

BEFORE THE REAL ESTATE COMMISSION

STATE OF COLORADO

Complaint No. 2008030264

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY ACTION AGAINST THE REAL ESTATE
BROKER'S LICENSE OF **JAMES W. NELSON (LICENSE #FA100002351)**,

Respondent.

IT IS HEREBY STIPULATED by and between the Colorado Real Estate Commission (the "Commission") and Respondent, as follows:

1. At all times relevant hereto, Respondent was a licensed real estate broker or real estate salesperson in the State of Colorado.
2. The Commission has jurisdiction over Respondent, Respondent's license and the subject matter of this action.
3. The Commission commenced an investigation of Respondent's activities based upon a complaint filed on the Commission's own motion or by an individual with specific knowledge of Respondent's actions.
4. The Commission notified Respondent of the complaint and of the investigation and provided to Respondent a copy of the complaint and investigative report. The Commission offered Respondent the opportunity to give written data, views and arguments concerning the complaint, the investigation and the investigative report.
5. The Commission considered the investigative report and found reasonable grounds exist to refer Respondent to hearing for violations of the real estate licensing law. The Commission authorized the preparation of this settlement agreement including the disciplinary terms set forth herein and set forth on Exhibit A, attached hereto and incorporated herein, as a means to resolve the matter without the need for formal hearing.
6. Respondent admits to factual findings and violations of real estate licensing law and Commission rules as set forth on in the investigative report identified on Exhibit A. The investigative report is incorporated herein by this reference.

7. Respondent agrees to and accepts the following discipline:

a. Respondent agrees to a fine in the amount of \$3,500.00 (the "Fine"). The fine shall be permanently stayed unless Respondent attempts to re-apply for a real estate broker or salesperson license. Respondent agrees that should Respondent ever attempt to re-apply for licensure as a real estate broker or salesperson, the Fine shall be due and payable to the Commission in full and in one lump-sum payment prior to Respondent submitting an application for licensure as a real estate broker or salesperson in the State of Colorado. Respondent and the Commission agree and understand that payment of the Fine as described herein shall not be deemed to effect a renewal or guarantee the issuance of a new license or guarantee a more favorable review of a future application for licensure. The Commission reserves the right, notwithstanding the payment of the Fine, to review the allegations, charges and admissions relating to this case should Respondent ever apply for any license issued by the Commission.

b. Respondent shall be permitted to permanently surrender Respondent's Colorado real estate broker's license to the Commission. Such surrender shall be effective immediately upon execution of this Stipulation and Final Agency Order by an authorized representative of the Commission. Any registration(s), license(s), certificate(s) and/or pocket card(s) of Respondent shall be immediately returned to the Commission. On and after the effective date of this Stipulation and Final Agency Order, Respondent shall not engage in any act requiring a real estate license as set forth in §12-61-101 and §12-61-102, C.R.S. The Commission reserves the right, notwithstanding the provisions of paragraph 8 below, to review the allegations and/or charges raised by the investigation which is identified in paragraphs 3, 4 and 5 above should Respondent ever apply for any license issued by the Commission. The Commission also reserves the right to treat the permanent surrender of Respondent's real estate license in all respects and without exception as a permanent revocation of such license pursuant to §12-61-113(1), C.R.S.

c. Respondent acknowledges that the Commission will publish this Stipulation and Final Agency Order (or a summary of the disciplinary terms provided for herein) on the Commission's website and in the "Real Estate News", a Commission publication, and will treat this Stipulation and Final Agency Order and the investigative report as public records in the custody of the Commission.

8. It is the intent and purpose of this Stipulation to provide for the settlement of the particular issues, allegations and/or charges raised by the investigation of Respondent's activities by the Commission as set forth in paragraphs 3, 4 and 5 above and as set forth in the investigative report.

9. Upon execution by all parties, this Stipulation and Final Agency Order shall represent the entire and final agreement of the parties. In the event any provision of this Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Stipulation and Final Agency Order shall be given full force and effect.

10. Respondent expressly agrees and acknowledges that Respondent has entered into this Stipulation and Final Agency Order knowingly and voluntarily. After the opportunity

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Colo. Div. of Real Estate
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to consult with legal counsel, Respondent affirms that Respondent has read this Stipulation and Final Agency Order and fully understands its nature, meaning and content. Respondent agrees that upon execution of this Stipulation and Final Agency Order, no subsequent action or assertion shall be maintained or pursued by Respondent asserting the invalidity in any manner of this Stipulation and Final Agency Order.

11. Respondent understands and knowingly and voluntarily enters into this Stipulation and Final Agency Order. Respondent further understands and knowingly and voluntarily waives the following rights:

- a. The right to a formal disciplinary hearing on the merits of the matters forming the basis of this Stipulation and Final Agency Order and the right to require the Commission to meet its burden of proof in a formal hearing.
- b. The right to confront and cross-examine all witnesses against Respondent at a formal hearing.
- c. The right to subpoena witnesses, present evidence and to testify on Respondent's own behalf at a formal hearing.
- d. The right to be represented by counsel of Respondent's own choosing and at Respondent's expense at any stage of this proceeding.
- e. The right to engage in pre-hearing discovery of the Commission's evidence.
- f. The right to appeal the Final Agency Order provided for by this Stipulation.

12. On the date upon which this Stipulation is executed by an authorized representative of the Commission, it shall become the Final Agency Order of the Commission.

EXECUTED BY THE COMMISSION this 17th day of July, 2008

RESPONDENT-LICENSEE

COLORADO REAL ESTATE COMMISSION

James W. Nelson
Respondent-Licensee

By: *Marcia Waters*
Director (or Designee of the Director)
1560 Broadway, Ste. 925
Denver, CO 80202

EXHIBIT A
Stipulation and Final Agency Order

Respondent Name: James W. Nelson
License Number: FA100002351
Case Number: 2008030264

Admissions: Respondent admits to the allegations, factual findings and conclusions of law in the investigative report dated March 25, 2008.

Respondent admits that these facts constitute violation of:
§§12-61-113(1) (m) and 12-61-113(1)(m.6), C.R.S.