

MINUTES

**COLORADO REAL ESTATE COMMISSION MEETING
August 4, 2009**

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MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
August 4, 2009
COLORADO DIVISION OF REAL ESTATE
1560 BROADWAY, SUITE 925
DENVER, CO 80202

A Colorado Real Estate Commission public meeting was held on August 4, 2009. Those Commissioners in attendance were Chairwoman Kristin Bronson, Vice Chair Charles “Buzz” Moore, Douglas Ring, Jill Ozarski and Gina Piccoli. Also attending were Penny Elder, Real Estate Program Manager; Mary Kanaly, ESP Program Manager; Eric Maxfield, Attorney General’s Office and several members of the Commission’s Staff. Erin Toll, Director and Marcia Waters, Investigations and Compliance Director were 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 Chairwoman Bronson at 9:00 a.m.

ORDER OF BUSINESS

Approval of Minutes

It was moved by Commissioner Ring and seconded by Commissioner Moore to approve the Minutes of July 7, 2009.

Motion unanimously carried.

POLICY MATTERS:

Dual Status Disclosure Form-

Kent Levine from the Forms Committee presented the Dual Status Disclosure Form for the Commission’s consideration as a result of legislation that becomes effective August 5, 2009 concerning the Mortgage Loan Originator Licensing Act.

It was moved by Commissioner Piccoli and seconded by Commissioner Moore to approve the Dual Status Disclosure Form.



DSD 17-8-09 CLN
7-21-09 .pdf

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 records as defined by the Colorado Open Records Act, § 24-72-203, C.R.S. and any other applicable laws.

David Becker-

The investigative report concerning a complaint filed by the Commission on its own motion against **David A. Becker**, License #EA 284321 was presented to the Commission with accompanying documentation and information supplied by Mr. Becker. 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. Becker.

- a. Complaint states that Colorado real estate broker **David A. Becker** pled guilty on February 12, 2009, to a charge of Forgery of Government Issued Document, a class 5 Felony. Becker failed to report the guilty plea as required; and
- b. These acts may constitute a violation of: 12-61-113(1)(m); 12-61-113(1)(m.6); 12-61-113(1)(k) and Commission Rule E-49; and
- c. Mr. Becker's real estate broker's license shall be revoked and;
- d. He shall pay a fine to the Commission up to \$5,000.

Motion unanimously carried.

Rachael Laturner-

The investigative report concerning a complaint filed by the Commission on its own motion against **Rachael M. Laturner**, License #FA 100014364 was presented to the Commission with accompanying documentation and information supplied by Ms. Laturner. 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. Laturner.

- a. Complainant states Colorado real estate broker **Rachael M. Laturner** pled guilty on April 13, 2009, to a charge of Identity Theft, a class 4 Felony and a charge of Forgery-Check/Commercial Instrument, a class 5 Felony. Laturner failed to report the guilty pleas as required; and
- b. These acts may constitute a violation of: 12-61-113(1)(m); 12-61-113(1)(m.6); 12-61-113(1)(k) and Commission Rule E-49; and

- c. Ms. Laturner's real estate broker's license shall be revoked and;
- d. She shall pay a fine to the Commission up to \$5,000.

Motion unanimously carried.

Pamela McCarthy-

The investigative report concerning a complaint filed by Vicky L. Holler and the Commission on its own motion against **Pamela G. McCarthy**, License #FA 40032011 was presented to the Commission with accompanying documentation and information supplied by Ms. McCarthy. 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. McCarthy.

- a. Complaint states that Colorado real estate broker **Pamela G. McCarthy** pled guilty on May 21, 2009, to a charge of Check Forgery, a class 5 Felony. McCarthy failed to report the guilty plea as required; and
- b. These acts may constitute a violation of: 12-61-113(1)(m); 12-61-113(1)(m.6); 12-61-113(1)(k) and Commission Rule E-49; and
- c. Ms. McCarthy's real estate broker's license shall be revoked and;
- d. She shall pay a fine to the Commission up to \$5,000.

Motion unanimously carried.

Craig Halborg-

The investigative report concerning a complaint filed by Eileen Crawford and the Commission on its own motion against **Craig Halborg**, License #EA 40023644 was presented to the Commission with accompanying documentation and information supplied by Mr. Halborg. 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. Halborg.

- a. The Complainant alleges that Colorado real estate broker **Craig Halborg** failed to exercise reasonable skill and care resulting in the possible loss of substantial earnest money; failed to disclose the existence of an HOA; failed to amend contract documents to reflect terms of the party's agreements; failed to establish brokerage relationships in writing; failed to disclose direct or indirect compensation from the mortgage broker and failed to disclose affiliated business relationships between the brokerage firm and the mortgage broker; and
- b. These acts may constitute a violation of: 12-61-113(1)(c); 12-61-113(1)(n); 12-61-113(1)(t); 12-61-113(1)(k); 12-61-807(2)(b); and Commission Rules E-18; E-35 and E-46; and
- c. Mr. Halborg's real estate broker's license shall be suspended for a period of 6 months; and
- d. He shall pay a fine to the Commission in the amount of \$5,000; and

- e. Mr. Halborg shall successful complete real estate education courses in Brokerage Relationships, Contracts and Ethics.

Motion unanimously carried.

Bart Poladsky-

The investigative report concerning a complaint filed by Eileen Crawford and the Commission on its own motion against **Bart Poladsky**, License #ER 237911 was presented to the Commission with accompanying documentation and information supplied by Mr. Poladsky. 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. Poladsky.

- a. The Complainant alleges that Colorado real estate broker **Poladsky** failed to disclose the existence of an HOA; failed to amend contract documents to reflect terms of the party's agreements; failed to establish brokerage relationships in writing; failed to disclose direct or indirect compensation from the mortgage broker; failed to disclose affiliated business relationships between the brokerage firm and the mortgage broker; failed to provide adequate supervision; and advertised properties under a name other than that which he is licensed; and
- b. These acts may constitute a violation of: 12-61-113(1)(c); 12-61-113(1)(n); 12-113-(1)(o); 12-61-113(1)(t); 12-61-113(1)(k); 12-61-804(1)(b); and Commission Rules E-18; E-31; E-35; E-46; and C-19; and
- c. Mr. Poladsky's real estate broker's license shall be revoked; and
- d. He shall pay a fine to the Commission up to \$25,000.

Motion unanimously carried.

Jason Taylor-

The investigative report concerning a complaint filed by Stephen Weiss, Annmarie Ballard and the Commission on its own motion against **Jason Taylor**, License #IR 100001042 was presented to the Commission with accompanying documentation and information supplied by Mr. Taylor. 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. Complainant alleges Colorado real estate broker **Jason Taylor** knowingly made false and misleading remarks through advertising; advertised properties for sale or rent for amounts other than those set by the owners; allowed another person to occupy a property without the consent of the owner; converted or diverted funds leaving a deficiency in excess of \$82,000 in his security deposit account; and

- b. These acts may constitute a violation of: 12-61-113 (1)(a); 12-61-113 (1)(g.5); 12-61-113 (1)(n); 12-61-113(t); 12-61-113(k); and Commission Rules E-1(p) and E-1(q); and
- c. Mr. Taylor's real estate broker's license shall be revoked; and
- d. He shall pay a fine to the Commission up to \$12,500.

Motion unanimously carried.

Robert Clydesdale-

The investigative report concerning a complaint filed by the Commission on its own motion against **Robert Clydesdale**, License #FA 100019253 was presented to the Commission with accompanying documentation and information supplied by Mr. Clydesdale. 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. Clydesdale.

- a. Complainant states Colorado real estate broker **Robert S. Clydesdale**, while under a restricted license stipulated agreement requiring him to report any arrest, criminal charges or guilty pleas, was arrested on March 24, 2008 for a suspected violation of the Colorado Uniform Controlled Substance Act; and on April 4, 2008 he was charged with a count of Unlawful Possession of a Schedule 1 Controlled Substance, a Class 3 Felony; and on May 28, 2008, the charge was amended to add a second count, Unlawful Possession of a Schedule 5 Controlled Substance, a class 1 Misdemeanor; and on May 29, 2009, Clydesdale pled guilty to the second count; and on April 21, 2009, Clydesdale was found to have violated the terms of his probation and ordered to serve 30 days in jail; and Clydesdale failed to report any of these matters as required; and
- b. These acts may constitute a violation of: 12-61-113(1)(m); 12-61-113(1)(m.6); 12-61-113(1)(k); and Commission Rule E-49; and
- c. Mr. Clydesdale's real estate broker's license shall be revoked; and
- d. He shall pay a fine to the Commission up to \$5,000.

Motion unanimously carried.

LICENSING MATTERS:

Aaron Jaro-

The Commission considered the Preliminary Advisory Application of Aaron Jaro for a real estate broker's license together with accompanying documentation and information supplied by Mr. Jaro. It was moved and seconded by the Commission to issue a negative opinion.

Motion unanimously carried.

Russell Jacobs-

The Commission considered the application of Russell Jacobs for a real estate broker's license together with additional documentation and information supplied by Mr. Jacobs. It was moved and seconded by the Commission to deny the application and deny issuance of the license.

Commissioner Bronson is opposed. **Motion carried.**

Edward Tickel-

The Commission considered the Preliminary Advisory Application of Edward Tickel for a real estate broker's license together with accompanying documentation and information supplied by Mr. Tickel. It was moved and seconded by the Commission to issue a negative opinion.

Motion unanimously carried.

Devin Bewley-

The Commission considered the Preliminary Advisory Application of Devin Bewley for a real estate broker's license together with accompanying documentation and information supplied by Mr. Bewley. It was moved and seconded by the Commission to issue a positive opinion.

Motion unanimously carried.

HEARING MATTERS:

Peggy Dare-

The Commission voted to defer action on the Initial Decision in Case Number RC 2008-0027, in the matter of the Colorado Real Estate Commission vs. Peggy M. Dare until the next meeting scheduled in September.

Motion unanimously carried.

Kenneth Pulciani-

The Commission was presented with a counter-offer from Kenneth Pulciani. It was moved by Commissioner Moore to accept the counteroffer as presented.

Commissioner Moore withdraws the motion.

After discussion, it was moved and seconded by the Commission to accept the counter-offer with an amendment to increase the amount of the fine to \$7,500.

Motion unanimously carried.

Jeffrey Corporon-

The Commission was presented with a counter-offer from Jeffrey Corporon. After discussion, it was moved and seconded by the Commission to reject the counteroffer as presented, and instead offer a stipulation calling for a 6-month suspension, payment of a \$10,000 fine, a two-year probationary license requiring supervision by an employing broker and successful completion of real estate education courses in Contracts, Brokerage Relationships and Ethics.

Motion unanimously carried.

Cindy Knespel-

The Commission was presented with a counteroffer from Cindy Knespel. After discussion, it was moved and seconded by the Commission to reject the counteroffer as presented, and instead offer a stipulation calling for a 90-day suspension, a public censure, payment of a fine in the amount of \$2,500 and successful completion of real estate education courses in Contracts, Brokerage Relationships and Ethics.

Motion unanimously carried.

It was moved by Commissioner Moore and seconded by Commissioner Ring to adjourn at 10:27 a.m. on August 4, 2009.

Motion unanimously carried.

Kristin Bronson, Chairwoman

Charles "Buzz" Moore, Vice Chair

Jill Ozarski, Commissioner

Gina Piccoli, Commissioner

Douglas Ring, Commissioner

Erin Toll, Director
Colorado Division of Real Estate