

MINUTES

COLORADO REAL ESTATE COMMISSION MEETING

December 1, 2009

MINUTES – INDEX

COMPLAINT MATTERS:

Michael Pearson	3
Debra Fertig	4
Jesus Salgado	4
Dannie Gann	4
Na-Kesha Taylor	5
Laura Stringham Reed	5
Mazen Kherdeen	6
Douglas Oelgoetz	6
Gary Stauffer	7
Bradley Odom	7
Madeline Linda Soesbe	7
Russell Lester	8

EXECUTIVE SESSION:

December 1, 2009	8
Minutes and Attestations	12

HEARING MATTERS:

Cedric Lipsey	8
Donavan Brewer	8
Donald Murray	9
Kurtis Zerby	9
Renald Frederics	9
Diane Cynthia Kizzee	9
L. Brian Terry	9
Ben Dumiye	10
Ki Tribbett	10

MINUTES – APPROVAL

October 13, 2009 Minutes	2
---------------------------------	----------

POLICY MATTERS:

Forms Committee Appointments	2
Director’s Position Statement on Financing	3

MINUTES
COLORADO REAL ESTATE COMMISSION MEETING
December 1, 2009
COLORADO DIVISION OF REAL ESTATE
1560 BROADWAY, SUITE 925
DENVER, CO 80202

A Colorado Real Estate Commission public meeting was held on December 1, 2009. Those Commissioners in attendance were Chair Kristin Bronson, Vice-Chair Charles "Buzz" Moore, Douglas Ring, and Jill Ozarski. Also attending were Marcia Waters, Director of Investigations and Enforcement; Penny Elder, ESP Program Manager; Terry Hugar, Attorney General's Office; Phil Davis, Attorney General's Office and several members of the Commission's Staff. Commissioner Gina Piccoli, Director Erin Toll, and Mary Kanaly, Real Estate Program Manager, 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 Commissioner 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 October 13, 2009, as amended.

Motion unanimously carried.

POLICY MATTERS:

Forms Committee Appointments-

It was moved by Commissioner Moore and seconded by Commissioner Ring to approve members of the Forms Committee as presented. With much appreciation for their time and good work, the following list is approved.

2010 Forms Committee Roster

Betty Armbrust, Broker	Connie Black, Broker
Candace Boyle, Consumer/Public	Cindy Compton, Title Insurance
Marcia Waters, Division of Real Estate	Ed Dyer, Broker
Paul Goldenberg, Broker	Daryl Lay, Division of Real Estate
Kent Levine, Attorney	Ken Levinson, Attorney
Tony Marietta, Broker	Steve Morgan, Attorney/CAR®

Bob Most, Broker	Garrett Quackenbush, Software Developer/Consumer/Public
Ron Sechrist, Broker	Alan Stein, Attorney
George Sutherland, Attorney/Title Insurance	Tony Walisky, Broker

Motion unanimously carried.

Director's Position Statement on Financing-

Marcia Waters presented the Director's Position Statement regarding Financing to the Commission for their information. The position statement is attached.



img-Y17090628-0001.pdf

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.

Michael Pearson-

The investigative report concerning a complaint filed by the Commission on its own motion against **Michael Pearson**, License #EA 40032724 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. Pearson.

- a. Complaint alleges that Colorado real estate broker **Michael Pearson** pled guilty on August 24, 2009 to a count of Theft (\$15,000 or More), a Class 3 Felony, in violation of sections 18-4-401(1) and (2)(d), C.R.S.; and to a count of Theft (\$500 to \$1,000), a Class 1 Misdemeanor, in violation of sections 18-4-401(1) and (2)(b.5), C.R.S.; and
- b. These acts may constitute a violation of: 12-61-113(1)(m); and
- c. Mr. Pearson'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.

Debra Fertig-

The investigative report concerning a complaint filed by the Commission on its own motion against **Debra A. Fertig**, License #FA 100006822 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. Fertig.

- a. Complaint alleges Colorado real estate broker **Debra A. Fertig** pled guilty on August 4, 2009 to a count of Check Forgery, a Class 5 Felony, in violation of section 18-5-102(1)(c), C.R.S. Ms. Fertig failed to report such guilty plea to the Commission; and
- b. These acts may constitute a violation of: 12-61-113(1)(m), and 12-61-113(1)(m.6); and
- c. Ms. Fertig'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.

Jesus Salgado-

The investigative report concerning a complaint filed by the Commission on its own motion against **Jesus Salgado**, License #FA 40016334 was presented to the Commission with accompanying documentation and information supplied by Mr. Salgado. 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. Salgado.

- a. Complaint alleges Colorado real estate broker **Jesus Salgado** pled guilty on September 10, 2009 to a count of Forgery of Public Record, a Class 5 Felony, in violation of section 18-5-102(1)(d), C.R.S.; and
- b. These acts may constitute a violation of: 12-61-113(1)(m); and
- c. Mr. Salgado'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.

Dannie Gann-

The investigative report concerning a complaint filed by the Commission on its own motion against **Dannie (Danette) D. Gann**, License #II 40020337 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. Gann.

- a. Complaint alleges that on October 5, 2009 in the Delaware Superior Court, Colorado real estate broker **Dannie D. Gann** pled guilty to a count of Financial Exploitation of Infirm Adult (\$10,000 to \$49,999), a Felony Office; and
- b. These acts may constitute a violation of: 12-61-113(1)(m); and
- c. Ms. Gann'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.

Na-Kesha Taylor-

The investigative report concerning a complaint filed by John K. Moreland against **Na-Kesha M. Taylor**, License #FA 40039239 was presented to the Commission with accompanying documentation and information supplied by Ms. 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 Ms. Taylor.

- a. Complainant alleges that Colorado real estate broker **Na-Kesha M. Taylor** failed to include his request that the sellers split the costs for radon mitigation and repair of a sewer line; and alleges that the signature on the Inspection Notice isn't his signature. Complaint alleges that Taylor agreed to pay the plumber \$750 out of her Commission check, which she failed to do. Taylor did not have an active real estate broker's license at the time of the transaction; and
- b. These acts may constitute a violation of: 12-61-113(1)(a), 12-61-113(1)(b), 12-61-113(1)(k), 12-61-113(1)(n), 12-61-119, and Commission Rule E-44; and
- c. Ms. Taylor's real estate broker's license shall be suspended for a period of 90-days; and
- d. Her license shall be publicly censured;
- e. Ms. Taylor shall pay a fine to the Commission in the range of \$3,500 to \$12,000.

Motion unanimously carried.

Laura Stringham Reed-

The investigative report concerning a complaint filed by John K. Moreland against **Laura Stringham Reed**, License #ER 40039505 was presented to the Commission with accompanying documentation and information supplied by Ms. Reed. 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. Reed.

- a. Complainant alleges that Colorado real estate broker **Laura Stringham Reed** failed to include his request that the sellers split the costs for radon mitigation and repair of a sewer line; and alleges that the signature on the Inspection Notice isn't his signature. Complaint alleges that Reed agreed to pay the plumber \$750 out of her Commission check, which she failed to do; and

- b. These acts may constitute a violation of: 12-61-113(1)(j), 12-61-113(1)(k), 12-61-113(1)(n), 12-61-113(1)(n), and 12-61-807(2)(b);
- c. Ms. Reed's real estate broker's license shall be suspended for a period of 30-days; and
- d. Her license shall be publicly censured;
- e. Ms. Reed shall pay a fine to the Commission in the range of \$1,750 to \$8,500.

Motion unanimously carried.

Mazen Kherdeen-

The investigative report concerning a complaint filed by the Commission on its own motion against **Mazen J. Kherdeen**, License #EA 1327170 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. Kherdeen.

- a. Complaint alleges that Colorado real estate broker **Mazen J. Kherdeen** pled guilty to a count of Felony Assault on July 10, 2009 and was ordered to serve a sentence in the Colorado Department of Corrections. Mr. Kherdeen failed to report this matter to the Commission as required by real estate law, and;
- b. These acts may constitute a violation of: 12-61-113(1)(m), 12-61-113(1)(m.6); and
- c. Mr. Kherdeen'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.

Douglas Oelgoetz-

The investigative report concerning a complaint filed by the Commission on its own motion against **Douglas R. Oelgoetz**, License #EA 102737 was presented to the Commission with accompanying documentation and information supplied by Mr. Oelgoetz. 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. Oelgoetz.

- a. Complaint alleges that on August 14, 2009 in Douglas County Court, Colorado real estate broker **Douglas R. Oelgoetz** pled guilty to a count of Sex Assault (Child in Position of Trust), a Class 4 Felony, in violation of section 18-3-405.3, C.R.S., and pled guilty to a count of Sex Assault on a Child, a Class 4 Felony, in violation of section 18-3-405(1), C.R.S.; and
- b. These acts may constitute a violation of: 12-61-113(1)(m); and
- c. Mr. Oelgoetz'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.

Gary Stauffer-

The investigative report concerning a complaint filed by the Commission on its own motion against **Gary W. Stauffer**, License #EA 216121 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. Stauffer.

- a. Complaint alleges that on August 21, 2009 real estate broker **Gary W. Stauffer** was found guilty of Theft (\$1,001 to \$19,999), a Class 3 Felony, in violation of section 18-4-401, C.R.S., and was found guilty of Extortion, a Class 4 Felony, in violation of section 18-3-207, C.R.S. Mr. Stauffer failed to report such matters pursuant to Commission rules and regulations; and
- b. These acts may constitute a violation of: 12-61-113(1)(m), and 12-61-113(1)(m.6); and
- c. Mr. Stauffer'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.

Bradley Odom-

The investigative report concerning a complaint filed by Jay Barchas against **Bradley Odom**, an unlicensed individual, was presented to the Commission with accompanying documentation and information. It was moved and seconded by the Commission to refer this case directly to the Office of the Attorney General for the purpose of obtaining a permanent injunction against Odom for unlicensed activity.

Motion unanimously carried.

Madeline Linda Soesbe-

The investigative report concerning a complaint filed by P. Christian Wolf against Madeline R. Linda Soesbe, License #EA 1318496 was presented to the Commission with accompanying documentation and information supplied by Ms. Soesbe. 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. Soesbe.

- a. Complainant alleges that Colorado real estate broker **Madeline R. Linda Soesbe** has knowingly recorded spurious and fraudulent documents in El Paso County in order to fight foreclosures on multiple properties owned by Soesbe; and
- b. These acts may constitute a violation of: 12-61-113(1)(a), 12-61-113(1)(t), 12-61-113(1)(n), and 12-61-807(2)(b); and
- c. Ms. Soesbe's real estate broker's license shall be revoked; and
- d. She shall pay a fine to the Commission up to \$10,000.

Motion unanimously carried.

Russell Lester-

The investigative report concerning a complaint filed by the Commission on its own motion against **Russell B. Lester**, License #FA 40037794 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. Lester.

- a. Complaint alleges that on June 24, 2009 real estate broker **Russell B. Lester** was arrested by Boulder Police on charges of Trespass and Harassment. Lester subsequently pled guilty to a count of Attempt to Commit First Degree Criminal Trespass, a Class 6 Felony, in violation of section 18-4-502, C.R.S. Lester failed to report his June 24, 2009 arrest to the Commission, as required pursuant to his October 22, 2007 Stipulation, constituting a violation of the Stipulation; and
- b. These acts may constitute a violation of: 12-61-113(1)(k); and
- c. Mr. Lester's real estate broker's license shall be revoked; and
- d. He shall pay a fine to the Commission up to \$2,500.

Motion unanimously carried.

HEARING MATTERS:

Cedric D. Lipsey-

The Commission voted to concur with the Initial Decision, Findings of Fact and Conclusions of Law in Case Number RC 2009-0021, in the matter of the Colorado Real Estate Commission vs. Cedric D. Lipsey. Mr. Lipsey's real estate broker's license is revoked.

Motion unanimously carried.

Donavan Brewer-

The Commission voted to concur with the Initial Decision, Findings of Fact and Conclusions of Law in Case Number RC 2008-0032, in the matter of the Colorado Real Estate Commission vs. Donovan Brewer. Mr. Brewer's real estate broker's license is revoked.

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 the Commission's attorney regarding Commission Rule E-44, and cases involving counter-offers from

Donald Murray, Kurtis Zerby, Ronald Frederics, Diane Kizzee, Brian Terry, Ben Dumiye, and Ki Tribbett.

Motion unanimously carried.

It was moved by Commissioner Moore and seconded by Commissioner Ring to adjourn out of Executive Session at 10:19 a.m.

Motion unanimously carried.

Donald Murray-

The Commission considered a counter-offer proposal from Donald M. Murray. After discussion, the Commission voted to reject Mr. Murray's counter-offer.

Motion unanimously carried.

Kurtis Zerby-

The Commission considered a counter-offer proposal from Kurtis Zerby. After discussion, the Commission voted to accept Mr. Zerby's counter-offer. Mr. Zerby's real estate broker's license shall be publicly censured and he shall pay a fine to the Commission up to \$2,500.

Motion unanimously carried.

Renald Frederics-

The Commission considered a counter-offer proposal from Renald R. Frederics. After discussion, the Commission voted to reject Mr. Frederics' counter-offer. Instead, Mr. Frederics shall be offered a stipulation calling for a public censure; up to a 90-day suspension, and payment of a fine to the Commission up to \$5,000.

Motion unanimously carried.

Diane Cynthia Kizzee-

The Commission considered a counter-offer proposal from Diane Cynthia Kizzee. After discussion, the Commission voted to accept Ms. Kizzee's counter-offer. Ms. Kizzee's real estate broker's license shall be publicly censured, her license shall be suspended for a period of up to 30-days, she will be required to be supervised for a period of one year, she shall pay a fine to the Commission up to \$2,500, and she shall successfully complete real estate education courses in Contracts and in Loan Fraud.

Motion unanimously carried.

L. Brian Terry-

The Commission considered a counter-offer proposal from L. Brian Terry. After discussion, the Commission voted to reject Mr. Terry's counter-offer.

Motion unanimously carried.

Ben Dumiye-

The Commission considered a counter-offer proposal from Ben A. Dumiye. After discussion, the Commission voted to accept Mr. Dumiye's counter-offer. Mr. Dumiye's real estate broker's license shall be publicly censured, his license shall be suspended for a period of 6-months, upon reinstatement Dumiye's license shall be restricted and he will require supervision for a period of one year, he shall pay a fine to the Commission in the amount of \$5,000, and he shall successfully complete real estate education courses in Ethics and Current Legal Issues. The admissions of the Stipulation will be §12-61-113(1)(t) and Commission Rule D-14.

In an amended motion, it was then moved by Commissioner Ring and seconded by Commissioner Moore to include additional admissions to violations, including §12-61-113(1)(c) and §12-61-113(1)(k). Additionally, Mr. Dumiye's license shall be suspended for a period of 6-months, and continuing indefinitely until such time as his fine to the Commission is paid in full.

Motion unanimously carried.

Ki Tribbett-

The Commission considered a counter-offer proposal from Ki R. Tribbett. After discussion, the Commission voted to accept Ms. Tribbett's counter-offer. Ms. Tribbett's real estate broker's license shall be publicly censured, her license shall be suspended for a period of 3-months, she will be required to be supervised through December 31, 2011, and she shall pay a fine to the Commission in the amount of \$2,500.

Motion unanimously carried.

The Real Estate Commission meeting adjourned at 10:53 a.m. on December 1, 2009.

Kristin Bronson, Chairwoman

Charles "Buzz" Moore, Vice Chair

Jill Ozarski, Commissioner

ABSENT
Gina Piccoli, Commissioner

Douglas Ring, Commissioner

Erin Toll, 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 1, 2009. The Commission publicly announced the subject matter of the Executive Session, which was to confer with the Commission's attorney regarding Commission Rule E-44, and counter-offers from Donald Murray, Kurtis Zerby, Renald Frederics, Diane Kizzee, L. Brian Terry, Ben Dumiye and Ki Tribbett.

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 1, 2009, 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 1, 2009, was confined to the topics authorized for discussion pursuant to §24-6-402(3) (a)(II), C.R.S.

Kristin Bronson, Chairwoman
Colorado Real Estate Commission