

MINUTES

COLORADO REAL ESTATE COMMISSION MEETING

JANUARY 6, 2009

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MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
JANUARY 6, 2009
COLORADO DIVISION OF REAL ESTATE
1560 BROADWAY, SUITE 925
DENVER, CO 80202

A Colorado Real Estate Commission public meeting was held on January 6, 2008. Those Commissioners in attendance were Chairman Paul Goldenbogen, Vice Chair Kristen Bronson, Martin Pocs, Pres Montoya and Charles "Buzz" Moore. Also attending were Marcia Waters, Investigations and Compliance Director; Penny Elder, Real Estate Program Manager; Mary Kanaly, ESP Program Manager; Terry Hugar, Attorney General's Office and several members of the Commission's staff. Erin Toll, Director was absent.

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 called to order by Chairman Paul Goldenbogen at 9:00a.m.

EMERGENCY AND PERMANENT RULE MAKING HEARING

The emergency and permanent rule making hearing is called to order by Chairman Goldenbogen to hear oral testimony and to accept written submission related to the proposed rule referenced in the Colorado Code of Regulations 725-1, more commonly known as Rule A-15 Criminal History check required prior to renewal. The rule making hearing is for F-7 Commission Approved Forms Dual Status Disclosure and Commission Approved Forms 2004 Forms.

This is a permanent rule making hearing and an emergency rule making hearing pursuant to the process set forth in the administrative procedure act. Pursuant to the act, Commission may hear testimony in regard to the permanent rule and the emergency rule. The public record will consist of all oral testimony as well as any written information submitted within the allowable time frame. Therefore, in addition to all public testimony and comments today, the Division will review all written materials in order to make a final decision on the content of the regulations. Public record for the regulation will close at the end of this hearing.

Permanent Rule-Criminal History Check Required Prior to Renewal

Chair Goldenbogen introduces Marcia Waters to explain the purpose of the permanent rule making hearing. Pursuant to §12-61-110(4), C.R.S. requires that any licensee renewing a license, shall renew the license on an anniversary date every three years. The licensee is required to comply with the continuing education requirements outlined by §12-61-110.5, C.R.S. and the submission of fingerprints as outlined by §12-61-110.8, C.R.S. §12-61-110.8, C.R.S. was repealed on July 1, 2008 and it detailed the manner in which the fingerprints would be submitted to the Commission. The purpose of this rule is to ensure that those licensees who were licensed prior to July 1, 2004, and who renewed or reinstated their licenses on inactive status during the years of 2005, 2006 and 2007, be required to submit fingerprints to the Colorado Bureau of Investigation to be used to complete a one-time finger-based criminal history check. Renewed licensees will remain on inactive status until the Commission has received the results of the criminal record check. If a licensee has twice submitted fingerprints to the Colorado Bureau of Investigation and the results have concluded that the fingerprints are “unclassifiable”, the Commission may acquire a name-based criminal history check.

Chair Goldenbogen seeks a motion to adopt the Permanent Rule A-15-Criminal History check required prior to renewal.

It was moved by Commissioner Moore and seconded by Commission Pocs. There were no comments by the public or staff.

Motion unanimously carried.

Emergency Rule F-7 Emergency Rule-Dual Status Disclosure

On December 3, 2008, a rulemaking hearing was conducted by the Director of the Division of Real Estate for the Mortgage Broker Program regarding the adoption of a dual status disclosure form to be used by licensees acting in the dual capacity of a mortgage broker and a real estate broker. The Director has not yet adopted the rule. The purpose of the emergency rulemaking hearing is to ensure that licensees acting in a dual capacity comply with the laws of the real estate practice act and Commission rules, specifically that they make disclosures as proscribed by the Commission and utilize a Commission approved form.

Immediate adoption of this rule is imperatively necessary for the preservation of public health, safety or welfare and that compliance with the rulemaking requirements of 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

Chair Goldenbogen seeks a motion to adopt Emergency Rule F-7 Emergency Rule-Dual Status Disclosure.

It was moved by Commissioner Moore and seconded by Commission Pocs. There were no comments by the public or staff.

Motion unanimously carried.

Emergency Rule-2004 Forms

The purpose of this rulemaking is to ensure that the 2004 forms are properly adopted. The Commission's counsel notified staff that the 2004 forms are absent from the Secretary of State's website and the Colorado Code of Regulations, although the Commission voted to adopt the forms on May 5, 2004. The forms presented for adoption today are:

- 1) Agreement to Amend/Extend Contract with Broker
- 2) Common Interest Community Checklist for Brokerage Firm
- 3) Earnest Money Promissory Note
- 4) Earnest Money Release
- 5) Exchange Addendum to Contract to Buy and Sell Real Estate
- 6) Lead-Based Paint Disclosure (Sales)
- 7) Lead-Based Paint Disclosure (Rentals)
- 8) Lead-Based Paint Obligations of Seller
- 9) Lead-Based Paint Obligations of Landlord
- 10) Square Footage Disclosure

Immediate adoption of this rule is imperatively necessary for the preservation of public health, safety or welfare and that compliance with the rulemaking requirements of 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

Chair Goldenbogen seeks a motion to adopt Emergency Rule 2004 Forms.

It was moved By Commission Pocs and seconded by Commissioner Moore. There were no comments by the public or staff.

Motion unanimously carried.

MINUTES APPROVAL

It was moved by Commissioner Montoya and seconded by Commissioner Moore to approve the Minutes of December 2, 2008 as amended.

Motion unanimously carried.

ORDER OF BUSINESS

POLICY MATTERS

Chair Goldenbogen discusses Rule E-43 which has been discussed at the December 2, 2008 meeting. Chair has reviewed eight bank owned property files and five transactions out of the eight indicated that the brokers would not disclose the square footage. His purpose of updating this rule shows clearly that the listing broker did not have the understanding that they were publishing/disclosing the square footage based on the fact that they had published the footage, but had failed to complete the form. There is a need for the rule to be re-written to match the form.

Chairman Goldenbogen decided that further discussion is needed and be set for the March Commission meeting.

COMMISSION REVIEW OF REVISED CPS-30

Marcia Waters presents to the commissioners the final revision of the joint position statement between the Commission and the Board of Real Estate Appraisers. This is to address all things of value that transfer as a result of a sales transaction. The purpose of revising the position statement is to assure cooperation with both the broker and the appraiser to provide adequate information. The final revision will be given to the Board of Real Estate Appraisers Commissioners on Thursday, January 8, 2009.

It was moved by Commission Moore and seconded by Vice Chair Bronson. There were no comments by the public or staff.

Motion unanimously carried.

POLICY REGARDING TESTIMONY AT PUBLIC MEETINGS

Marcia Waters addresses the commissioner regarding a testimony at public meetings. There have been minor revisions made to paragraph two which has been given to the commissioners for review. This clearly states that any subject may be discussed except for any enforcement issues.

It was moved by Vice Chair Bronson and seconded by Commissioner Pocs. There were no comments by the public or staff.

Motion unanimously carried.

There were no public comments on issues that were not on today's meeting.

APPOINTMENT OF COMMISSIONER FOR MEDIATION

Marcia Waters addresses commissioners as to whom would like to participate mediation of three cases. Commissioner Moore will be attending the mediation on March 2, 2009 at 9:00am; Vice Chair Bronson will attend the February 2, 2009 mediation at 1:30p.m. and Commission Montoya will attend the April 13, 2009 mediation at 1:30p.m..

It was moved by Commissioner Moore and seconded by Commissioner Pocs that the above commissioners would represent the Commission with settlement authority.

Motion unanimously carried.

ARELLO COURSE CERTIFICATION

Following the December 2, 2008 Commission meeting, staff sent a blast email to real estate educators seeking commentary on the potential certification of pre-licensure education through ARELLO. Feedback was received from 13 educators, four of whom are concerned with the quality of the education provided by distance learning. The overall comment from the educators is that they do not feel that ARELLO certification is necessary and would impose an undue financial burden. A few of the educators voiced concerns regarding the quality of continuing education as opposed to pre-licensure education. Since the Commission's staff is unable to conduct audits at this time due to current workloads, it is recommended that the Commission direct its Education Taskforce to perform course audits for both pre-licensure and continuing education.

Vice Chair Bronson and Commissioner Montoya would like to wait to see how many complaints are received by the Commission pertaining to the courses that are being offered to the brokers before we put this burden on the Education Task Force. A motion was made for staff to track all incoming education course complaints.

It was moved by Commissioner Moore and seconded by Pocs, however, both have withdrawn their motions pending the outcome of complaints received.

2009 COMMISISON MEETING DATES.

The following dates have been set aside for the 2009 Commission Meetings.:

February 3; March 3; April 7; May 12; June 2; July 7; August 4; September 1; October 13; November 3 and December 1. Commissioner Montoya may have a conflict with the May 12th meeting.

It was moved by Commissioner Moore and seconded by Commissioner Pocs.

Motion unanimously carried.

COMPLAINT MATTERS

NOTICE: The following complaint matters contain summaries of investigative findings and proposed offers of settlement. Ultimate settlement terms, imposition of discipline or findings of license law violations may differ from those originally considered by the Commission. The investigative report, exhibits and all other Commission records relating to each proceeding may be public record as defined by the Colorado Open Records Act, §24-72-203, C.R.S. and any other applicable law.

Daniel Johnson-

The investigative report concerning a complaint filed by Laurie Monroe and Jayne Grilli against **Daniel G. Johnson**, License #EA40005313 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 Mr. Johnson.

- a. Complainant alleges that the respondent misrepresented a guaranteed purchase program to the complainant allowing her to believe she was in the program when in fact she was not.
- b. These acts constitute a violation of: 12-61-113(1)(b) and 12-61-113(1)(n).
- c. Mr. Johnson's real estate broker's license shall be publicly censured;
- d. He shall pay a fine in the amount up to \$5,000.00; and
- e. Mr. Johnson shall successfully complete real estate education course in Contracts.
- f. Mr. Johnson's real estate broker's license will be suspended up to 90-days.

Motion unanimously carried.

Richard D. Sturtevant-

The investigative report concerning a complaint filed by Richard and Carrie Fraser against **Richard D. Sturtevant**, License #ER317021 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 Mr. Sturtevant.

- a. Complainant alleges respondent entered into a settlement agreement with the HOA, agreeing to permanently block access to a portion of the newly constructed home that was in violation.
- b. Sturtevant sold the subject property without fully disclosing the agreement and misrepresenting that a subsequent homeowner could utilize the space.

- c. These acts constitute violations of: 12-61-113(1)(a); 12-61-113 (1)(n); 12-61-113 (1)(t); 12-61-113 (1)(k) and 12-61-807 (2)(b)(VI).
- d. Mr. Sturtevant's real estate license shall be publicly censured; and
- e. He shall pay a fine up to the amount of \$10,000.00; and
- f. His real estate license shall be suspended up to 90-days.

Motion unanimously carried.

Carmen E. Shoemaker-

The investigative report concerning a complaint filed by the Commission on its own motion against **Carmen E. Shoemaker** License #**EA40018224** 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 Ms. Shoemaker.

- a. Complainants alleges that respondent pled guilty to Theft (\$15,000 or More), a class 3 Felony.
- b. Shoemaker failed to notify the Commission of such guilty plea as required.
- c. Shoemaker was operating a remodeling business and had collected \$186,880.27 from the complainant for a project worth \$234,797.
- d. Shoemaker's business failed and Shoemaker was unable to account for the funds.
- e. These acts constitute violations of: 12-61-113(1)(m) and 12-61-113(1)(m.6).
- f. She shall pay a fine up to the amount of \$5,000.00; and
- g. Her real estate license shall be revoked.

Motion unanimously carried.

Benny C. Espinoza-

The investigative report concerning a complaint filed by the Commission on its own motion against **Benny C. Espinoza** License #**EI186431** 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 Mr. Espinoza.

- a. The Complainant alleges that respondent failed to used reasonable skill and care as a transaction broker and
- b. Failed to assist his client in complying with the terms of the contract.

- c. The complainant lost their earnest money in the amount of \$1,060 when Espinoza failed to notify the listing broker in writing that the buyer could not obtain a loan commitment.
- d. These acts constitute violations of: 12-61-113(1)(n); 12-61-113(1)(k) and 12-61-807(2)(b)(V).
- e. Mr. Espinoza's real estate license shall be publicly censured; and
- f. He shall pay a fine up to the amount of \$5,000.00; and
- g. Mr. Espinoza shall successfully complete real estate courses in Contracts and Brokerage Relationships; and
- h. Mr. Espinoza real estate license will be restricted for a period of three years with supervision.

Motion unanimously carried.

Lisa M. Taylor-

The investigative report concerning a complaint filed by the Commission on its own motion against **Lisa M. Taylor**, License #FA40000369 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 Ms. Taylor.

- a. Complaint alleges respondent **Lisa M. Taylor** while engaged in 28 separate transactions 27 as seller's agent and one as seller.
- b. Failed to ensure settlement statements accurately reflected the verbally agreed upon terms of the transaction.
- c. Contracting documents do not accurately reflect to true recipient of the seller concessions.
- d. Purchases prices were raised to accommodate excessive commissions or marketing/management fees to third party companies.
- e. These acts constitute violation of: 12-61-113(1)(n); 12-61-113(1)(k) and 12-61-807(2)(b), and Commission Rule E-5.
- f. She shall pay a fine up to the amount of \$5,000.00; and
- g. Ms. Taylor's real estate license shall be revoked.

Motion unanimously carried.

Robert P. Taylor-

The investigative report concerning a complaint filed by the Commission on its own motion against **Robert P. Taylor**, License #EI276801 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 Mr. Taylor.

- a. The Companion complaint alleges respondent while involved in one transaction with his sister as the seller.
- b. Respondent was complicit in failing to ensure that the contract documents accurately reflected the terms of the transaction.
- c. Respondent was complicit in failing to ensure that the settlement statements accurately reflected the terms of the transaction.
- d. These acts constitute violations of: 12-61-113(1)(n) and 12-61-113(1)(t).
- e. Mr. Taylor's real estate license shall be publicly censured; and
- f. He shall pay a fine up to the amount of \$5,00.00; and
- g. Mr. Taylor shall successfully complete real estate courses in Contracts and Current Legal Issues; and
- h. Mr. Taylor's real estate license shall be suspended for a period up to 90-days.

Motion unanimously carried.

Mauri Duffey Tamborra-

The investigative report concerning a complaint filed by Bill Dahly against **Mauri Duffey Tamborra**, License #EA40042397 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 Ms. Tamborra.

- a. Complaint alleges respondent while acting as a team member under the guidance of Lisa Taylor.
- b. Failed to ensure settlement documents accurately reflected the true recipient of seller concessions and the verbally agreed on terms of the transaction.
- c. Failed accurately reflect owner occupancy in contracting document.
- d. Purchases prices were raised to accommodate unearned marketing fees.
- e. In a Web based advertisement Tamborra used a name other than the licensed brokerage.
- f. These acts constitute violations of: 12-61-113(1)(n); 12-61-113(1)(t); 12-61-113(1)(k); 12-61-807(2)(b) and Commission Rule E-5 and C-19.
- g. Ms. Tamborra's real estate license shall be publicly censured; and
- h. She shall pay a fine in the amount up to \$22,500.00; and
- i. Ms. Tamborra shall successfully complete real estate courses in Contracts, Broker Relationships and Current Legal Issues; and
- j. Ms. Tamborra's real estate license shall be suspended for a period up to six (6) months.

Motion unanimously carried.

Sandra A. Haddad-

The investigative report concerning a complaint filed by the Commission on its own motion against **Sandra A. Haddad**, License #**IA40021293** 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 Ms. Haddad.

- a. Complaint states that respondent pled guilty on October 9,2008 to four counts of Contributing to the Delinquency of a minor, a Class 4 Felony and one count of Criminal Mischief, a Class 1 Misdemeanor.
- b. Haddad Failed to notify the Commission of such guilty plea as required.
- c. The Complaint alleges Haddad conspired with four underage males to vandalize the Complainant's property in retaliation for the complainant refusing to sign a Buyer Agency Contract and choosing not to utilize Haddad's services as a real estate broker.
- d. These acts constitute violations of: 12-61-113(1)(m); 12-61-113(1)(m.6) and 12-61-113(1)(n).
- e. She shall pay a fine in the amount of up to \$7,500.00; and
- f. Ms. Haddad's real estate license shall be revoked.

Motion unanimously carried.

Samantha M. Smalling-

The investigative report concerning a complaint filed by the Commission on its own motion against **Samantha M. Smalling**, License #**FA100022361** 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 Ms. Smalling.

- a. Complainant states respondent pled guilty on October 6, 2008, to a charge of Theft (\$1,000 to \$20,000), a Class 4 Felony.
- b. Smalling failed to notify the Commission of such guilty plea as required.
- c. Police report indicates that Smalling wrote nine unauthorized escrow account checks to herself, and falsified the ledger regarding payee.
- d. These acts constitute violations of: 12-61-113(1)(m) and 12-61-113(1)(m.6).
- e. She shall pay a fine in the amount up to \$5,000.00; and
- f. Ms. Smalling's real estate license shall be revoked.

Motion unanimously carried.

Leonard W. Aldaz-

This case has been deferred until February 3, 2009 Commission Meeting.

Motion unanimously carried.

Anthony William Davis-

The investigative report concerning a complaint filed by Bill Dahly and by the Commission against **Anthony William Davis**, License #FA40040965 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 Mr. Davis.

- a. Complainant alleges that Colorado respondent received a referral fee in the amount of \$25,000 from broker Myers which he did not disclose to or deposit with his employing broker.
- b. Failed to obtain brokerage disclosure documents prior to engaging in brokerage services.
- c. Davis drafted or approved proposed real estate contracts that were not in the Complainant's best interest by including terms that would divert substantial sums to third parties.
- d. In his response to this complaint Davis initially misrepresented his involvement in this transaction.
- e. These acts constitute violations of: 12-61-113(1)(a); 12-61-113(1)(n); 12-61-113(1)(q); 12-61-113(1)(k); 12-61-803(1) and Commission Rule E-35.
- f. He shall pay a fine in the amount up to \$12,500.00; and
- g. Mr. Davis's real estate license shall be revoked.

Motion unanimously carried.

Kimberly Diane Myers-

The investigative report concerning a complaint filed by Bill Dahly and by the Commission against **Kimberly Diane Myers**, License #IA40022548 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 Ms. Myers.

- a. Complainant alleges that Colorado respondent misrepresented owner occupancy on the Contract to Buy and Sell.
- b. Myers paid two referrals fees to Mortgage Brokers not disclosed on the HUD settlement statement.

- c. Improperly disbursed \$265,000 of escrowed funds.
- d. Failed to ensure contract documents accurately reflected the terms of the transaction.
- e. Failed to ensure accurate settlement statements.
- f. Failed to use reasonable skill and care as buyer's agent.
- g. Failed to maintain transaction files as required.
- h. Failed to obtain proper brokerage disclosure documents.
- i. These acts constitute violations of: 12-61-113(1)(h); 12-61-113(1)(i); 12-61-113(1)(n); 12-61-113(1)(t); 12-61-113(1)(k); 12-61-803(1); 12-61-805(1)(b) and (c) and Commission Rules E-1; E-5 and F-7.
- j. She shall pay a fine in the amount up to \$30,000.00; and
- k. Ms. Myer's real estate license shall be revoked.

Motion unanimously carried.

Desmond Jones-

The investigative report concerning a complaint filed by Bill Dahly and by the Commission against **Desmond Jones, (Unlicensed)** was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that this case be referred to the Attorney General's Office.

- a. Complainant alleges that **Desmond Jones** performed brokerage and property management functions without a Colorado broker's license.
- b. These acts constitute a violation of: 12-61-102
- c. That his case be referred to the Attorney General's Office to obtain an injunction against unlicensed practice.

Motion unanimously carried.

Troy Brewer-

The investigative report concerning a complaint filed by Bill Dahly and by the Commission against **Troy Brewer, (Unlicensed)** was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that this case be dismissed.

Motion unanimously carried.

C. Gregg Thomas-

The investigative report concerning a complaint filed by Leonard Anthony Meontleone, III against **Gregg Thomas, License #FA100002159** 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 Mr. Thomas.

- a. Complainant alleges respondent signed real estate documents without proper authorization.
- b. Signed the Uniform Residential Loan Application as the interviewer, and neglected to include know liabilities.
- c. These acts constitute violations of: 12-61-113(1)(b); 12-61-113(1)(n) and 12-61-113(1)(t).
- d. He shall pay a fine in the amount up to \$7,500.00; and
- e. Mr. Thomas's real estate license shall be revoked.

Motion unanimously carried.

Ross Hair-

The investigative report concerning a complaint filed by Tiffany Kozyra against **Ross Hair**, License #EA40041956 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 Mr. Hair.

- a. Complainant alleges respondent failed to disclose his license status in the contracting documents.
- b. Failed to utilize a Licensee Buy-Out Addendum to Contract to Buy and Sell Real Estate.
- c. Failed to make payment pursuant to a verbal agreement in a timely manner.
- d. Conducted property management without proper disclosures.
- e. These acts constitute violations of: 12-61-113(1)(n); 12-61-113(1)(k) and Commission Rule E-25.
- f. Mr. Hair's real estate license shall be publicly censured; and
- g. He shall pay a fine in the amount up to \$5,000.00; and
- h. Mr. Hair shall successfully complete real estate courses in Contracts and Brokerage Relationships; and
- i. Mr. Hair's real estate license shall be suspended up to 30 days.

Motion unanimously carried.

Robert B. Teegardin-

The investigative report concerning a complaint filed by Mark Lowderman, El Paso County Assessor and by the Commission against **Robert B. Teegardin**, License #FA40023512 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 Mr. Teegardin.

- a. Complainant alleges respondent failed to obtain a signed broker disclosure form.
- b. Failed to maintain complete transaction files as required.
- c. Failed to ensure settlement statements accurately reflected the terms of the transaction.
- d. Accepted commissions and bonuses from builder/seller with knowledge that money would be paid as buyer incentives and to an unlicensed person for conducting brokerage services.
- e. These acts constitute violations of: 12-61-113(1)(a); 12-61-113(1)(h); 12-61-113(1)(j); 12-61-113(1)(n); 12-61-113(1)(t); 12-61-113(1)(k); 12-61-803(1) and Commission Rules E-5; E-22 and E-36.
- f. He shall pay a fine in the amount up to \$20,000.00; and
- g. Mr. Teegardin's real estate license shall be revoked.

Motion unanimously carried.

Stephen M. Teegardin-

The investigative report concerning a complaint filed by Mark Lowderman, El Paso County Assessor and by the Commission against **Stephen M. Teegardin**, License #EI137251 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 Mr. Teegardin.

- a. Companion complainant alleges respondent acting as the employing broker for his son Approved and arrangement where commissions and bonuses were paid to his associate from builder/seller knowing that money would be paid as buyer incentives and to an unlicensed person for conducting brokerage services.
- b. Disbursed referral fees to an unlicensed person for performing brokerage acts.
- c. Failed to obtain and retain transaction files as required.
- d. Failed to provide reasonable supervision to a broker associate.
- e. These acts constitute violations of: 12-61-113(1)(h); 12-61-113(1)(i); 12-61-113(1)(j); 12-61-113(1)(n); 12-61-113(1)(o); 12-61-113(1)(t); 12-61-113(1)(k); 12-61-808(2)(a)(II) and Commission Rules E-4; E-5; E-22; E-30 and E-31.
- f. He shall pay a fine in the amount up to \$25,000.00; and
- g. Mr. Teegardin's real estate license shall be revoked.

Motion unanimously carried.

LICENSING MATTERS

James Kreger-

The Commission received the application of **James Kreger** for a real estate broker's license together with accompanying documentation and information supplied by Mr. Kreger. It was recommended that the application be approved.

It was moved by Commissioner Pocs and seconded by Vice Chair Bronson to approve Mr. Kreger's application.

Motion unanimously carried.

EXECUTIVE SESSION

It was moved and 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 conferring with the Commission's attorney regarding the following cases.

Attorney General Terry Hugar advised the Commission on the application of Paul Kurkulis.

NOTE

Vice Chair Bronson and Commissioner Montoya recues themselves from meeting at 10:37a.m.

Attorney General Terry Hugar advised the commission on a counter offer of Lani Alexander -Carwin and Brooke Specht Roder.

NOTE

Vice Chair Bronson and Commissioner Montoya return to meeting at 10:42a.m.

It was moved by Commissioner Moore and seconded by Commissioner Pocs to adjourn out of Executive Session at 10:45a.m.

Motion unanimously carried.

INITIAL DECISION

Initial Decision to consider the ALJ Opinion in the case of Matthew Geniesse has been deferred.

COUNTER OFFERS

Lani Alexander-Carwin-

Attorney General Terry Hugar addresses the counter offers with the Commissioners.

It was moved by Commissioner Moore and seconded by Commissioner Pocs to decline the counter offer for Ms. Alexander-Carwin.

Brooke Specht-Roder-

It was moved by Commissioner Moore and seconded by Commissioner Pocs to decline the counter offer for Ms. Brooke Specht-Roder.

Motion unanimously carried.

LICENSING MATTERS

Paul Kurkulis-

The Commission received the application of **Paul Kurkulis** for a real estate broker's license together with accompanying documentation and information supplied by Mr. Kurkulis. It was recommended that the application be approved.

It was moved by Commissioner Moore and seconded by Commissioner Pocs to issue a five (5) year restricted real estate broker license.

Motion unanimously carried.

There was discussion regarding the appeal filed by Mr. Conrad Kindsfather in district court.

CASE STATUS REPORTS

Mary Kanaly addresses the Commissioners by reporting that all cases have been settled except one. However, the process is moving forward successfully.

The Colorado Real Estate Commission meeting adjourned at 10:45 a.m. on January 6, 2009.

Paul Goldenbogen, Chair

Kristin Bronson, Vice Chair

Martin Pocs, Commissioner

Pres Montoya

Charles P. "Buzz" Moore, Commissioner

Absent

Erin Toll, Director
Colorado Division of Real Estate