

MINUTES

**COLORADO REAL ESTATE COMMISSION MEETING
December 7, 2010**

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MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
December 7, 2010
COLORADO DIVISION OF REAL ESTATE
1560 BROADWAY, SUITE 1250-C
DENVER, CO 80202

A Colorado Real Estate Commission public meeting was held on December 7, 2010. Those Commissioners in attendance were Chair Gina Piccoli, Vice-Chair Douglas Ring, Kristin Bronson (late arrival), Charles “Buzz” Moore, and Jill Ozarski. Also attending were Marcia Waters, Director; Mary Kanaly, Real Estate Program Director; Penny Elder, ESP Program Manager; Terry Hugar, Attorney General’s Office; and several members of the Commission’s Staff.

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 Commissioner Piccoli at 9:04 a.m.

ORDER OF BUSINESS

Approval of Minutes – August 3, 2010

It was moved by Commissioner Ring and seconded by Commissioner Moore to approve the Minutes of October 5, 2010, as presented.

Motion carried.

POLICY MATTERS:

Forms Committee Appointments

It was moved by Commissioner Moore and seconded by Commissioner Ring to approve the following members to the Forms Committee. The Forms Committee is represented by 9 brokers, 4 attorneys, 2 title representatives, 3 staff members and 2 consumers.

Betty Armbrust	Ken Levinson
Connie Black	Tony Marietta
Candace Boyle	Steve Morgan
Cindy Compton	Bob Most
Damian Cox	Garrett Quackenbush
Ed Dyer	Ron Sechrist
Paul Goldenbogen	Alan Stein
Mary Kanaly	George Sutherland
Daryl Lay	Tony Walisky
Kent Levine	Marcia Waters

Motion carried.

Commissioner Bronson arrives at 9:18 a.m.

Commission Position Statement 36 – Minimum Service Requirements

It was moved by Commissioner Bronson and seconded by Commissioner Moore to approve Commission Position Statement 36 concerning Minimum Service Requirements as amended.



CP36 Minimum
Service Agreements 1

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.

1. Complaint #2010070735-

The investigative report concerning a complaint filed by Adam Culp against the respondent in Complaint #2010070735, was presented to the Commission with accompanying documentation and information supplied by the respondent. 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 in this case is a broker who alleges that the Respondent failed to submit an offer he prepared for his buyer client to the seller. The Complainant alleges that this resulted in a loss to the Seller of \$16,000.00, and that the Respondent did not submit the lower offer in order to collect a larger commission. The investigation determined that the lower offer was not in fact presented to the Seller; and
- b. Failure of the Respondent to do his fiduciary responsibility to his client is a possible violation of: 12-61-113 (1) (n), C.R.S., Demonstrating unworthiness or incompetence; 12-61-113 (1) (t), C.R.S., Dishonest dealing; 12-61-804 (1) (b), Failing to exercise reasonable skill and care, and 12-61-804 (1) (c), Failing to submit an offer; and
- c. The respondent's real estate broker's license shall be publicly censured; and

- d. The respondent's real estate broker's license shall be suspended for a period of up to three months; and
- e. He shall pay a fine to the Commission in the amount of up to \$10,000.

Motion unanimously carried.

Director Marcia Waters departs to attend another meeting at 9:42 a.m.

2. Complaint #2010080990-

The investigative report concerning a complaint filed by the Commission on its own motion against the respondent in Complaint #2010080990, 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 27, 2010, the respondent in this case pled guilty to Attempted Kidnapping, a Class 5 felony in Gunnison County District Court. He was sentenced to 10 days in jail and given a 3 year deferred sentence and 3 years probation to include Community Service, Completion of Alcohol classes and therapy and fines; and
- b. This is possibly a violation of 12-61-113 (1) (m), Conviction of...any crime in article 3 of Title 8, and; 12-61-113 (1) (m.6), Failure to notify the Commission...of a Conviction; and
- c. The respondent's real estate broker's license shall be publicly censured; and
- d. The respondent's real estate broker's license shall be revoked; and
- e. He shall pay a fine to the Commission in the amount of up to \$5,000.

Motion unanimously carried.

3. Complaint #2010091018-

The investigative report concerning a complaint filed by the Commission on its own motion against the respondent in Complaint #2010091018, 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 September 9, 2010, after having gained entrance to a home using a lockbox and taking a controlled substance from the home, the Respondent in this case pled guilty to one count of Burglary, a Class 3 Felony, and one count of Possession of a Controlled substance, a Class 1 Misdemeanor in Broomfield Colorado. The respondent also admitted to police he gained access to other homes for the purpose of taking drugs in the same manner between 5 and 50 times in the Denver

- Metro area. The respondent received a 3 year deferred sentence and 3 years supervised probation to include Community Service, Completion of a substance abuse program, and fines; and
- b. This is a possible violation of 12-61-113 (1) (m), Conviction of...any crime in article 3 of Title 8; 12-61-113 (1) (m.6), Failure to notify the Commission...of a Conviction; and
 - c. The respondent's real estate broker's license shall be publicly censured; and
 - d. The respondent's real estate broker's license shall be revoked; and
 - e. He shall pay a fine to the Commission in the amount of up to \$5,000.

Motion unanimously carried.

Commissioner Buzz Moore recuses himself and leaves the room.

4. Complaint #2010040380-

The investigative report concerning a complaint filed by an anonymous complainant against the respondent in Complaint #2010040380, was presented to the Commission with accompanying documentation and information supplied by the respondent. 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. After receiving an anonymous complaint that the respondent broker in this case was allowing an unlicensed person to run her brokerage office, including the property management, staff conducted an onsite surprise practice audit of the Respondent's offices. The complainant alleged that the Respondent was allowing an unlicensed individual to run the office, including all broker responsibilities, and running the day-to-day operations of the business in the broker's absence, including running the property management portion of the firm. During the audit, the unlicensed person admitted that her job duties included property management, showing properties, negotiating lease terms, completing lease agreements, and execution of leases, with the knowledge of the Respondent, but also without any supervision from her; and
- b. This is a possible violation of 12-61-113 (1) (a), C.R.S., Knowingly making any misrepresentations; 12-61-113 (1) (k), C.R.S., Disregarding license law or Commission rules; 12-61-113 (1) (n), C.R.S., Demonstrating unworthiness or incompetence; 12-61-118, C.R.S., Negligent supervision of employees; 12-61-808 (2) (d), C.R.S., Brokerage Disclosure, or lack thereof must be in writing; Commission Rule E-29, Failure of Employing Broker to exercise authority, direction and control of all employees; Commission Rule E-30, Failure of Employing Broker to take reasonable steps to ensure that violations of statutes, rules and office policies to don occur or re-occur; Commission Rule E-35, Failure to have brokerage relationship in writing; and
- c. The respondent's real estate broker's license shall be publicly censured; and

- d. The respondent's real estate broker's license shall be suspended for a period up to six months; and
- e. She must successfully complete 24 hours of real estate education in Brokerage Administration prior to reactivation of her license; and
- f. She shall pay a fine to the Commission in the amount of up to \$20,000.

Motion unanimously carried.

Commissioner Buzz Moore returns to the room at 9:50 a.m.

5. Complaint #2010040362-

The investigative report concerning a complaint filed by Frank Meogrossi against the respondent in Complaint #2010040362, was presented to the Commission with accompanying documentation and information supplied by the respondent. 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 Division received a complaint from a Broker alleging that the Respondent in this case used the Complainants name and company name on a Contract to Buy and Sell without the knowledge or permission of the Complainant. The investigation revealed that the Broker did in fact use the complainant's information prior to officially transferring his license to the Complainants brokerage firm; and
- b. This is a possible violation of 12-61-113 (1) (a), C.R.S., Failure to conduct broker business in the name under which the licensee is licensed; 12-61-113 (1) (k), C.R.S., Disregarding license law or Commission rules; 12-61-113 (1) (n), C.R.S., Demonstrating unworthiness or incompetence; and Commission Rule E-20, Listing Price must be set by owner; and
- c. The respondent's real estate broker's license shall be publicly censured; and
- d. The respondent's real estate broker's license shall be suspended for a period up to three months; and
- e. He shall pay a fine to the Commission in the amount of up to \$10,000.

Motion unanimously carried.

6. Complaint #2010080898-

The investigative report concerning a complaint filed by Robert D. Gutierrez and the Commission on its own motion against the respondent in Complaint #2010080898, was presented to the Commission with accompanying documentation and information supplied by the respondent. 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 in this case alleges that the Respondent, acting as a property manager for the Complainant, took \$1,600.00 from a potential renter for a home owned by the Complainant as a deposit. The respondent did not turn that money over to the Complainant, who ended up having to pay the potential renter back the \$1,600.00 himself. The Respondent in this case is not a licensed broker; and
- b. This is a possible violation of 12-61-102, C.R.S., License required to act as a Real Estate Broker; and
- c. The respondent will be referred directly to the Office of the Attorney General for the purpose of obtaining an injunction for unlicensed activity.

Motion unanimously carried.

7. Complaint #2010111193-

The investigative report concerning a complaint filed by the Commission on its own motion against the respondent in Complaint #2010111193, was presented to the Commission with accompanying documentation and information supplied by the respondent. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- a. The Respondent in this case previously entered into a Stipulated Agreement with the Commission in which she admitted that she had pled guilty on November 2, 2009 in Douglas County District Court to a Class 6 Felony of obtaining a controlled substance through fraud/deceit. She was placed on a 4-year supervised probation in the criminal case. The Respondent agreed in her stipulation agreement with the Commission to comply with the terms and conditions of her criminal probation. On April 1, 2010 that Probation was revoked, and she was sentenced to 18 months Community Corrections; and
- b. The Commission has determined that based on the information contained in the investigative report, that the respondent has violated the terms of her stipulated agreement with the Commission; and
- c. The respondent's real estate broker's license shall be publicly censured; and
- d. The respondent's real estate broker's license shall be revoked.

Motion unanimously carried.

8. Complaint #2010091075-

The investigative report concerning a complaint filed by Rachel Nason against the respondent in Complaint #2010091075, was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission that reasonable grounds exist to refer the respondent to hearing for violations of the real estate license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

- a. The Respondent in this case is alleged to have taken \$3,000.00 from the complainant, which was suppose to be forwarded to an investment group for the purpose of obtaining a loan for the Complainant so she could re-purchase her home which had been foreclosed on. The money was never forwarded to an investment group, and the Complainant never received the loan promised by the Respondent. Commission staff requested a response to this complaint from the respondent, but he failed to provide one. The Respondent's Real Estate Broker's license is currently expired, though he is in the reinstatement period. The Respondent also holds an active Colorado Loan Originator's license; and
- b. These are possible violations of 12-61-113 (1) (g), C.R.S. Failure to account for any moneys coming into the licensee's possession that belong to others and failing to keep records relative to said moneys; 12-61-113 (1) (g.5), C.R.S., Diverting funds of others without proper authorization, failing to keep funds of others in an escrow, and failing to keep records; 12-61-113 (1) (k), C.R.S., Disregarding license law or Commission rules; 12-61-113 (1) (t), C.R.S., Dishonest dealing; and Commission Rule E-21, Failure to respond to Commission's request for response; and
- c. The respondent's real estate broker's license shall be publicly censured; and
- d. The respondent's real estate broker's license shall be revoked; and
- e. He shall pay a fine to the Commission in the amount of up to \$10,000.

Motion unanimously carried.

9. Complaint #2010040411-

The investigative report concerning a complaint filed by Dianne Fisher against the respondent in Complaint #2010040411, was presented to the Commission with accompanying documentation and information supplied by the respondent. 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 Broker complainant in this case alleges that the Respondent is using bait and switch advertising in his listings on the MLS. The Complainant alleges that the prices listed on the MLS are lower than the sellers have authorized the price to be set at. The Respondent has indicated that he does employ this type of advertising, but it is at the direction of his sellers. He refers to this type of advertising as "Energy Marketing"; and
- b. These are possible violations of 12-61-113 (1) (a), C.R.S., Knowingly making any misrepresentations; 12-61-113 (1) (c), C.R.S., Making misrepresentations or false promises through advertising; 12-61-113 (1) (c.5), C.R.S., Violating the Colorado Consumer Protection Act; and Commission Rule F-7, Failure to use Commission approved Forms; and
- c. The respondent's real estate broker's license shall be publicly censured; and
- d. He shall pay a fine to the Commission in the amount of up to \$7,500.

Motion unanimously carried.

10a. Complaint #2010080919-

The investigative report concerning a complaint filed by Judith T. Moyer against the respondent in Complaint #2010080919, was presented to the Commission with accompanying documentation and information supplied by the respondent. 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 consumer complainant in this case alleges they have paid a total of \$65,747.00 in rent and deposits for a home they are living in since they signed a lease/option agreement on the property. They are now being evicted from that property. The complainant alleges that the seller's broker represented herself to also be a Mortgage Loan Originator, and that she could help the buyers clear up their credit so they could obtain a loan at the time of closing, which was set for December, 2010. A contract to Buy and Sell Real Estate was prepared by the buyer's broker, and the seller's broker prepared a "Memorandum of Understanding" which gave some detail regarding the rental payments and deposits. There was never a lease for the property attached to any of the documents prepared by either broker; and
- b. These are possible violations of 12-61-113 (1) (a), C.R.S., Knowingly making an misrepresentations; 12-61-113 (1) (b), C.R.S., Making any promise...which influences, persuades, or induces another person when he could not or did not intend to keep such promises; 12-61-113 (1) (k), C.R.S., Disregarding license law or Commission rules; 12-61-113 (1) (n), C.R.S., Demonstrating unworthiness or incompetence; 12-61-804 (1) (b), C.R.S., Failure of the seller's broker to exercise reasonable skill and care; and Commission Rule F-7, requires use of Commission approved forms. Other forms used by a broker shall not be prepared by a broker, unless otherwise permitted by law; and
- c. The respondent's real estate broker's license shall be publicly censured; and
- d. The respondent's real estate broker's license shall be suspended for a period up to three months; and
- e. She shall successfully complete real estate education courses in Contracts and in Ethics; and
- f. She shall pay a fine to the Commission in the amount of up to \$12,500.

Motion unanimously carried.

10b. Complaint #2010080947-

The investigative report concerning a complaint filed by Judith T. Moyer against the respondent in Complaint #2010080947, was presented to the Commission with accompanying documentation and information supplied by the respondent. 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 consumer complainant in this case alleges they have paid a total of \$65,747.00 in rent and deposits for a home they are living in since they signed a lease/option agreement on the property. They are now being evicted from that property. The complainant alleges that the seller's broker represented herself to also be a Mortgage Loan Originator, and that she could help the buyers clear up their credit so they could obtain a loan at the time of closing, which was set for December, 2010. A contract to Buy and Sell Real Estate was prepared by the buyer's broker, and the seller's broker prepared a "Memorandum of Understanding" which gave some detail regarding the rental payments and deposits. There was never a lease for the property attached to any of the documents prepared by either broker; and
- b. These are possible violations of 12-61-113 (1) (i), C.R.S., Failure to maintain possession, for future use or inspection by an authorized representative of the Commission...documents or records prescribed by the rules and regulations of the Commission...; 12-61-113 (1) (k), C.R.S., Disregarding license law or Commission rules; 12-61-113 (1) (n), C.R.S., Demonstrating unworthiness or incompetence; 12-61-805 (1) (b), C.R.S., Failure of buyer's broker to exercise reasonable skill and care; Commission Rule E-35, Failure to provide Brokerage relationship in writing, and; Commission Rule F-7, requires use of Commission approved forms. Other forms used by a broker shall not be prepared by a broker, unless otherwise permitted by law; and
- c. The respondent's real estate broker's license shall be publicly censured; and
- d. The respondent's real estate broker's license shall be suspended for a period up to one month; and
- e. She shall successfully complete real estate education course in Contracts; and
- f. She shall pay a fine to the Commission in the amount of up to \$5,000.

Motion unanimously carried.

11a. Complaint #2009121916-

The investigative report concerning a complaint filed by the Commission on its own motion against the respondent in Complaint #2009121916, was presented to the Commission with accompanying documentation and information supplied by the respondent. 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 Commission originally heard this case at its April 13, 2010 meeting, at which time you referred this to the Office of the Attorney General for a permanent injunction, as the Respondent was unlicensed at the time. Prior to the injunction being filed, the respondent has become licensed so the injunction proceeding was terminated. The case is again before the Commission in order to consider

- violations of statute or rule by the Respondent in the underlying complaint received by the Division in December 2009. The allegation in the complaint is that the Respondent, through her company Denver Rent a Home, took \$3,200.00 from the complainant as a first month's rent on a house the complainant and his family moved in to. The family was forced to vacate the house within 24 hours, because it was for sale and the owners of the home had a contract pending. The Respondent never refunded the complainant's money; and
- b. These are possible violations of 12-61-102, C.R.S., Acting in the capacity of a Real Estate Broker without being licensed; 12-61-113 (1) (a), C.R.S., Knowingly making any misrepresentation; 12-61-113 (1) (c) C.R.S., Knowingly misrepresenting or making false promises through agents, advertising, or otherwise; 12-61-113 (1) (g), C.R.S., Failing to account for or to remit, within a reasonable time, any money coming into the licensee's possession that belongs to others, whether acting as a real estate broker or otherwise, and failing to keep records relative to said moneys; 12-61-113 (1) (g.5), C.R.S., Converting funds of others, diverting funds of others without proper authorization, commingling funds of others; 12-61-113 (1) (k), C.R.S. Disregarding or violating any provision; 12-61-113 (1) (n), C.R.S., Having demonstrated unworthiness or incompetency; 12-61-113 (1) (t), C.R.S. Dishonest dealing; and Commission rule F-7, Failure to use Commission Approved Forms; and
 - c. The respondent's real estate broker's license shall be publicly censured; and
 - d. The respondent's real estate broker's license shall be revoked; and
 - e. She shall pay a fine to the Commission in the amount of up to \$25,000.

Motion unanimously carried.

11b. Complaint #2009121917-

The investigative report concerning a complaint filed by the Commission on its own motion against the respondent in Complaint #2009121917, was presented to the Commission with accompanying documentation and information supplied by the respondent. 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 Commission originally heard this case at its April 13, 2010 meeting, at which time you referred this to the Office of the Attorney General for a permanent injunction, as the Respondent was unlicensed at the time. The respondent in this case is remains unlicensed; and
- b. This is a possible violation of 12-61-102, C.R.S., License required to act as a Real Estate Broker; and
- c. The respondent will be referred directly to the Office of the Attorney General for the purpose of obtaining an injunction for unlicensed activity.

Motion unanimously carried.

12. Complaint #2009050830-

The investigative report concerning a complaint filed by Michael D. Gann against the respondent in Complaint #2009050830, was presented to the Commission with accompanying documentation and information supplied by the respondent. 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. Staff previously referred this case directly to the Office of the Attorney General for the purpose of adding it to a case involving the same Respondent which that office is in the process of prosecuting; and
- b. Respondent's actions may be a violation of 12-61-113(1)(b), Making any promise ... which influences, persuades, or induces another person when he could not or did not intend to keep such promises; 12-61-113(1)(k), Disregarding license law or Commission rules; 12-61-113(1)(n), Demonstrating unworthiness or incompetence; 12-61-113(1)(t), Dishonest dealing; 12-61-113(1)(i), Failure to maintain proper records; Commission Rule E-5, Failure to ensure proper closing of the transaction; and Commission Rule E-21, Failure to respond to Commission's request for response; and
- c. The respondent's real estate broker's license shall be publicly censured; and
- d. The respondent's real estate broker's license shall be revoked; and
- e. He shall pay a fine to the Commission in the amount of up to \$10,000.

Motion unanimously carried.

LICENSING MATTERS:

Licensing Matter A-1 (JS)-

The Commission considered License Application A-1 (JS) for a real estate broker's license together with accompanying documentation and information supplied by the applicant. It was moved and seconded by the Commission to authorize the issuance of a restricted license for a period of three years and further stipulates that the applicant must be compliant with the terms of the Office of Attorney Regulation Grievance Board.

Motion unanimously carried.

Licensing Matter A-2 (BM)-

The Commission considered License Application A-2 (BM) for a real estate broker's license together with accompanying documentation and information supplied by the applicant. It was moved and seconded by the Commission to authorize the issuance of a restricted license for a period of two years and further stipulates that the applicant will be prohibited from operating a property management company.

Motion unanimously carried.

Licensing Matter A-4 (LL)-

The Commission considered a Preliminary Advisory Opinion Application A-4 (LL) for a real estate broker's license together with accompanying documentation and information supplied by the applicant. It was moved and seconded by the Commission to issue a negative opinion.

Motion unanimously carried.

EXPEDITED SETTLEMENT PROCESS (ESP) MATTERS:

ESP Matter A - Complaint #2010070730-

The Commission was presented with a counteroffer from the respondent in Complaint #2010070730. After discussion, it was moved and seconded by the Commission to accept the counteroffer. The respondent's real estate broker's license will be publicly censured for a stipulation violation, and he will pay a fine in the amount of \$1,000 to the Commission.

Motion unanimously carried.

ESP Matter B - Complaint #2010010054-

The Commission was presented with a counteroffer from the respondent in Complaint #2010010054. After discussion, it was moved and seconded by the Commission to reject the counteroffer.

Motion unanimously carried.

ESP Matter C - Complaint #2009050873-

The Commission was presented with a case for reconsideration in Complaint #2009050873. The respondent's real estate broker's license has expired and she has been unresponsive. After discussion, it was moved and seconded by the Commission to administratively close the case and put a records hold on her license to preclude her from reactivating the license.

Motion unanimously carried.

Executive Session

It was moved and seconded 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 legal counsel concerning the status of litigation in Complaint #2008010053 (Gretchen Horst); Licensing Matter A-3 Preliminary Advisory Opinion application; and Commissioner conflicts of interest instructions.

Motion unanimously carried.

It was moved by Commissioner Bronson and seconded by Commissioner Moore to adjourn out of Executive Session.

Motion unanimously carried.

Licensing Matter A-3 (DS)-

The Commission considered a Preliminary Advisory Opinion Application A-3 (DS) for a real estate broker's license together with accompanying documentation and information supplied by the applicant. It was moved and seconded by the Commission to issue a negative opinion.

Motion unanimously carried.

Executive Session Matter – Complaint #2008010053 (Gretchen Horst)-

The Commission was presented with a counteroffer from Gretchen Horst in Complaint #2008010053. After discussion, it was moved and seconded by the Commission to reject the counteroffer and authorize a stipulation including a public censure, 30-day suspension, \$3,000 fine, successful completion of 24 hours of real estate education, and a two-year restriction.

Motion unanimously carried.

Commissioner Bronson congratulated Marcia Waters on her appointment as Director of the Division of Real Estate. Fellow Commissioners concur in wishing Director Waters the best and look forward to continuing good work with the Division.

The Real Estate Commission meeting adjourned at 11:54 on December 7, 2010.

Gina Piccoli, Chairwoman

Douglas Ring, Vice Chair

Jill Ozarski, Commissioner

Kristin Bronson, Commissioner

Charles “Buzz” Moore, Commissioner

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

EXECUTIVE SESSION - MINUTES

After a two-thirds majority vote and pursuant to §24-6-402(3)(a)(II), C.R.S., the Colorado Real Estate Commission held an Executive Session during its regular public meeting held on December 7, 2010. The Commission publicly announced the subject matter of the Executive Session, which was to confer with the Commission's legal counsel concerning the status of litigation in Complaint #2008010053 (Gretchen Horst); Licensing Matter A-3 Preliminary Advisory Opinion application; and Commissioner conflicts of interest instructions.

ATTESTATIONS

Pursuant to §24-6-402(2)(d.5)(I)(B), C.R.S., as counsel for the Commission, I attest that it is my opinion that all matters discussed during the executive session of the Colorado Real Estate Commission meeting held on December 7, 2010, constituted privileged attorney-client communications and, therefore, the contents of such discussions are not reflected within these minutes.

Terry Hugar, #20420
Senior Assistant Attorney General
Attorney for the Colorado Real
Estate Commission

Pursuant to §24-6-402(2)(d.5)(I)(B), C.R.S., as Commission Chair, I attest that the executive session of the Colorado Real Estate Commission meeting held on December 7, 2010, was confined to the topics authorized for discussion pursuant to §24-6-402(3) (a)(II), C.R.S.

Gina Piccoli, Chairwoman
Colorado Real Estate Commission