



COLORADO

Department of
Regulatory Agencies

Division of Real Estate

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MORTGAGE LOAN ORIGINATOR BOARD MINUTES

September 20, 2023

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**MORTGAGE LOAN ORIGINATOR BOARD
MEETING
VIA Webinar
September 20, 2023
COLORADO DIVISION OF REAL ESTATE**

A Mortgage Loan Originator Board public meeting was held on September 20, 2023 via webinar. Those Board Members in attendance were Dena Falbo, Chair; Jennifer Meckstroth, Vice-Chair; Aaron Salladay; and Shirley Thielen. Cindy Emerine is excused.

Attending from the Division of Real Estate were Marcia Waters, Director; Eric Turner, Deputy Director; David Donnelly, Education, Communication and Policy Manager; Melissa Phipps, Senior Advisor; Sarah Halloran, Program Team Lead; Nicole Tribelhorn, Program Team Lead and Doreen Archuleta, Board Management. Gina Simonson and Anthony Lally are present via webinar from the Attorney General's Office.

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 Ms. Falbo, Chairwoman, at 9:01 a.m.

ORDER OF BUSINESS

Approval of Minutes - July 19, 2023

It was moved by Ms. Meckstroth and seconded by Ms. Thielen to approve the Minutes of July 19, 2023 as submitted.



MLO Minutes_July
19, 2023.pdf

Motion unanimously carried.

PUBLIC COMMENT: None

POLICY MATTERS: None

Agenda Items for Next Meeting - None

EXECUTIVE SESSION:

At 9:03 a.m., it was moved by Ms. Falbo, seconded by Ms. Thielen, and approved by more than two-thirds vote of the Board that pursuant to §24-6-402(3)(a)(II), C.R.S., concerning

disputes that are the subject of pending or imminent court action and/or for the purpose of receiving legal advice on specific legal questions regarding:

- A. Complaint #2022-1487 (IS)

And Attorney General Matters:

- A. Complaint #2022-91 (OC) - Reconsideration
- B. Complaint #2023-577 (DF) - Settlement Proposal
- C. Complaint #2021-348 (CF) - Case Status Report (For Informational Purposes)
- D. Complaint #2023-272 (RN) - Case Status Report (For Informational Purposes)

Executive Session is conducted via conference call. Present from the Attorney General's Office are: Gina Simonson, Anthony Lally, Gina Canaan and Irina Grohne.

The Board adjourned out of Executive Session at 9:39 a.m. and the Board returned to open session at 9:40 a.m.

COMPLAINT MATTERS:

A. Complaint #2022-1487 (IS) -

The investigative report concerning the complaint filed against the respondent in Complaint #2022-1487 (IS) was presented to the Board with accompanying documentation and information.

- A. A complaint was submitted by the listing agent explaining that the respondent presented a pre-qualification letter for the buyers indicating that their credit and income information had been reviewed and that they had been approved. The complainant states that his seller accepted the offer based on the letter and later learned that the borrowers' credit was not pulled until two days after the property went under contract. The complaint alleges that the respondent failed to properly disclose he was acting in dual capacity. As a result of the loan not closing, the borrower had to stay in a hotel for 30 days and the seller incurred several unnecessary moving expenses and was unable to close on an out of state property that she was trying to purchase simultaneously. The credit reports in the loan file are dated June 30, 2022, two days after the pre-approval letter was issued. The lender for this transaction also confirmed that the file was submitted to them on June 30, 2022. The Contract to Buy and Sell is dated June 28, 2022. The loan file contained a Dual Status disclosure dated July 7, 2022, several days after the property went under contract. Lastly, the respondent's loan file contained an Affiliated Business Arrangement Disclosure disclosing his ownership of the origination company, however, this disclosure was dated six days after the application was taken.
- B. This is a possible violation of:
 - a. § 12-10-713(1)(q), C.R.S. - unworthiness, incompetence;
 - b. § 12-10-713(1)(v), C.R.S. - good faith/fair dealing;
 - c. § 12-10-713(1)(m), C.R.S. - any part 9 or rule violation;
 - d. § 12-10-724, C.R.S. - dual status;
 - e. § 12-10-713(1)(j), C.R.S. - failure to provide the parties' information;
 - f. § 12-10-713(1)(cc), C.R.S. - making false or deceptive statement or representation;

- g. Board Rule 5.22 - dual status disclosure; and
- h. Board Rule 5.6 - reasonable inquiry.

Following discussion, it was moved by Ms. Falbo and seconded by Ms. Meckstroth for a settlement offer of a Stipulation and Final Agency Order to include public censure and payment of a fine in the amount of \$7,000 (plus 15% mandatory surcharge).

Motion unanimously carried.

LICENSING MATTERS:

A. Complaint #2023-1356 (MS) - License Application -

The Board considered this application for a mortgage loan originator's license together with accompanying documentation and information supplied by the applicant.

On March 9, 2015, the applicant's company entered into a Consent Order with the State of New Jersey, Department of Banking and Insurance. The applicant's company was ordered to pay a \$5,500.00 fine which was paid.

On March 13, 2018, the applicant's company entered into a Settlement Agreement with the State of New York, Department of Financial Services. The company was ordered to pay a \$5,000.00 fine which was paid.

On April 14, 2019, the applicant's company entered into an Order to Discontinue Violations with the State of California, Department of Business Oversight. The company was ordered to pay a \$1,000.00 fine which was paid.

It was moved by Ms. Meckstroth and seconded by Mr. Sallady to approve the license application.

Motion unanimously carried.

B. Complaint #2023-1220 (TB) - License Application -

The Board considered this application for a mortgage loan originator's license together with accompanying documentation and information supplied by the applicant.

In a multi-state investigation, it was determined that a former NMLS education provider, Real Estate Educational Services (REES) completed in-person and online education on behalf of hundreds of MLOs across the nation. REES granted course credit to the MLOs who had enrolled in the approved courses but who neither attended the course nor completed the coursework necessary to receive course credit.

As a result of the REES settlement, the respondent agreed to the following:

- Surrender all current MLO licenses and withdraw all MLO license applications of participating State Mortgage Regulators;
- Wait at least 90 days from December 31, 2021 before applying for, or seeking reinstatement of, an MLO license;
- Pay \$1,000 in administrative fines to the California DFPI, State Mortgage Regulators.

It was moved by Mr. Sallady and seconded by Ms. Thielen to approve the license application with a 180-day probationary license.

Motion unanimously carried.

C. Complaint #2023-1042 (LC) - License Application -

The Board considered this application for a mortgage loan originator's license together with accompanying documentation and information supplied by the applicant.

On July 21, 2021, the applicant was convicted of a Misdemeanor Domestic Assault 4th Degree, and an Assault in the 4th Degree-Misdemeanor. The applicant was sentenced to 2 years of probation and a fine of \$141.50. The applicant has paid his fine in full and completed probation.

It was moved by Mr. Sallady and seconded by Ms. Meckstroth to approve the license application with a 180-day probationary license based on §12-10-713(1)(n).

Motion unanimously carried.

D. Complaint #2023-1404 (OV) - License Application -

The Board considered this application for a mortgage loan originator's license together with accompanying documentation and information supplied by the applicant.

On May 23, 2023, the applicant was convicted of a Class 1 Misdemeanor Child Abuse-Knowing/Reckless-Bodily Injury. The applicant was sentenced to 18 months deferred judgment/sentence, 2 days in jail with credit for time served, and a fine of \$1,874.50. The applicant is set to end deferred judgment on December 28, 2024. The applicant has paid the fine in full.

It was moved by Ms. Meckstroth and seconded by Ms. Thielen to deny the license application based on §12-10-713(1)(n). The Board also voted to allow the applicant to withdraw his license application.

Motion unanimously carried.

ATTORNEY GENERAL MATTERS:

A. Complaint #2022-91 (OC) - Reconsideration -

The Board was presented with a report by Gina Cannan, Senior Assistant Attorney General regarding Complaint #2022-91 (OC).

After discussion, it was moved by Ms. Falbo and seconded by Mr. Salladay to impose appropriate discipline based on a violation of Board Rule 5.9 to include an indefinite suspension until he responds to the complaint and a fine in the amount of \$1,000 (plus mandatory 15% surcharge).

Motion unanimously carried.

B. Complaint #2023-577 (DF) - Settlement Proposal -

The Board was presented with a report by Anthony Lally, Assistant Attorney General regarding Complaint #2023-577 (DF).

After discussion, it was moved by Ms. Meckstroth and seconded by Mr. Salladay to accept the settlement proposal for issuance of a 180-day probationary license.

Motion unanimously carried.

Attorney General Complaint C. #2021-348 (CF) and Attorney General Complaint D. #2023-272 (RN) - Case Status Report -

The Attorney General's Office provided a case status report for Complaint #2021-348 (CF) and Complaint #2023-272 (RN) to the Board in Executive Session.

Adjourn

The MLO Board meeting adjourned at 10:22 a.m. on September 20, 2023.

Dena Falbo, Chair

Jennifer Meckstroth, Vice-Chair

ABSENT
Cindy Emerine, Board Member

Aaron Salladay, Board Member

Shirley Thielen, Board Member

Marcia Waters, Director
Colorado Division of Real Estate

