

BEFORE THE REAL ESTATE COMMISSION

STATE OF COLORADO

Office of Administrative Courts Case No. RC 2009-0007

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STIPULATION AND FINAL AGENCY ORDER

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IN THE MATTER OF THE DISCIPLINARY ACTION AGAINST THE REAL ESTATE BROKER'S LICENSE OF MARY BOGETVEIT, LICENSE NO. EI1323634, Respondent.

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


1. At all times relevant hereto, the Respondent was a licensed real estate broker in the state of Colorado.
2. The Commission has jurisdiction over the Respondent and the subject matter of this action.
3. The Commission commenced an investigation of Respondent's activities.
4. The Commission notified the Respondent of the investigation and Respondent was given the opportunity to give written data, views and arguments concerning the investigation and to meet with Commission's staff regarding this matter.
5. At its regularly scheduled public meeting on September 12, 2006, the Commission considered the investigative report and found probable cause to refer the Respondent to hearing for violation of the real estate licensing law.
6. On May 28, 2009, a mediation conference was held at the Office of Administrative Courts ("OAC") with Administrative Law Judge ("ALJ") Kathleen Muramoto. The Commission considered Respondent's case and authorized the preparation of this Stipulation and Final Agency Order, including the disciplinary terms contained in paragraph 9 below.
7. Respondent denies the following allegations, but acknowledges that, if the Commission were to prove the allegations at hearing, it would constitute a prima facie case of a violation of §12-61-101 *et. al.*, C.R.S., Real Estate Practice Act, and would subject Respondent to discipline. The Commission's allegations are as follows:

- a. On or about October 2, 2002, James Bair executed a Contract to Buy and Sell Real Estate (Residential) for the purchase of the property known as 11392 Newland Street, Broomfield, Colorado ("Newland"), pursuant to which Respondent was a transaction broker for Bair.
  - b. Pursuant to the purchase and sale contract for Newland, an inspection of the property was conducted. Respondent signed the Inspection Notice for the purchasers, the Bairs, without adequate evidence of authority to sign the Inspection Notice on behalf of the Bairs.
  - c. On or about August 23, 2001, Respondent entered into an Exclusive Right to Buy contract with Scott Pass ("Pass") pursuant to which Respondent was engaged as a buyer's agent for Pass.
  - d. On or about August 30, 2001, Respondent prepared a Contract to Buy and Sell Real Estate (Residential) for the purchase of the property known as 9306 Clermont Drive, Thornton, Colorado ("Clermont") by Pass.
  - e. Respondent signed Pass' on the Contract and on that same date signed or had Pass's name signed on a counterproposal for the purchase on Clermont without a power of attorney from Pass in her favor.
8. Although Respondent disputes the allegations in paragraph 7, above, Respondent admits that, if the allegations were proven by the Commission at hearing, Respondent would have violated §12-61-113(l)(n), C.R.S.
9. The Respondent accepts the following discipline pursuant to C.R.S. §§ 12-61-113 and 114, and 24-4-104 and 105:
- a. The real estate license of Respondent shall be and hereby is suspended for a period of thirty (30) days. Such suspension shall be effective immediately upon execution of this Stipulation and Final Agency Order by an authorized representative of the Commission. Upon the effective date of the suspension, Respondent shall refrain from engaging in any act requiring a real estate license as set forth in C.R.S. §§ 12-61-101 and 102.
  - b. Respondent shall pay a fine to the Commission in the amount of \$1,250.00. Respondent understands and acknowledges that, pursuant to section 24-34-108, C.R.S., the Executive Director of the Department of Regulatory Agencies shall impose an additional surcharge of 15% of this fine. Thus, Respondent shall pay a total amount of \$1,437.50. Said fine shall be due within 10 days of execution of this Stipulation and Final Agency Order by an authorized representative of the Commission. Respondent's failure to pay the fine in full shall be considered a violation of this Stipulation.

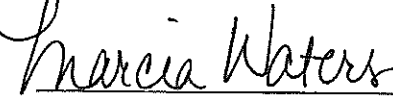
- c. Respondent shall enroll in and successfully complete real estate education courses in Contracts and Brokerage Relationships of not less than six (6) hours each, as well as a class in Brokerage Administration of not less than twenty-four (24) hours. All classes shall be completed within sixty (60) days from the day following execution of this Stipulation and Final Agency Order by a representative of the Commission. Within that same time period, Respondent shall submit written proof to the Commission of completion of the required courses. Such courses shall be completed in addition to any continuing education courses required by C.R.S. § 12-61-110.5 and the rules and regulations of the Commission.
  - d. Violation of any of the terms of this Stipulation shall constitute a violation of C.R.S. §12-61-113(1)(k), and subject Respondent, at the option of the Commission, to further disciplinary action.
- 10. It is the intent and purpose of this Stipulation and Final Agency Order to provide for the settlement of the particular issues, allegations and, or, charges raised by the investigation of the Respondent's activities by the Commission as set forth above.
- 11. The Commission expressly reserves:
  - a. the right to proceed with a subsequent disciplinary action in the event that the Respondent fails to comply with the terms of the Stipulation and Final Agency Order;
  - b. the right to proceed against the Respondent's license under Subsection § 12-61-307, C.R.S. if there is a payment from the Real Estate Recovery Fund based upon any conduct of the Respondent; and
  - c. the right to publish this Stipulation and Final Agency Order or a summary of the terms provided for herein in the "Real Estate News," a Commission publication, and to continue thereafter to treat this Stipulation and Final Agency Order as a public record in the custody of the Commission.
- 12. Respondent acknowledges that she has had the opportunity to discuss the terms of this Stipulation and Final Agency Order with counsel of her choosing. Respondent understands the effect of, and knowingly and voluntarily enters into, this Stipulation and Final Agency Order. The Respondent further 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 the formal hearing;

- b. the right to confront and cross-examine all witnesses against the Respondent at the formal hearing;
  - c. the right to subpoena witnesses, present evidence and to testify on the Respondent's own behalf at the formal hearing;
  - d. the right to be represented by counsel of the Respondent's own choosing and at the Respondent's expense at any stage of this proceeding;
  - e. the right to engage in pre-hearing discovery of the Commission's evidence; and
  - f. the right to appeal the Final Agency Order provided for by this Stipulation.
13. 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.

RESPONDENT


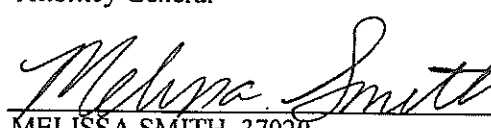
  
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 MARY BOGETVEIT

COLORADO REAL ESTATE COMMISSION

By:   
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 ERIN TOLL, Director or Designee  
 1560 Broadway, Suite  
 Denver, Colorado 80202

Effective Date: This 2<sup>nd</sup> day of June, 2009.

APPROVED AS TO FORM:

<p>KENT JAY LEVINE, ESQ.</p> <p>        _____        Mr. Kent Jay Levine, Esq.        KENT JAY LEVINE, P.C.        Englewood Law Building        3780 South Broadway        Englewood, Colorado 80113-3612</p> <p>Attorney for        Mary Bogetveit, Respondent.</p>	<p>JOHN W. SUTHERS        Attorney General</p> <p>        _____        MELISSA SMITH, 37020        Assistant Attorney General        Business and Licensing Section        1525 Sherman Street, 7th Floor        Denver, Colorado 80203        Telephone: (303) 866-5245        FAX: (303) 866-5395</p>
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	Attorneys for the Colorado Real Estate Commission
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