

## Real Estate Commission Bulletin



## Advertising in the Name of “Team\_\_\_\_\_”

There appears to be a “trend” in real estate advertising practices where a group of real estate licensees, together as a group within the brokerage they are associated with, advertise in the name of “Team GOPHERIT” (a fictitious name for purposes of this article). It could be a small team of two licensees, or a team of more than two licensees. Nowhere in the advertisement is the name of the brokerage these licensees are associated with. Is this in violation of the Hawaii Administrative Rules (“HAR”) and Hawaii Revised Statutes (“HRS”) for real estate brokers and salespersons? The short answer is “Yes!”

According to HAR §16-99-11(e)(1), “All advertising and promotional materials that refer to the individual licensee’s name, including but not limited to business cards, shall: (1) include the licensee’s legal name, name as licensed by the commission, or sole proprietor’s trade name as licensed by the commission; . . .” Is “Team Gopherit” is, more than likely, not registered with the commission. Brokerages, as entities, may attach one trade name to its legal name. If “Team Gopherit” was registered with the Business Registration Division, Department of Commerce and Consumer Affairs, and then attached to the brokerage’s legal name as licensed with the commission, e.g. “Brokerage Aloha dba Team Gopherit”, then the brokerage may advertise in either the legal name or the trade name. For individual real estate licensees associated with the brokerage, when including the name of the brokerage in their advertisements, either the legal name or trade name may be used.

If the name of the brokerage is not included in the advertisement when the name or names of the individual real estate licensees appear(s) in the advertisement, this is a possible violation of HAR §16-99-11(e)(2), “Identify the licensee with the licensee’s associating or employing brokerage firm; . . .”

However, if “Team Gopherit” is not a registered trade name of the brokerage, but the name appears in advertisements by real estate licensees associated with the brokerage, this may be a violation of Hawaii Revised Statutes (“HRS”) §436B-19(6), “Aiding and abetting an unlicensed person to perform activities requiring a license.” It may also be a violation of HRS §467-7, “Acting as a real estate broker and/or salesperson without a license.”

There are still MORE possible violations which may be found against the respondents who advertise in this manner. These possible violations include:

- 1) HRS §436B-19(17), violating applicable licensing laws, rules.
- 2) HRS §467-14(1), making any misrepresentation concerning any real estate transaction
- 3) HRS §467-14(3), pursuing a continued and flagrant course of misrepresentation, or making false promises through advertising or otherwise.
- 4) HRS §467-14(8), any other conduct constituting fraudulent or dishonest dealings.
- 5) HRS §467-14(13), violating HRS Chapter 467 and the rules adopted pursuant to the statute.
- 6) HRS §467-(20), failure to maintain a reputation for or record of competency, trustworthiness and/or fair dealing.
- 7) HAR §16-99-3(w), violation of licensing rules

Principal brokers should be aware of the advertising of all associated licensees. Ultimately, the principal broker is responsible for the actions of all real estate licensees associated with his/her brokerage. If a complaint and case are generated regarding a “team” advertisement, the respondents named may be the real estate licensees associated with the advertisement, and also the brokerage and its principal broker.

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# RICO

The following information is from the brochure on The Regulated Industries Complaints Office (RICO), Department of Commerce and Consumer Affairs. The brochure is for informational purposes only and not intended for the purposes of providing legal advice. Information provided is subject to change. Printed material can be made available for individuals with special needs in Braille, large print or audio tape. Submit requests to the RICO Complaints and Enforcement Officer at 808-586-2666.

Most people are not aware that a professional or vocational license is required before you can work in certain industries. There are currently over 48 different industries in which a professional or vocational license is required. These industries are the kind that affect the health, safety, and welfare of Hawaii's citizens.

### **What is the Regulated Industries Complaints Office?**

The Regulated Industries Complaints Office (RICO) is a statewide agency of the Department of Commerce and Consumer Affairs. It is the enforcement arm for the various professions and vocations that are licensed in the State. RICO investigates allegations of professional misconduct by licensees and also investigates possible unlicensed activity that may be occurring in the State. RICO's partner agency, the Professional and Vocational Licensing Division, accepts applications and issues licenses for the various licensing boards, commissions, and programs.

### **How are cases initiated?**

RICO investigates complaints received from consumers, from the various licensing authorities, and from anonymous sources. RICO also initiates cases based on referrals from other law enforcement agencies and professional associations. Occasionally, matters are reported by hospitals and employers. RICO also conducts compliance checks, and sweep and sting operations.

### **How do I file a complaint with RICO?**

Simply complete a RICO complaint form. Complaint forms are available online or from your local RICO office. You can also call or write and a complaint form will be mailed to you.

### **Does it cost money to file a complaint?**

There is no fee to file a complaint. You will be asked to include copies of documents or other evidence you may have, so you may incur incidental expenses for copying and postage (Please do not send originals to our office.)

### **Is there a time limit for filing a complaint?**

Some of the more typical complaints RICO investigates involve allegations of poor workmanship, negligence, or unlicensed activity. Less frequently, RICO investigates conduct involving sexual contact with patients or clients, criminal convictions, and misappropriation of funds. Some things, even if proven true, may not constitute grounds for discipline. For example, concerns that a patient has been made to wait a long time at a doctor's office, or that a licensee has charged a lot of money for a particular service, are not usually within the licensing authority's jurisdiction. Other conduct, although egregious, may be criminal in nature and not specifically addressed by licensing laws. You will be notified if your complaint

does not fall within RICO's jurisdiction or of there is insufficient evidence to proceed with an investigation.

### **What is my role in the process?**

You may be contacted by a RICO investigator and/or attorney to be interviewed or to provide additional information. If the case proceeds to a hearing, you may be called as a witness for the State. No matter what the outcome, you will be notified of the final disposition of your complaint.

### **Does RICO represent me?**

RICO attorneys do not represent individual consumers. RICO's primary obligation is to take the actions necessary to ensure that licensing violations are appropriately addressed. Although, we may seek or obtain restitution as part of an enforcement action, we do not guarantee restitution will be awarded or asked for in every case. We strongly advise all consumers to immediately explore any civil remedies they may have. Do not wait for a RICO action to be concluded. An investigation or prosecution by RICO does not prevent you from pursuing any private right of action or civil remedies you may be entitled to.

### **Will my complaint be public?**

RICO provides complaint history information to the public, including information about certain cases, including the name of the individual or business complained about, possible violations, and the outcome of closed complaints. The information and records you provide will otherwise be held in confidence, unless disclosure is required for RICO purposes or otherwise required by law.

### **What kind of penalties may be imposed?**

Civil or administrative remedies may be imposed in a RICO case, ranging from fines, suspension or revocation of a license, or injunctions prohibiting future unlicensed activity. RICO may also issue warning letters.

### **Why should I file a RICO complaint?**

In addition to investigating and prosecuting complaints, where appropriate, RICO will work to assist consumers to resolve their disputes with licensees. Although not a guarantee, filing a complaint may lead to the resolution of your dispute. Additionally, RICO relies on information from consumers to monitor conduct in the industry and to watch for unlicensed activity. Your information helps.

RICO's Areas of Jurisdiction. The following is a list of some of the professions and vocations currently licensed in the State of Hawaii:

- Accountants
- Acupuncture Practitioners
- Activity Desks
- Athletic Agents and Athletic Trainers
- Barbers and Barber Shops
- Cemeteries
- Chiropractors
- Collection Agencies
- Contractors

# The Chair's Message



## HAPPY NEW YEAR!

My third full year on the Commission was very fulfilling as we are well on our way in accomplishing several of our long term goals, including the promulgation of the condominium and real estate licensing administrative rules, condominium education, as well as the improvement of technology to expedite and make licensing processes more efficient and user friendly. The following

are highlights of Commission's year 2014 "in a nutshell."

### *Condominiums*

Generally, a total of 261 condominium projects were registered in the fiscal year (FY) 2014. Of the 261 total registrations, 153 were new residential projects and 108 were conversions.

During the 2014 calendar year, the Commission considered and declined to issue a request for an informal nonbinding interpretation of HRS, Chapter 514A. The request involved a condominium unit owner's request for the email addresses of other unit owners pursuant to §514A-83.3, HRS. The Commission determined that pursuant to §16-201-86(b), Hawaii Administrative Rules, that the inquiry was not appropriate for the issuance of an informal interpretation; requestor did not set forth the facts in sufficient detail to allow the Commission to understand the requestor's circumstances; and that there had been no consistent historical pattern of deciding similar inquiries upon which the Commission could base its response.

As part of its rule promulgation efforts, the Commission-approved Blue Ribbon Committee (BRC), continued the rulemaking process for Hawaii Administrative Rules, Chapter 107. The BRC consistently meets monthly. We greatly appreciate the efforts of the BRC in taking on this herculean task.

### *Real Estate Licensing*

During FY 2014, 1,264 new licenses were issued, which is a 16.7% increase over the prior year. Broker entity licenses decreased by 6.8%, broker licenses increased by 6.7% and salesperson licenses by 22%. Overall, the number of current real estate licenses increased 8.1% by the end of FY 2014. The total number of licenses in the state is 18,557 (active and inactive). Oahu has the most active licenses, with a total of 8,118, then Maui with 2,037, Hawaii with 1,711 and Molokai and Lanai with 38 and 13, respectively.

In its enforcement and consumer protection efforts, the Commission took disciplinary action against 35 licensees, a 23.9% decrease as compared to the 46 licenses disciplined in FY 2013. There was one license revocation and no license suspensions in FY 2014. The few of the most common statutory violations were of HRS §467-14(13) (principal broker responsibilities) and HRS §467-14(20) (failure to maintain a reputation or record of competency, honesty, truthfulness, financial integrity and fair dealing) and HRS §467-14(1) (making any misrepresentation concerning any real estate transaction).

Three of the most common rule violations were of HAR §16-99-3(a) (protection of the public in transactions) and HAR §16-99-3(b) (protection of the public against fraud, misrepresentation, or unethical practices) and HAR §16-99-3(f) (financial obligations and commitments must be in writing).

### *Broker/Salesperson Education*

Approximately 467 brokers and 2,776 sales persons tested for a real estate license, with the passage rate of 63.4% for brokers and 81.0% salespersons.

As for courses, the Commission determined that the Core B topic for 2015-2016 will be "Condominiums," a topic very applicable in Hawaii since 30% of Hawaii's residents live in condominiums. As an introduction to this very important subject, the Commission sponsored the real estate seminar, "Be Condo Smart" in November 2014, which was coordinated by Hawai'i Association of REALTORS® and which was well attended by the real estate licensee community.

As a reminder, the Commission increased the continuing education core course hours in 2013 to 8 hours from the previous 5 hours, effective the 2015-2016 biennium.

### *Broker/Salesperson Rules*

As you know, the Hawaii Administrative Rules, Chapter 99, is well on its way to final approval. The draft proposed rules already made its way through the Legislative Reference Bureau, the Attorney General's Office and a public hearing for review and comment. The rules will go through a second public hearing, review by the Small Business Regulatory Review Board (SBRRB) then back to the Attorney General's Office for final review. The final step will be approval by the Governor. The current draft rules and hearing notice can be viewed at <http://cca.hawaii.gov/reb/files/2013/07/99-Draft-8-23Jan2014.pdf>.

### *Technology*

In February 2014, the Commission launched its Prelicense Online System, which provides electronic access to student registration, course completions, course schedules, and the electronic School Completion Certificates.

The Commission staff continued implementation of the paperless renewal system. It has been popular with the real estate licensing community and the online renewal rate for FY 2013 approached a 93%. We anticipate the rate to increase with the upcoming renewals.

\*Statistics presented herein are taken from the 2014 Real Estate Commission Annual Report and are based on the 2014 fiscal year (July 1, 2013, through June 30, 2014).

(s) Nikki Senter, Chair

## RICO (cont. from page 2)

Cosmeticians, Estheticians, Hairdressers and Manicurists  
 Dentists and Dental Hygienists  
 Dispensing Opticians and Optometrists  
 Electricians and Plumbers  
 Elevator Mechanics  
 Emergency Medical Technicians  
 Employment Agencies  
 Engineers, Architects, Surveyors, and Landscape Architects  
 Hearing Aid Dealers and Fitters  
 Marriage and Family Therapists  
 Massage Therapists and Establishments  
 Mental Health Counselors  
 Mixed Martial Arts Contests  
 Motor Vehicle Sales and Repairs  
 Naturopaths and Osteopaths  
 Nurses  
 Occupational Therapists  
 Pest Control Operators  
 Pharmacies and Pharmacists  
 Physical Therapists  
 Physicians and Physician Assistants  
 Podiatrists  
 Port Pilots  
 Private Detectives and Guards  
 Psychologists  
 Real Estate Appraisers  
 Real Estate Brokers and Salespersons  
 Speech Pathologists and Audiologists  
 Veterinarians

### RESOURCES

The Department of Commerce and Consumer Affairs (DCCA) and its Regulated Industries Complaints Office (RICO), offer tools, tips, and services you can use to check out an individual or business. Information is available by calling (808) 587-4272 or online at [cca.hawaii.gov/business](http://cca.hawaii.gov/business) online.

For information about filing a complaint or to report unlicensed activity, call RICO's Consumer Resource Center at (808) 587-4272 or visit us online at [cca.hawaii.gov/rico](http://cca.hawaii.gov/rico).

Neighbor Island residents can dial the following numbers then 7-4272 followed by the # sign:

Kauai .....	274-3141	Maui .....	984-2400
Hawaii .....	974-4000	Lanai & Molokai .....	1-800-468-4644

RICO is the enforcement arm for over forty-five professional boards, commissions, and programs that are administratively attached to the Department of Commerce and Consumer Affairs. RICO receives complaints, conducts investigations, and prosecutes licensing law violations. RICO also prosecutes unlicensed activity through the issuance of citations and by filing civil lawsuits in the Circuit Courts. RICO works to resolve consumer complaints where appropriate and provides consumer education about various issues relating to licensing and consumer protection. RICO also administers the State Certified Arbitration Program (SCAP) for "lemon" motor vehicle claims.

## 2015 - 2016 Core Course

At its monthly meeting on December 10, 2014, the Commission's Education Review Committee ("ERC") voted to award the development of the 2015-2016 mandatory core course to Everett Kaneshige, Esq. Mr. Kaneshige is an attorney, a real estate broker, a prelicense instructor, and has been active in the real estate industry for more than 30 years.

The topic for the 2015-2016 mandatory core course is "Condominiums". This is an immense topic and one that is not generally familiar with real estate licensees. The recent Commission-sponsored real estate seminar, "Be Condo Smart", held in November, 2014, at the Honolulu Country Club, was well-attended, and those who attended gave the panel presentation a resounding "thumbs'up!"

The Commission selected the condominium topic for the 2015-2016 core course because condominium-living and condominium-development is a large part of Hawaii's landscape. Hawaii developed the nation's first condominium laws. More than 30% of Hawaii's residents live in condominiums. The projected condominium developments in Honolulu are huge, and will dominate real estate in the coming years.

The 2015-2016 mandatory core course will be 8 hours, an increase from last biennium's 5 hours. The course will be developed in two parts, A and B.

## Chapter 99 Rule-Making Progress

The Hawaii Real Estate Commission held the required public hearing for the proposed Chapter 99, Hawaii Administrative Rules amendments, on Monday, December 1, 2014. Public notice was provided in state-wide publications. However, at the last minute, word was received that the meeting room at the State Capitol was cancelled because of other events taking precedence.

Consequently, another public hearing will be held at a date to be announced.

# Administrative Actions

## October 2014

**Vinah Morales**  
RS 61247

Case No. REC 2013-89-L  
Dated 10/24/14

**Allegations:** On or about August 11, 2010, an Indictment was filed in the United States District Court for the District of Hawaii, captioned United States of America vs. Estrellita "Esther" Garo Miguel et al., Cr. No. I 0-00527 SOM. The Indictment charged defendants, including Respondent, with knowingly conspiring and agreeing with others to commit federal offenses, conspiracy to commit wire fraud and making false statements on loan applications, wire fraud, mortgage loan fraud and money laundering.

On or about November 15, 2011, Respondent entered into a plea agreement in the above referenced case in which she entered a voluntary plea of guilty to the charges of knowingly conspiring

and agreeing with others to commit federal offenses, conspiracy to commit wire fraud and false statements on loan applications. Respondent admitted to the facts supporting the criminal charges.

On January 23, 2013, Judgment was entered in the above referenced criminal case.

**Sanction:** Respondent agrees to the voluntary revocation of her license.

**Violations:** HRS § 467-14(20), HRS §§ 436B-19(12), (14)

## November 2014

**Jeffrey N. Samuels,**  
RB 17709  
**and Jeffrey Samuels Real Estate Services, Real Estate Brokers**  
RB 20143

Case No. REC 2012-12-L  
Dated 11/26/14

**Allegations:** Upon information and belief, sometime in or around January of 2010 a mother executed a Durable Power of Attorney (hereafter "DPA"). The DPA appointed three of her adult children, as joint attorneys-in-fact, for her properties and holdings.

On or around 1/18/11 the Respondents listed for sale, via the Hawaii Central Multiple Listing Service, one of the properties that is covered by the DPA (hereafter "subject property").

The Respondents represented to RICO that the consent of two of the three attorneys-in-fact had been obtained before the Respondents listed the subject property. Respondents represented also that they believed the 3rd attorney-in-fact knew of the listing.

The subject property did not sell, the listing expired on 1/1/12, and, the subject property was taken off the market.

One of the three attorneys-in-fact claims to not have consented to putting the subject property up for sale in January of 2011. In September of 2011 the person asked the Respondents for copies of

documents relating to properties they managed that were covered by the DPA, including a copy of the listing agreement for the subject property.

When Respondents failed to produce the listing agreement, the person filed this RICO complaint in November of 2011.

The Respondents represented to RICO that all of the paperwork concerning real estate covered by the DPA, including the 2011 listing agreement for the subject property, was handed over to one of the three attorneys-in-fact when that individual assumed all property management responsibilities for said real estate. That third attorney-in-fact is Lisa Ho, a real estate licensee and the wife of Respondent Jeffrey N. Samuels.

**Sanction:** Respondents shall pay, jointly and severally, an administrative fine of ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00).

**Violations:** HRS § 436B-19(7), HRS §§ 436B-19(17), HAR § 16-99-3(1)

# 6 Administrative Actions (cont. from page 5)

## November 2014

**Phillip L. Lopez**  
RS 54233

Case No. REC 2011-256-L  
Dated 11/26/14

**Factual Findings:** On or about March 14, 2011, Respondent plead guilty to one count of theft in the first degree and 16 counts of forgery in the second degree in the Circuit Court of the First Circuit, State of Hawaii in Criminal Case No. CR 10-1-2109 ("Criminal Case").

As a Part of the Plea Agreement in the Criminal Case, Respondent admitted to forging rental contracts and money orders and collecting rental proceeds in excess of \$20,000.00 without authorization.

According to the Plea Agreement, Respondent admitted to the following: Between November 1, 2009 and May 14, 2010 I exerted unauthorized control over the property of Marcus Property Management, the value of which exceeds \$20,000.00; I also, with intent to defraud, uttered a forged money order for \$750 in the name of Danny Lumantas, and also a forged rental contract to Danny and Rouhanee Lumantas; I also with intent to defraud, uttered forged money

orders for \$75 and \$800 in the name of Schlitz Yu and also a forged rental contract to Schlitz Yu; I also with intent to defraud, uttered forged money orders for \$1,000, \$1,500, another \$1,000 and \$150 in the name of Wayne Mathes, and also a forged rental contract to Wayne Mathes and Andre Souza; I also with intent to defraud, uttered forged money orders for \$150 and \$1,000 in the name of Andre Souza; I also with intent to defraud, uttered forged money orders for \$75, \$1,000, and \$150 in the name of Jose Ramirez, and also a forged rental contract to Jose Ramirez; this all occurred in the City and County of Honolulu, State of Hawaii.

A Judgment of Conviction and Probation Sentence was entered in the Criminal Case by the Court on May 23, 2011. Respondent was placed on 5 years probation and ordered to pay restitution of \$20,095.00.

**Sanction:** Respondent's real estate salesperson's license is revoked.

**Violation:** HRS §§ 467-14(1), (3), (7), (8), (16), (20)

**Keoni Smith**  
**aka Michael Keoni Smith**  
RS 63878

Case No. REC 2013-188-L  
Dated 11/26/14

**Factual Findings:** Respondent has been a licensed real estate salesperson under License No. RS 63878 for approximately ten years.

Respondent has worked during that time period for Sterman Realty, owned by Richard Sterman, located in Haleiwa, Oahu.

In 2012, Respondent failed to timely renew his license by the renewal date of December 31, 2012.

Respondent's failure to timely renew his license was an oversight and was not intentional.

Respondent paid his license fee and submitted his paperwork for renewal of his license immediately after he was notified that he had not timely renewed his license.

Respondent's license was reinstated effective April 29, 2013. It took about 20 days after Respondent paid his fees and submitted his paperwork until his license was reinstated.

Respondent estimated that he earned about \$2,500 from real estate work between January 1, 2013, and April of 2013. Petitioner's Exhibit 1 shows that Respondent actually earned just under \$3,500 from January of 2013 through April 8 of 2013. During that time period, Respondent was managing rental properties for friends on the mainland and was not engaged in the buying and selling of real estate.

Up to five real estate salespersons working for Sterman Realty failed to timely renew their licenses at the end of 2012. In a settlement agreement entitled Richard D. Sterman, dba Sterman Realty, REC-2013-189-L, Mr. Sterman agreed that he had failed to ensure real estate personnel associated with his firm kept their licenses current and active, and he agreed to pay a \$2,000.00 fine.

Respondent is not using any failures of supervision at Sterman Realty as an excuse for his own failure to timely renew his license. Instead, Respondent recognizes his individual personal responsibility.

Cathryn Shanley was another real estate salesperson working for Sterman Realty who did not timely renew her license at the end of 2012. In a settlement agreement entitled Cathryn L. Shanley, REC-2013-189-L, Ms. Shanley agreed to pay a fine of \$2,500.00 for engaging in real estate activities without a license.

Respondent estimated that Ms. Shanley and others in Sterman Realty made substantially more in commissions during the period in 2013 when they were not licensed than Respondent made.

**Sanction:** Pay a \$500.00 administrative fine.

**Violation:** HRS § 467-7, HAR § 16-99-7

# Administrative Actions (cont. from page 6)

## November 2014

### Ken Gines

RB 20540

Case No. REC 2013-195-L

Dated 12/19/14

**Allegations:** Upon information and belief, on or about 3/5/13, the Respondent pled no contest in the District Court of the First Circuit, State of Hawaii, to the crime of driving under the influence (hereafter "Conviction"). The Respondent disclosed the Conviction in writing to the Commission. The Respondent fulfilled all Court-imposed terms and conditions of the Conviction. In June , 2007, while the Respondent was licensed as a real estate salesperson, a judgment was entered against the Respondent in the District Court of the First Circuit, State of Hawaii, for \$21,221.00

(hereafter "2007 Judgment"). The 2007 Judgment arose out of a lease transaction handled by the Respondent. The Respondent satisfied the 2007 Judgment in or around August, 2007. The Respondent did not report the 2007 Judgment in writing to the Commission within thirty days.

**Sanction:** Pay a \$1,000.00 administrative fine.

**Violations:** HRS § 436B-16(a), HRS §§ 436B-19(12), (14), (17)

### Mary A. Lapenia

RS 55993

Case No. REC 2013-90-L

Dated 12/19/14

**Allegations:** On or about 6/27/14, RICO filed a Petition for Disciplinary Action. The Respondent's license expired on 12/31/10 and is currently forfeited. The Respondent agrees to the voluntary revocation of her license.

**Sanction:** Voluntary revocation of license.

**Violations:** HRS § 467-14(20), HRS § 436B-19(12), (14)

## Statutory/Rule Violations

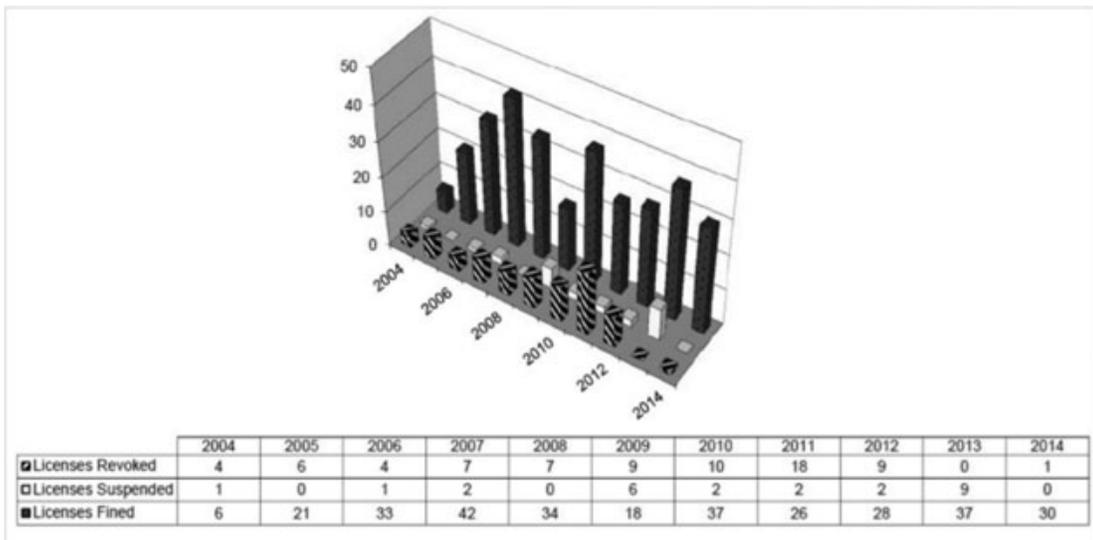
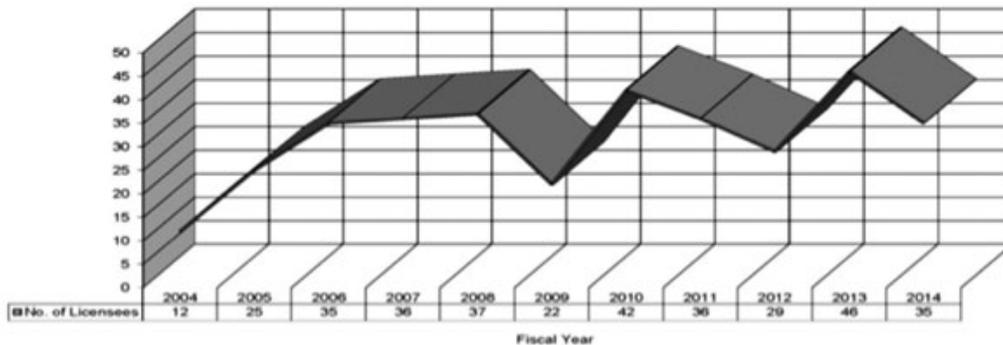
**Settlement Agreement (Allegations/Sanction):** The respondent does not admit to the allegations set forth by the Regulated Industries Complaints Office (RICO) and denies having violated any licensing law or rule. The respondent enters in a Settlement Agreement as a compromise of the claims and to conserve on the expense of proceeding with a hearing on the matter.

**Disciplinary Action (Factual Findings/Order):** The respondent is found to have violated the specific laws and rules cited, and the Commission approves the recommendation of the Hearings Officer.

HRS §467-7,	Licenses required to act as a real estate broker or salesperson.
HRS §467-14(1),	Making any misrepresentation concerning any real estate transaction.
HRS §467-14(3),	Pursuing a continued and flagrant course of misrepresentation
HRS §467-14 (7),	Failing to account for moneys belonging to others
HRS §467-14 (8),	Conduct constituting fraudulent or dishonest dealings.
HRS §467-14 (16),	Converting other people's moneys to the licensee's own use.
HRS §467-14(20),	Failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.
HRS §436B-16(a),	Each licensee shall provide written notice within thirty days to the licensing authority of any judgment, award, disciplinary sanction, order, or other determination, which adjudges or finds that the licensee is civilly, criminally, or otherwise liable for any personal injury, property damage, or loss caused by the licensee's conduct in the practice of the licensee's profession or vocation. A licensee shall also give notice of such determinations made in other jurisdictions.
HRS §436B-19(7)	Professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of the licensed profession or vocation.
HRS §436B-19(12)	Failure to comply, observe, or adhere to any law in a manner such that the licensing authority deems the applicant or holder to be an unfit or improper person to hold a license.
HRS §436B-19(14)	Criminal conviction.
HRS §436B-19(17)	Violations of Chapter 467, HRS, or any other rule or order of the licensing authority.
HAR §16-99-3(1)	A licensee shall not place any sign or advertisement indicating a property is for sale, rent, lease, or exchange without the written authorization of the owner or seller and approval of the principal broker or broker in charge.

# Fiscal Year 2014 Annual Report Statistics

Here are the FY 2014 numbers on administrative actions taken by the Commission. In general, the number of actions decreased from FY 2013. Likewise, the number of complaints filed with the Regulated Industries Complaints Office (RICO) also decreased. See the table and charts below. The FY 2014 Commission Annual Report is available on the Commission's website, [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec).



## The top 5 alleged STATUTORY violations in RICO complaints included:

1. §467-14(13) - Violating this chapter (467), chapters 484, 514A, 514B, 514E, or 515, or section 516-71, or the rules adopted pursuant thereto.
2. §467-14(1) - Making any representation concerning any real estate transaction.
3. §467-14(20) - Failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.
4. §467-1.6 - Principal brokers management, supervision and responsibilities.
5. §467-14(8) - Conduct constituting fraudulent or dishonest dealings.

## The top 5 alleged RULE violations in RICO complaints included:

1. §16-99-3(b) - Licensee shall protect the public against fraud, misrepresentation, or unethical practices in the real estate field.
2. §16-99-3(a) - Licensee shall fully protect the general public in its real estate transactions.
3. §16-99-3(f) - Licensee shall see that financial obligations and commitments are in writing.
4. §16-99-3(o) - Prior to the time the principal broker or the broker in charge is absent from the principal place of business for more than thirty calendar days, and no other broker in charge is registered with the principal place of business, the principal broker shall submit to the commission a signed, written notification of the absence designating a temporary principal broker or temporary broker in charge, who shall acknowledge the temporary designation by signing the notification. In case of prolonged illness or death where the principal broker or broker in charge is unable to act, another broker shall be designated as the temporary principal broker or broker in charge within thirty days of the illness or death with appropriate notification to the commission. A temporary principal broker or broker in charge arrangement shall not exceed a period of six months, with the right to extend prior to expiration for another six months for good cause and with the approval of the commission.
5. §16-99-11 - Advertisements

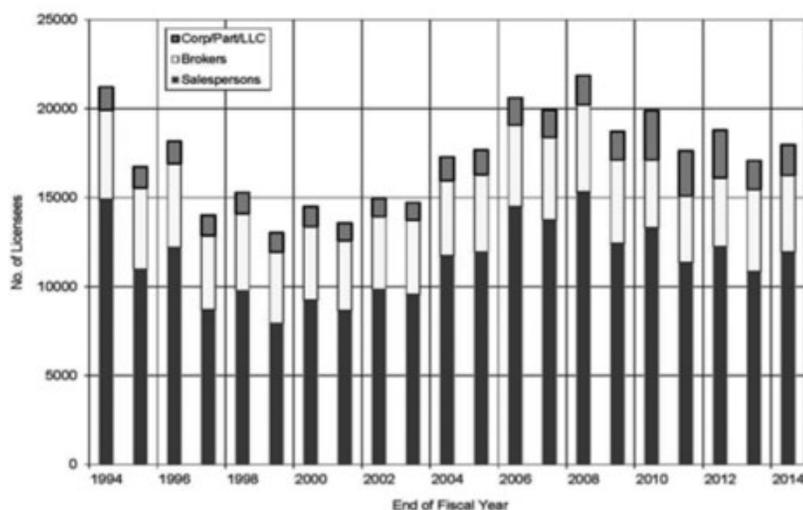
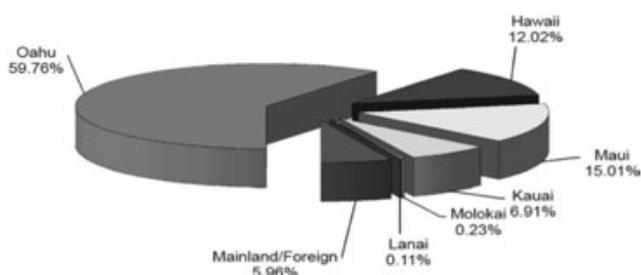
# Fiscal Year 2014 Annual Report Statistics (cont. from page 8)

Some other interesting numbers include the number of licensing examination candidates who tested in FY 2014. The number of brokers testing was only 554, the lowest number of broker candidates since 2006. As for salesperson candidates, 2,776 took the licensing exam, the lowest number since 2009. These lower numbers amount to almost a 25% drop in licensing candidates.

While the number of licensing candidates decreased in FY 2014, the number of new licensees increased by 16.7%. Individual broker licensees increased by 6.7%, and new salesperson licenses increased by 22%. The licensing of new entities decreased by 6.8%.

The overall number of real estate licensees continues to increase. By the end of FY 2014, this number increased by 8.1%. Active licenses increased 5.7%, while inactive licenses increased 13.8%.

	Oahu	Hawaii	Maui	Kauai	Molokai	Lanai	Other	Total
<b>Active</b>								
Broker	1,995	487	492	232	14	4	68	3,292
Salesperson	4,467	851	1,185	470	17	6	160	7,156
Sole Proprietor	669	125	112	54	4	0	5	969
Corporation, Partnership, LLC	987	248	248	119	4	3	4	1,613
<b>Total Active</b>	<b>8,118</b>	<b>1,711</b>	<b>2,037</b>	<b>875</b>	<b>39</b>	<b>13</b>	<b>237</b>	<b>13,030</b>
<b>Inactive</b>								
Broker	283	57	46	29	0	0	224	639
Salesperson	2,644	451	693	376	3	7	619	4,793
Sole Proprietor	2	0	0	0	0	0	1	3
Corporation, Partnership, LLC	43	12	10	2	0	0	25	92
<b>Total Inactive</b>	<b>2,972</b>	<b>520</b>	<b>749</b>	<b>407</b>	<b>3</b>	<b>7</b>	<b>869</b>	<b>5,527</b>
<b>Active and Inactive</b>								
Broker	2,278	544	538	261	14	4	292	3,931
Salesperson	7,111	1,302	1,878	846	20	13	779	11,949
Sole Proprietor	671	125	112	54	4	0	6	972
Corporation, Partnership, LLC	1,030	260	258	121	4	3	29	1,705
<b>Total</b>	<b>11,090</b>	<b>2,231</b>	<b>2,786</b>	<b>1,282</b>	<b>42</b>	<b>20</b>	<b>1,106</b>	<b>18,557</b>



# Pay All Taxes For Rental Properties

## Submitted by the Department of Taxation

Recently, there has been a lot of interest in the rental of real property in the State of Hawaii. With all the attention on this issue, we thought it would be a great opportunity to remind everyone about the tax requirements which apply when real property is rented out.

While there are a broad range of issues and concerns related to rentals, the applicable Hawaii tax laws are fairly simple. In addition to net income tax, there are two taxes which apply to the rental of real property—the General Excise Tax (GET) and the Transient Accommodations Tax (TAT). The GET applies to all rentals and is imposed on the gross income received at the rate of 4%, or 4.5% if the property is located on Oahu (due to the Honolulu County surcharge).

If real property is rented as a transient accommodation, then both the GET and TAT apply. Hawaii tax law defines a “transient accommodation” as a hotel room or suite, apartment, condominium, house, beach house, or similar living accommodation which is rented to a transient person for less than 180 consecutive days per rental. The TAT is imposed at the rate of 9.25% on the gross rental income received from renting of transient accommodations in Hawaii.

It is important to remember that the State of Hawaii imposes the applicable taxes on all rentals, irrespective of whether the rental is permissible under county law. In other words, even if the rental is not allowed under county land use ordinances, taxes are owed if income is received from rental of the real property.

For more information, please visit our website at <http://tax.hawaii.gov>.

## Specialists’ Office for the Day on Maui

The Real Estate Commission’s Real Estate and Condominium Specialists offered a Specialists’ Offices for the Day at the REALTORS’ Association of Maui, Inc., Wednesday, January 7, 2015, to discuss real estate licensing and condominium concerns with interested parties.

The Specialists are prepared to discuss questions about licensing laws and rules, license applications, broker experience certificate applications, examination administration, continuing education, new legislation, Commission procedures, educational programs, and related topics.

Other questions that may come up at the sessions concern boards, associations, meetings, managing agents, condominium association registration, condominium hotel operators, fidelity bonding, the condominium property regime statute, public reports, project registration, the condominium dispute resolution program, new legislation, reserves, and other condominium-related topics.

If you have any questions, you may contact a Real Estate Specialist or a Condominium Specialist at (808) 586-2643. You may also write to: Real Estate Commission, 335 Merchant Street, Room 333, Honolulu, HI 96813, or you may email staff at [hirec@dcca.hawaii.gov](mailto:hirec@dcca.hawaii.gov).

The Specialists’ Office for the Day program is funded by the Condominium Education Trust Fund and the Real Estate Education Fund.

## Prelicensure Schools

Abe Lee Seminars	808-942-4472
Akahi Real Estate Network LLC	808-331-2008
Carol Ball School of Real Estate	808-871-8807
Coldwell Banker Pacific Properties Real Estate School	808-597-5550
Continuing Ed Express LLC	866-415-8521
Dower School of Real Estate	808-735-8838
Fahrni School of Real Estate	808-486-4166
Hawaii Institute of Real Estate, LLC	808-589-0550
Inet Realty	808-955-7653
Property Merchants, Inc. dba All Islands Real Estate School	808-564-5170
ProSchools, Inc.	800-452-4879
Ralph Foulger's School of Real Estate	808-239-8881
REMI School of Real Estate	808-230-8200
Seiler School of Real Estate	808-874-3100
University of Hawaii Maui College - OCET Real Estate School	808-984-3231
Vitousek Real Estate Schools, Inc.	808-946-0505



## State of Hawaii Real Estate Commission

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This material can be made available to individuals with special needs. Please call the Senior Real Estate Specialist at 586-2643 to submit your request.

## Continuing Education Providers

Abe Lee Seminars	808-942-4472	Key Realty School LLC	800-472-3893
Akahi Real Estate Network LLC	808-331-2008	Lorman Business Center, Inc. dba Lorman Education Services	715-833-3940
American School of Real Estate Express, LLC	866-739-7277	McKissock, LP	800-328-2008
Carol Ball School of Real Estate	808-871-8807	OnCourse Learning Corporation dba Career WebSchool	800-532-7649
Carol M. Egan, Attorney at Law	808-222-9725	Pacific Real Estate Institute	808-524-1505
Charfen Institute dba Distressed Properties Institute, LLC	800-482-0335	Property Merchants, Inc. dba All Islands Real Estate School	808-564-5170
Coldwell Banker Pacific Properties Real Estate School	808-597-5550	ProSchools, Inc.	800-299-2207
Continuing Ed Express LLC	866-415-8521	Ralph Foulger's School of Real Estate	808-239-8881
Dower School of Real Estate	808-735-8838	Real Class, Inc.	808-981-0711
Eddie Flores Real Estate Continuing Education	808-951-9888	Realtors Association of Maui, Inc.	808-873-8585
Green Building LLC	808-873-2040	REMI School of Real Estate	808-230-8200
Hawaii Association of Realtors	808-733-7060	Russ Goode Seminars	808-597-1111
Hawaii Business Training	808-250-2384	Shari S. Motooka-Higa	808-457-0156
Hawaii CCIM Chapter	808-528-2246	The CE Shop, Inc.	888-827-0777
Hawaii Institute of Real Estate, LLC	808-589-0550	The International Association of Certified Home Inspectors (InterNACHI)	303-502-6214
Hawaii Island Realtors	808-935-0827	The Seminar Group	206-463-4400
Honolulu Board of Realtors	808-732-3000	TM Education Services	808-268-7473
Institute of Real Estate Management – Hawaii Chapter No. 34	808-536-4736	University of Hawaii Maui College - OCET Real Estate School	808-984-3231
Institute of Real Estate Management – National	312-329-6058	Vitousek Real Estate Schools, Inc.	808-946-0505
Investment Property Exchange Services, Inc.	808-387-4140	West Hawaii Association of Realtors	808-329-4874
Kauai Board of Realtors	808-245-4049		

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Real Estate Commission  
King Kalakaua Building  
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## 2015 Real Estate Commission Meeting Schedule

### Laws & Rules Review Committee – 9:00 a.m.

Condominium Review Committee – Upon adjournment of the Laws & Rules  
Review Committee Meeting  
Education Review Committee – Upon adjournment of the Condominium  
Review Committee Meeting

Wednesday, February 11, 2015

Wednesday, March 11, 2015

Wednesday, April 08, 2015

Wednesday, May 13, 2015

Wednesday, June 10, 2015

Wednesday, July 08, 2015

Wednesday, August 12, 2015

Wednesday, September 09, 2015

Wednesday, October 07, 2015

Tuesday, November 10, 2015

Wednesday, December 02, 2015

### Real Estate Commission – 9:00 a.m.

Friday, February 27, 2015

Friday, March 27, 2015

Friday, April 24, 2015

Friday, May 29, 2015

Friday, June 26, 2015

Friday, July 24, 2015

Friday, August 28, 2015

Friday, September 25, 2015

Friday, October 23, 2015

Wednesday, November 25, 2015

Friday, December 18, 2015

All meetings will be held in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor.

Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) or call the Real Estate Commission Office at (808) 586-2643 to confirm the dates, times and locations of the meetings. This material can be made available to individuals with special needs. Please contact the Executive Officer at (808) 586-2643 to submit your request.