 6 months in the Department of Corrections. The Respondent has completed his 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; and
- D. He shall pay a fine to the Commission in the amount of \$250.

**Motion unanimously carried.**

**S. Complaint #2022-274 (KH) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2022-274 (KH) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission to dismiss the complaint as there is no license law violation.

**Motion unanimously carried.**

**T. Complaint #2022-273 (AT) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2022-273 (AT) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission to dismiss the complaint as there is no license law violation.

**Motion unanimously carried.**

**U. Complaint #2021-215 (AD) -**

The investigative report concerning a complaint filed against the respondent in Complaint #2021-215 (AD) 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 a property manager in the Colorado Springs area. The allegations are that the Complainant converted or diverted funds—used funds belonging to property owners and tenants for personal use—commingled funds, failed to hold money belonging to others in trust or escrow accounts, failed to identify the fiduciary nature of accounts, failed to separate money belonging to others by purpose, failed to have required language on non-commission approved forms, failed to provide requested documents, failed to do required 3-way bank reconciliations, and apparently falsified an IRS document; 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;
  - d. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
  - e. § 12-10-217(1)(w), C.R.S. - dishonest dealing;
  - f. § 12-10-404(1)(a), C.R.S. - perform terms of written agreement;
  - g. § 12-10-404(1)(b), C.R.S. - skill and care;
  - h. § 12-10-404(1)(c)(VI), C.R.S. - accounting for money;
  - i. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
  - j. Commission Rule 5.3 - accounts in name of brokerage firm or broker
  - k. Commission Rule 5.5 - money separated by purpose;
  - l. Commission Rule 5.9 - diversion, conversion prohibited;
  - m. Commission Rule 5.10 - commingling prohibited;
  - n. Commission Rule 5.14 - recordkeeping requirements;
  - o. Commission Rule 5.21 - production of documents and records;
  - p. Commission Rule 7.1(b) - Forms - required language; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. Her 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 \$37,500.

**Motion unanimously carried.**

#### **LICENSING MATTERS:**

##### **Licensing Matter A - Complaint #2022-216 (CH) - 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.

The applicant has a 2003 conviction for Kidnapping (3rd Degree Felony), a 2003 conviction for Battery (1st Degree Misdemeanor), and a 2004 conviction for Conspiracy to Distribute & Possess Ecstasy (Felony). The applicant has completed the terms of all three sentences.

It was moved by Commissioner Rediker and seconded by Commissioner Chang to defer this complaint to the August 2<sup>nd</sup> Real Estate Commission Meeting.

**Motion unanimously carried.**

**Licensing Matter B - Complaint #2022-830 (CS) - 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 12/21/07, the applicant was convicted of one count of 21 U.S.C. § 952(a)(1) - Importation of at least 500 grams of cocaine and one count of 21 U.S.C. § 841(a)(1) - Possession with intent to distribute at least 500 grams of cocaine. The applicant was sentenced to 27 months imprisonment and 5 years of probation following release of imprisonment.

The applicant also had an ID Theft criminal case from 2017. However, this case was dismissed on 01/05/2021 after successfully completing the deferred sentence for this case.

It was moved by Commissioner Chang and seconded by Commissioner Rediker to deny the license application based on lack of rehabilitation.

**Motion unanimously carried.**

**Licensing Matter C - Complaint #2022-646 (AT) - Licensing Application -**

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

On January 28, 2021, the applicant was convicted of a General Court Martial for Unlawful carry of a firearm, article 114, Simple Assault, article 128, and Drunk & Disorderly, article 134. The applicant was sentenced to 18 months of probation, 311 days confinement credit and reduction in pay grade, with a bad conduct discharge.

It was moved by Commissioner Rediker and seconded by Commissioner Chang to approve the license application with restrictions. The applicant's license will be restricted for a period to run concurrent with probation of the criminal sentence.

**Motion unanimously carried.**

**Licensing Matter D - Complaint #2022-855 (JF) - 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 November 2, 2018, the applicant pleaded guilty to Cruelty to Animals-Neglect/Mistreat, a class 1 misdemeanor. All sentencing terms, including probation, have been completed.

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

**Motion unanimously carried.**

**Licensing Matter E - Complaint #2022-801 (JL) - License Application -**

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

In 2008 the applicant plead guilty to computer crime (theft) 18-5.5-102 (1) (d), a class 3 misdemeanor. The charge was a result from the applicant writing 5 checks to herself out of her employer's account totaling over \$50,000. The applicant confessed this to her employer. The applicant served 4 years of probation. The applicant has paid all court costs. The applicant has paid restitution in the amount of \$50,200.00

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

**Motion unanimously carried.**

**Licensing Matter F - Complaint #2022-794 (LM) - 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.

The applicant, who was a licensed real estate broker from 12/09/2004 - 10/17/2015, signed a Stipulation with the Division of Real Estate on 03/05/2010 in violation of several statutes and rules. The applicant's discipline, that was successfully completed, included education, public censure, \$2,500.00 fine, six months suspension and one year probation.

On 04/17/2015, the applicant plead guilty to a Felony 2 - 18-17-104(4) COCCA-Conspiracy. She was sentenced to the continued cooperation with the DA office, three years of probation that was completed, \$2,447.50 in court fines and \$646,124.67 in restitution. She currently has a balance of \$701,703.73 in court fines and restitution and a payment plan in place of \$200.00 per month. The applicant stated that the complaints that led to the discipline of her real estate broker license (referenced above) were related to the same activity that resulted in the felony conviction.

It was moved by Commissioner Chang and seconded by Commissioner Rediker to issue a positive opinion. After further discussion, the motion and second were withdrawn.

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

**Motion unanimously carried.**

**EXECUTIVE SESSION:**

At 12:05 p.m. it was moved, seconded and approved by more than two-thirds vote by the Commission that pursuant to §24-6-402(3)(a)(II), C.R.S., to convene the Colorado Real Estate Commission into Executive Session for the following purpose:

- A. To confer with counsel to receive legal advice regarding AG Matter A., Complaint #x2021-91 (SK), and receive a counteroffer from respondent in the case; and
- B. To confer with counsel to receive legal advice regarding AG Matter B., Complaint #2020-1681 (SL), and receive a counteroffer from respondent in the case.

**Motion unanimously carried.**

Executive Session is conducted via Google Hangout Meeting.

The Commission adjourned out of Executive Session at 12:28 p.m. and resumes meeting via Zoom webinar that is open to the public.

**ATTORNEY GENERAL MATTERS:**

**A. Complaint #x2021-91 (SK) -**

It was moved by Commissioner Rediker and seconded by Commissioner Chang to accept the settlement offer in Complaint #x2021-91 (SK).

**Motion unanimously carried.**

**B. Complaint #2020-1681 (SL) -**

It was moved by Commissioner Rediker and seconded by Commissioner Chang to grant alternative settlement authority to the Attorney General's Office based upon specific terms that were discussed in Executive Session.

**Motion unanimously carried.**

**ADJOURN:**

The Real Estate Commission adjourned out of their regular meeting at 12:33 p.m. on June 7, 2022.

---

Michelle Espinoza, Chair

---

\_\_\_\_ABSENT\_\_\_\_  
Graham Kaltenbach, Vice Chair

---

Joe Chang, Commissioner

---

Renee Lynde, Commissioner

---

Kim Rediker



---

Marcia Waters, Director  
Colorado Division of Real Estate