



COLORADO

Department of
Regulatory Agencies

Division of Real Estate

1560 Broadway, Suite 925
Denver, CO 80202-5111

MINUTES

COLORADO REAL ESTATE COMMISSION MEETING August 6, 2024

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MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
August 6, 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 August 6, 2024. Those Commissioners in attendance were Michelle Espinoza - Chair; Erika Doyle; Renee Lynde; and Autymn Rubal. Also attending were Marcia Waters, Director; David Donnelly, Education, Communication and Policy Manager; Melissa Phipps, Senior Advisor; Penny Elder, ESP Program Manager; Sarah Halloran, Investigations Team Lead; Eddie Rose, Investigations Team Lead; Nicole Tribelhorn, Investigations Team Lead; and other members of the Commission's Staff. Gina Simonson and Irina Grohne 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 9:03 a.m.

CE Credit for Attending -

David Donnelly, Communication and Policy Manager, conducted a poll so that those attendees wishing to receive CE credit for attending the meeting could submit their request. 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.

NON-RULEMAKING HEARING - Commission Approved Forms:

- Agreement to Amend/Extend Contract
- Counterproposal
- Residential Addendum to Contract to Buy and Sell Real Estate

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to accept the changes as recommended and adopt the Agreement to Amend/Extend Contract; the Counterproposal and the Residential addendum to Contract to Buy and Sell Real Estate.

Motion unanimously carried.

ORDER OF BUSINESS

Approval of Minutes - June 4, 2024

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to approve the Minutes of June 4, 2024 as written.



CREC Minutes_June
4, 2024.pdf

Motion unanimously carried.

Approval of Minutes - June 25, 2024

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to approve the Minutes of June 25, 2024 as written.



CREC Minutes_June
25, 2024.pdf

Motion unanimously carried.

POLICY MATTERS:

Selection of Leadership -

It was moved by Commissioner Espinoza and seconded by Commissioner Doyle to nominate Renee Lynde as Vice Chair of the Real Estate Commission.

Motion unanimously carried.

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 #2023-829 (RJ) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-829 (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. On 05/03/2023, an anonymous complaint was filed against the respondent stating that the respondent violated his fiduciary duties as a buyer's agent to a Spanish speaking senior. The complaint alleged that the respondent failed to inform the buyer of the costs associated with a hard money loan. The investigation noted the respondent's primary language is English, and the respondent enlisted his father to assist with translating and communicating between the buyer and the respondent. The buyer was not able to secure traditional financing and alleges she does not understand the type of loan she was given to purchase the property. The respondent states the buyer was properly explained her options once she was denied a conventional loan and the buyer chose to proceed with obtaining a higher costing loan through a hard money lender. The buyer then refinanced a few months after closing with the help of the

respondent's father as a co-signer. The respondent appears to be unaware his father helped the buyer in refinancing. The respondent's father now wants the buyer to either sell the property or refinance again in order to remove him from the mortgage. The buyer has not refinanced and does not want to sell the property. The respondent's father is still on the mortgage. The buyer states that the respondent and his father have made no further attempts to request that she sell or refinance the property since the complaint was filed; 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. § 12-10-405(1)(b), C.R.S. - single agent engaged by buyer failing to exercise reasonable skill and care;
 - d. Commission Rule 6.2 - must possess experience, training, and knowledge; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The respondent's real estate broker's license shall be publicly censured;
- E. He will be required to pay a fine to the Commission in the amount of \$5,000; and
- F. He will be required to successfully complete real estate education in Ethics.

Motion unanimously carried.

Complaint B. - #2023-155 and Complaint C. - #2023-388 (SJ) -

The investigative reports concerning complaints filed against the same respondent in Complaint #2023-155 and in Complaint #2023-388 (SJ) were presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send these matter through the expedited settlement process (ESP).

Complaint B - 2023-155

- A. On 01/26/2023, the complainant filed Complaint No. 2023-155 against the respondent stating that the respondent failed to provide owners statements and failed to remit January 2023 rent and return the security deposit upon termination of services. The investigation noted that the respondent did remit missing funds to the complainant after the complaint was filed. The respondent failed to provide owner statements or final accounting to the complainant. The respondent failed to provide 3-way reconciliation reports, monthly journals or ledgers for accounts holding funds of others including the security deposit account. The respondent failed to provide management fee reports to detail management fees due per month. The accounts used by the respondent regularly appear to commingle trust funds with broker funds. It appears the respondent has shut down the business and currently the respondent's real estate license is inactive due to an E&O insurance audit as of 03/13/2023.

Complaint C - 2023-388

- B. On 03/03/2023, the complainant filed Complaint No. 2023-388 against the respondent stating that the respondent failed to provide owners statements, remit rents in 2022, and return the security deposit upon termination of services. The investigation noted that the respondent did remit the missing security deposit funds but has failed to provide accounting of funds to the complainant. The complainant alleges the

respondent owes \$6,000.00 in rents. The respondent failed to provide owner statements, invoices and a final accounting to the complainant. The respondent failed to provide 3-way reconciliation reports, monthly journals and ledgers for accounts holding funds of others including the security deposit account. The respondent failed to provide management fee reports to detail management fees due per month. The accounts used by the respondent regularly appear to commingle trust funds with broker funds. It appears the respondent has shut down the business and currently the respondent's real estate license is inactive due to an E&O insurance audit as of 03/13/2023.

The staff was directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

C. This is a possible violation of:

- a. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
- b. § 12-10-217(1)(i) C.R.S. - converting, diverting, commingling funds;
- c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
- d. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
- e. Commission Rule 5.2 - money belonging to others must be deposited in trust or escrow;
- f. Commission Rule 5.10 - commingling prohibited;
- g. Commission Rule 5.14 - recordkeeping requirements;
- h. Commission Rule 5.15 - maintenance and production of reports to beneficiaries;
- i. Commission Rule 5.21 - production of documents and records; and

D. The respondent's settlement offer includes a Stipulation and Final Agency Order;

E. The real estate broker's license shall be publicly censured;

F. The real estate broker's license shall be revoked;

G. She will be required to pay a fine to the Commission in the amount of \$40,000; and

H. The respondent will be referred to criminal law enforcement.

Motion unanimously carried.

NOTE: Complaint D - #x2024-24 (GB) was removed from the Commission's consideration.

E. Complaint #x2024-50 (CT) -

The investigative report concerning a complaint filed against the respondent in Complaint #x2024-50 (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. This audit was required as part of a signed stipulation which required that the broker demonstrate compliance with the Three-way Reconciliation, Required Disclosures and Property Management forms. The respondent's initial responses indicated that none of these three areas were in compliance as the reconciliation was missing the required Journal, Disclosures had still not been provided to tenants and the property management forms may not comply with the provisions outlined in Rule 7.1 Forms.

Though the broker was provided clear direction as to what was required (both within the stipulation and within this audit), the broker was unable to provide evidence that tenants have been provided disclosure, that her forms comply or an explanation as to why the journal was not provided with reconciliations. After reviewing the separately submitted accounting documents, it does appear that the broker is properly accounting for money belonging to others, but the other two required aspects of her stipulation remain out of compliance; 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 7.1 - standard forms;
 - e. Commission Rule 6.20 - transaction file requirements; 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. She will be required to pay a fine to the Commission in the amount of \$4,500;
- F. She will be required to successfully complete 3 or more hours of real estate education in Best Practices for Safety and Accountability in Real Estate; and
- G. The respondent will be required to provide evidence of full audit compliance within 90 days of signing the Stipulation.

Motion unanimously carried.

F. Complaint #2023-2399 (AG) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-2399 (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 alleges that the respondent orchestrated a scheme to defraud a commission advancement company out of over \$4,000.00. The seller of the property alleges that the respondent represented that she would list the property for sale at a reduced commission, along with using her broker's commission to reimburse the seller for back rent owed. At closing, the seller alleges that she was charged a higher commission rate and was not reimbursed for the back rent; 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. § 12-10-407(2)(b), C.R.S. - failure to exercise reasonable skill and care as a transaction broker;
 - f. Commission Rule 6.25 - must submit written response to complaint; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The real estate broker's license shall be publicly censured;
- E. The real estate broker's license shall be revoked;

F. She will be required to pay a fine to the Commission in the amount of \$12,500.

Motion unanimously carried.

G. Complaint #2023-1695 (MB) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1695 (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. The complainant alleges that the transaction documents of the respondent, who was the listing agent, were fraught with errors such as incorrect property descriptions, inaccurate terms and conditions, and missing clauses that were essential for a legally sound agreement; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice; and
- G. The respondent's settlement offer includes a Stipulation for Diversion; and
- H. The respondent will be required to pay a fine to the Commission in the amount of \$2,500.

Motion unanimously carried.

H. Complaint #2024-709 (JF) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-709 (JF) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On 01/16/2024, the respondent pled guilty to one count Felony Assault in the 2nd Degree - Strangulation. The Court agreed to a two-year Deferred Judgment and Sentence that includes supervised probation for two years, Domestic Violence Evaluation and Counseling, and Court costs/fees in the amount of \$1,646.50 that has been paid in full; 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. He will be required to pay a fine in the amount of \$500 to the Commission; and
- E. The real estate broker's license shall be on probation concurrent with the deferred sentence.

Motion unanimously carried.

I. Complaint #2024-860 (AW) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-860 (AW) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On 04/30/2024, the respondent pled guilty to a charge of Felony Burglary 2-of Dwelling. He was then sentenced with a deferred sentence of 18 months, various evaluations and treatments, a protection order and court fine/fees in the amount of \$1,293.50 that has been paid in full; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. He will be required to pay a fine in the amount of \$250 to the Commission; and
- E. He will be required to successfully complete real estate education in Tenant Rights.

Motion unanimously carried.

J. Complaint #2023-1958 (KB) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1958 (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 buyer, who is the complainant, alleged that her buyer's agent (respondent) did not protect her \$10,000.00 in earnest money; 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. § 12-10-405(1), C.R.S. - broker engaged by buyer; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. She will be required to pay a fine to the Commission in the amount of \$2,500;
- E. She will be required to successfully complete real estate education in Brokerage Relationships and in Contracts; and
- F. The respondent will be required to submit to a high level of supervision for two years.

Motion unanimously carried.

K. Complaint #2024-507 (MH) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-507 (MH) 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 03/07/2024, the respondent was convicted of Theft - \$100,000 - 1,000,000, a Class 3 Felony, and Computer Crime - Scheme/DEF, a Class 3 Felony. The respondent was ordered to pay \$4,191.50 in court costs and fees, which have not been paid. A Restitution Hearing is scheduled for 07/15/2024. The respondent was also ordered to complete 6 years 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; 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. The real estate broker's license shall be revoked; and
- F. She will be required to pay a fine in the amount of \$2,500 to the Commission.

Motion unanimously carried.

NOTE: Complaint L - #2024-554 (JM) is tabled until after Executive Session.

M. Complaint #2024-456 (JM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-456 (JM) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The investigation found that there were potential violations concerning brokerage/employee supervision, record retention, E&O insurance coverage, and office policy manual issues; 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)(r), C.R.S. - failure to supervise associates per Rule E-31;
 - c. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4; and
 - d. Commission Rule 6.3 - employing broker's responsibilities and supervision;
 - e. Commission Rule 6.4 - brokerage firm's policies;
 - f. Commission Rule 6.20 - transaction file requirements; 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 \$5,000;
- E. She will be required to successfully complete real estate education in Brokerage Administration; and
- F. The respondent's real estate broker's license shall be downgraded to an associate broker level for a period of two years.

Motion unanimously carried.

N. Complaint #2024-708 (OV) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-708 (OV) 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 01/08/2024, the respondent pled guilty to Assault 2 - Strangulation, a Class 4 Felony. The respondent was ordered to pay \$1,608.50 in court costs and fees, of which \$500.00 has been paid. The respondent was also ordered to complete 2 years 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;
 - a. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - b. 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 shall be required to pay a fine to the Commission in the amount of \$500; and
- E. The respondent real estate broker's license shall be on probation concurrent with the deferred sentence.

Motion unanimously carried.

O. Complaint #2024-706 (CK) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-706 (CK) 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 April 11, 2024, the respondent pled guilty to Burglary 2 - of a building, a Class 3 Felony. The respondent received 4 years of Probation on a Deferred Judgment and Sentence. This offense and sentence resulted in the revocation of a previous Deferred Judgment and Sentence for Misdemeanor Menacing, in which the respondent had originally received a 2-year probation sentence. The sentence for the Burglary charge will run concurrent with the previous probation sentence for menacing. The respondent's previous criminal case went before the Commission in 2023 and resulted in a signed stipulation and probationary license; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(n), C.R.S. - conviction/plea to specified crimes;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. The respondent shall be required to pay a fine to the Commission in the amount of \$2,500;
- E. The real estate broker's license shall be on probation concurrent with sentencing; and

F. He will be directly referred to the Attorney General's Office.

Motion unanimously carried.

P. Complaint #2024-707 (PL) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-707 (PL) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. On August 11, 2023, the respondent was arrested in Summit County, Colorado. The respondent was suspected of threatening another man with a gun. On February 14, 2024, the respondent pled guilty to one count of 18-3-206; Felony Menacing (F5) and 1 count of 18-3-206; Misdemeanor Menacing (M1). The respondent received a deferred sentence and a deferred judgment for 18 months. The respondent was ordered to serve community service, take a course in anger management, and was granted unsupervised probation. The conviction was not reported to the Colorado Real Estate Commission. As of the date of the report the respondent had begun community service and proved enrollment in the required anger management course. All fines and 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;
 - b. § 12-10-217(1)(m), C.R.S. - violation of any Commission rule or part 4;
 - c. § 12-10-217(1)(p), C.R.S. - failure to immediately notify CREC;
 - d. Commission Rule 6.23 - immediate notification of conviction, plea or violation required; and
- C. The respondent's settlement offer includes a Stipulation for Diversion;
- D. The respondent shall be required to pay a fine to the Commission in the amount of \$500; and
- E. The real estate broker's license shall be on probation concurrent with sentencing.

Motion unanimously carried.

Q. Complaint #2023-1996 (KG) -

The investigative report concerning a complaint filed against the respondent in Complaint #2023-1996 (KG) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainants filed a complaint against the respondent who was the agent/owner of the property they purchased. The complainants alleged that the respondent failed to disclose all adverse material facts to them, including a structural engineer's report; and
- B. This is a possible violation of:

- a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
- b. § 12-10-403(3)(a), C.R.S. - failure to disclose material facts;
- 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 real estate broker's license shall be publicly censured;
- E. The respondent shall be required to pay a fine to the Commission in the amount of \$5,000; and
- F. She will be required to successfully complete real estate education in Ethics.

Motion unanimously carried.

EXECUTIVE SESSION:

At 10:06 a.m. it was moved, seconded and approved by more than two-thirds vote by the Commission that pursuant to §24-6-402(3)(a)(II), C.R.S., to convene the Colorado Real Estate Commission into Executive Session for the purpose of receiving legal advice pursuant to C.R.S. §24-6-402(3)(a)(II) concerning disputes that are the subject of pending or imminent court action and/or for the purpose of receiving legal advice regarding:

- A. Complaint L - #2024-554 (JM);
- B. Licensing Matter B - #2024-873 (DA); and
- C. Licensing Matter D - #2024-908 (TS)

Motion unanimously carried.

Executive Session is conducted via Google Hangout Meeting.

The Commission adjourned out of Executive Session at 10:51 a.m. and resumes meeting via webinar that is open to the public.

L. Complaint #2024-554 (JM) -

The investigative report concerning a complaint filed against the respondent in Complaint #2024-554 (JM) was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- A. The complainant, who was a potential tenant of the property, alleged that the respondent inappropriately retained the security deposit when it was decided not to rent the property; and
- B. This is a possible violation of:
 - a. § 12-10-217(1)(q), C.R.S. - unworthy, incompetent practice;
 - b. § 12-10-217(1)(h), C.R.S. - failure to account for funds received;
 - c. § 12-10-217(1)(i), C.R.S. - converting, diverting, commingling funds; and
- C. The respondent's settlement offer includes a Stipulation and Final Agency Order;
- D. She shall be required to pay a fine to the Commission in the amount of \$5,000;
- E. She will be required to successfully complete real estate education in Legal Issues and in Contracts;

- F. The Commission authorizes Division staff to accept restitution in the amount of the security deposit (\$3,450) and reduce the fine by that amount.

Motion unanimously carried.

LICENSING MATTERS:

Licensing Matter A - Complaint #2024-999 (NJ) - 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 05/19/2008, the respondent pled guilty to a charge of Felony Fraud by Check-\$1000/more and Misdemeanor Forgery 2. The applicant was sentenced to a three (3) year deferment and three (3) years of probation, which was revoked with re-sentencing on 04/04/2011 and completed on 06/19/2013. The Deferred Judgment and Sentence included three (3) years of supervised probation, 150 hours of community service, and Court costs/fees in the amount of \$3,591.00 that has been paid in full.

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

Motion unanimously carried.

Licensing Matter B - Complaint #2024-873 (DA) - 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 June 13, 2022, the applicant was convicted of Theft \$1000-\$2000, a Class 1 Misdemeanor and Theft \$20,000-\$100,000, a class 4 felony. The felony was dismissed in March 2024 after completing probation. The applicant was sentenced to 2 years of probation and restitution in the amount of \$141,627.13. The probation is terminated, and the restitution has been paid in full. The victim stated that after the applicant was at his home, his wallet was stolen. The applicant used the stolen credit cards and also transferred \$125k out of the victim's investment account. The applicant's Colorado Division of Insurance license was approved with restrictions. The applicant's Colorado Real Estate license application was denied in 2023.

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to deny the license application based on lack of rehabilitation and that the applicant's conviction is recent.

Motion unanimously carried.

Licensing Matter C - Complaint #2024-1172 (CC) - 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 February 10, 2017, the applicant was convicted of Child Abuse-Knowing/Reckless Cause, a Class 3 Felony. The applicant was sentenced to 18 years in prison, court costs, and restitution in the amount of \$13,857.50. The applicant still owes \$6,358.80. The applicant is currently on Parole through 2028.

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to issue a negative opinion, as the applicant remains on parole.

Motion unanimously carried.

Licensing Matter D - Complaint #2024-908 (TS) - License Application -

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

On December 19, 2012, the applicant was issued a Cease and Desist order by the Nebraska Real Estate Commission. The order was based on a Nebraska investigation that showed the applicant had listed two Nebraska properties in a Florida MLS. The Florida MLS shared that information with Realtor.com. As a result of the Nebraska Cease and Desist, the Illinois Department of Financial and Professional Regulation took action on the applicant's Illinois Real Estate Broker License. The applicant was issued a Consent Order on February 25, 2014. The state of Nebraska reports no disciplinary action. The applicant is licensed and active in 33 States; Inactive in 4 States, and holds an Ohio Law License in good standing.

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

Motion unanimously carried.

Licensing Matter E - Complaint #2024-995 (JM) - 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 08, 1999, the applicant was convicted of a Felony Theft. The applicant was sentenced to 10 years of probation and ordered to pay restitution in the amount of \$134,962.12. The applicant has a \$200.00 monthly payment plan with a current balance of \$83,112.12. The applicant has completed probation successfully. The case is closed.

It was moved by Commissioner Lynde and seconded by Commissioner Doyle to deny the license application based on lack of rehabilitation, truthfulness, honesty and good moral character.

Motion unanimously carried.

Licensing Matter F - Complaint #2024-950 (JC) - 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 19, 2012, the applicant was convicted of Marijuana Concentrate/Possession with intent under 1 pound, a Class 5 Felony. The applicant has completed probation successfully and has paid restitution and the fine in full. The case is closed.

On May 03, 2024, the applicant pled guilty to a Class 2 Misdemeanor Child Abuse-Knowing/Reckless-No Injury. The applicant was sentenced to 12 months deferred sentence and a fine of \$798.50. The applicant is still on deferment and the fine has been paid in full. The applicant did not disclose this conviction on his application.

The applicant was principal to a transaction that resulted in a license downgrade and stipulation for a Colorado real estate licensee.

It was moved by Commissioner Lynde and seconded by Commissioner Rubal to deny the license application based on lack of rehabilitation, truthfulness, honesty and good moral character.

Motion unanimously carried.

ESP MATTERS:

ESP Matter A, Complaint #2024-415 (JM) - Stipulation Violation -

The Commission was presented with a stipulation violation report by Penny Elder, ESP Program Manager, regarding ESP Matter A, Complaint #2024-415 (JM). 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 #2023-1525 (JW) - Stipulation Violation -

The Commission was presented with a stipulation violation report by Penny Elder, ESP Program Manager, regarding ESP Matter B, Complaint #2023-1525 (JW). Following discussion, it was moved by Commissioner Lynde and seconded by Commissioner Rubal 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).

Motion unanimously carried.

ESP Matter C, Complaint #2022-2011 (JGM) - Stipulation Violation -

The Commission was presented with a stipulation violation report by Penny Elder, ESP Program Manager, regarding ESP Matter C, Complaint #2022-2011 (JGM). 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.

ADJOURN:

The Real Estate Commission adjourned out of their regular meeting at 11:35 a.m. on August 6, 2024.

Michelle Espinoza, Chair

Renee Lynde, Vice Chair

Erika Doyle, Commissioner

Autymn Rubal, Commissioner

Vacancy

**Marcia Waters, Director
Colorado Division of Real Estate**