

Real Estate Commission Bulletin



Sudden Loss of Principal Broker - What happens?

For the brokerage firms that have designated brokers-in-charge (BICs), and these are usually the larger brokerage firms with more than 10 associated agents, when the principal broker is unable to act, whether because of a serious or prolonged illness or death, a broker-in-charge may assume the management and supervision responsibilities until a new principal broker is designated. A new principal broker must be designated, however, in a reasonable amount of time. For entities, the officers of the corporation or the managers/members of a limited liability company or partnership, may designate the new principal broker.

For the smaller brokerage firms or for the many sole proprietorships where there may be only one or two agents associated with the brokerage, there often is no designated BIC. So, if the principal broker is suddenly unable to act, the associated agents may be “stuck”. With no principal broker in place, the real estate licenses associated with the brokerage firm may be placed on involuntary inactive license status. (See Hawaii Administrative Rules (HAR), §16-99-5.1(a)(6) and (b)(2)) A licensee with an inactive license may not transact any real estate business until the license status is changed to “active” status. (see HAR, §16-99-2 Definitions). A brokerage may not function without a principal broker.)

It is a good practice for small brokerage firms and sole proprietors to associate at least one broker-salesperson who may then be designated as a BIC. This will protect, for awhile, the brokerage and that licensee or licensees, from having their licenses placed on involuntary inactive status should the principal broker suddenly be unable to act.

For small brokerages that are licensed as a corporation, partnership, or a limited liability company/limited liability partnership, the officers of the entity may appoint a new principal broker. For a sole proprietorship, however, this option is not available. While sole proprietorships are often one-man or one-woman operations, there are instances where there are licensees associated with the sole proprietorship. If the principal broker/sole proprietor was unable to act and there is no BIC associated with the sole proprietorship, all associated licensees would have their license placed on involuntary inactive status. The sole proprietorship would also be involuntarily inactivated.

HAR, §16-99-3(o), states, “Prior to the time (emphasis added) 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 and statement of a licensed medical doctor certifying to the commission the inability of the broker to practice.

A temporary principal broker or broker-in-charge arrangement shall not exceed a period of six months unless, prior to expiration of the initial six-month period, the principal broker requests and obtains, upon showing of good cause for such extension, approval of the commission to extend the temporary arrangement for up to an additional six months.”

As emphasized above, the principal broker or BIC must designate a temporary principal broker or broker-in-charge prior to an absence of more than thirty calendar days if there is no designated BIC in the brokerage firm.

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Sudden Loss of Principal Broker - What happens? (cont. from page 1)

The Commission highly recommends that a "line of succession" be determined and included in the brokerage's policies and procedures manual. The written notification to the commission of the designation of a temporary principal broker or BIC is done via the Change Form, available on the Commission's website at www.hawaii.gov/hirec, click on "forms".

NOTE: There have been a few formal requests to the Commission to extend the original appointment of a temporary principal broker or BIC for an additional six months. After careful review, the Commission has rejected these requests as the initial six months period of designating a temporary principal broker or BIC is viewed as an adequate amount of time to appoint a replacement principal broker.

Broker Experience Certificate – certification of experience

When a salesperson licensee wishes to sit for the broker license exam, the salesperson licensee must obtain a Broker Experience Certificate ("BE") to present at the exam. The BE is obtained via the licensee's current and former principal brokers certifying the licensee's experience as a full-time salesperson (40 hours/week) within the preceding five years from when the BE application is submitted. The salesperson must have certified experience of a minimum of 156 weeks. Each principal broker must submit a signed experience certification, which the licensee also certifies, attesting to the total number of weeks the salesperson was actively engaged in full-time real estate salesperson activity with each broker (if more than one). (See HAR §16-99-19.2)

If the principal broker is no longer at the brokerage, the salesperson licensee may still obtain that principal broker's certification for only the period of time the principal broker supervised the licensee at the brokerage. Also, if there is a BIC at the brokerage that was the BIC at the time the salesperson licensee was associated with the brokerage, the BIC may also certify the experience of the salesperson at the brokerage during that time.

There is no credit for any experience for periods during which the applicant's license was inactive, forfeited, suspended, revoked, or terminated.

What happens if the principal broker is no longer available? If there is a BIC, the BIC may certify the experience statement in place of the PB. If there is no PB, for example, if the PB is a sole proprietor, and is suddenly incapacitated, and there is no BIC, the salesperson will not be able to obtain an experience certification statement. Without the experience certification statement(s), the salesperson will be unable to obtain the BE. With no BE, the licensee will not be able to sit for the broker's licensing exam.

Salesperson licensees may consider obtaining an original experience certification statement from their PB or BIC when they leave or move to another brokerage, or obtaining an updated one on a regular interval basis. This may help to avoid not being able to track down a former PB, and will also avoid the problems when a former PB is no longer available. Only original, signed experience certification statements are accepted with the BE application.

Core B 2017 - 2018, Agency

Development of Core B, 2017-2018, "Agency" has begun. Release of Core B 2017-2018 is targeted for the end of June 2018-beginning of July 2018. The Train-the-Trainer will be scheduled in the latter part of June 2018.

A cautionary note: there are Hawaii real estate licensees who use terms and vocabulary that are not included and defined in Hawaii Revised Statutes (HRS), Chapter 467, Real Estate Brokers and Salespersons, and in Hawaii Administrative Rules ("HAR"), Title 16, Chapter 99, Real Estate Brokers and Salespersons. Unfortunately, if you are one of these licensees, you may find yourself a bit confused when taking the mandatory core course dealing with agency. If your practice does not comply with the laws and rules as expressed in HRS, Chapter 467 and HAR, Chapter 99, you may find yourself puzzled and bewildered. You should prepare yourself by reviewing the existing laws and rules. If necessary, speak with your principal broker about any discrepancies. Any discrepancy between one's real estate practice and the existing laws and rules may be a possible violation subject to review, investigation, and legal action.

The Chair's Message



Aloha!

I'm saddened that this is my last Chair's Message and the winding down of my term as Chair of the Real Estate Commission and of seven years as a commissioner. When I began my term, I recall stating "[i]t will be a great journey (and a fun ride)!" It certainly was both!

Instead of doing the traditional summary of my term, I thought it might be much more interesting to layout the THREE most important things I learned, while chairing the Commission (plus I'm not one for long "goodbyes" in Hawaii especially, where I know our paths will cross again).

1: THE RULE MAKING PROCESS IS LONG AND TEDIOUS. We started tackling updating the real estate licensing rules, Hawaii Administrative rules, Chapter 16-99, which hadn't been updated in 11 years, and the condominium rules, Chapter 16-107, which hasn't seen a wholesale update in 24 years. Rulemaking follows a prescribed process involving 26 steps. I'm grateful to the staff, industry stakeholders, and the blue ribbon committees who volunteered their time and effort in reviewing, and proofing the countless drafts generated through rulemaking and their patience in accomplishing these seemingly herculean tasks. We now have a new and updated set of real estate licensing rules. Due to the decision of the Commission to get stakeholders from condominium development industries involved, the condominium rules are taking a little longer, but are making their way steadily through this process.

2: THE COMMISSION IS RESPONSIBLE FOR A LOT MORE THAN PEOPLE THINK. In the real estate licensing arena, the Commission handles license applications, renewals, broker changes, broker entity changes, licensing hearings, judgements and settlements, issues informal nonbinding opinions, drafts rules and regulations, drafts bills and lobbies, reviews and approvals of educational courses (both pre- and post-licensing) and coordinates and presents educational seminars and publications to the public. Under its condominium hat, the commission reviews and issues Developer public reports, issues nonbinding informal opinions on condominium issues, drafts rules and regulations, drafts bills and lobbies and also coordinates or sponsors public seminars and publications related to condominium and associations. In addition, the commission manages the Real Estate Education Fund, the Real Estate Recovery Fund, and the Condominium Education Trust Fund. Being on the Commission demands a lot of time; however, it is definitely rewarding.

3: THE PUBLIC PERCEIVES THE COMMISSION AS THE HEAVY-HANDED ADJUDICATOR; HOWEVER THE GOAL IS EDUCATION. Education is a priority!!! From educating the real estate licensee about the inner workings of the condominium process or agency, to providing free educational events (i.e., the CONDORAMA seminars) and publications, such as the Real Estate Bulletin, the Commission's goal is educating the industry and consumers and not just regulating licensees. I believe the Commission's image has changed in the last few years from being the reactive regulator and "punisher" to the proactive educator to prevent and minimize the amount of cases sent to the Commission.

Being on the Commission these past seven years has been such an invaluable experience, filled with trials, tribulations, successes and accomplishments. I'm impressed with my fellow commissioners' knowledge, integrity and desire to protect our consumers. Each of them has their own unique strengths and viewpoints; however, all exemplify the highest level of integrity in their roles.

Finally, we have a superlative Commission staff (Real Estate Branch)! Neil Fujitani, SEO, and his team truly made my job and the other commissioners' jobs so much easier. Extremely experienced and knowledgeable, the staff is prepared, organized and always one step ahead. They are passionate about what they do and are advocates of consumer protection in the real estate licensing practice and in condominium development and sales.

It doesn't seem enough to say for all they've done, but a sincere MAHALO to my fellow commissioners and to our top-notch commission staff for making my time of service such an enjoyable, educational and invaluable experience.

Nikki T. Senter, Chair

DAVID Y. IGE
GOVERNOR
DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



CATHERINE P. AWAKUNI COLÓN
DIRECTOR
CELIA C. SUZUKI
LICENSING ADMINISTRATOR

STATE OF HAWAII
REAL ESTATE BRANCH
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
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<http://www.hawaii.gov/hirec>

February 2018

REAL ESTATE COMMISSION INFORMATIONAL NOTICE

NEW LICENSE APPLICANTS, LICENSE RENEWAL AND CONTINUING EDUCATION REQUIREMENT

All real estate licenses must be renewed by the renewal application deadline, **November 30, 2018**. All real estate licenses expire at the end of each even-numbered year, regardless of the initial date of licensure. Submission of a complete renewal application, payment of fees, and for active licensees, completion of continuing education courses, are required by the renewal application deadline to ensure the successful renewal of licenses before January 1, 2019. Licenses not successfully renewed will be considered forfeited as of January 1, 2019 and the licensee will not be able to conduct real estate activity or receive compensation.

If you are renewing your license on an active status, you must fulfill the mandatory continuing education requirement **prior** to submitting your renewal application. For a new salesperson licensee with a new license issued in 2018, see below – SALESPERSON APPLICANTS and SALESPERSON LICENSEES. If you are not able to complete the continuing education requirement, your license may be renewed on an inactive status and you may not conduct real estate activity or receive compensation. There is a \$25.00 fee to change from inactive status to active status, in addition to completion of the continuing education requirement.

SALESPERSON APPLICANTS and SALESPERSON LICENSEES:

- If you apply for a new salesperson license before the end of 2018, you will have to pay license fees twice in 2018. In addition to the fees you pay for your new license, you will have to pay renewal fees to renew your license by November 30, 2018. Fees are not prorated and basically cover the cost of processing, reviewing, and decision on the application.
- All salesperson licensees must complete the continuing education requirement prior to the renewal application deadline to successfully renew on an active status, unless you were issued a new salesperson license during calendar year 2018 and renew your license by November 30, 2018. If you were issued a new salesperson license in calendar year 2018 and renew your license by the renewal application deadline, you will be deemed to have completed the equivalent to the continuing education requirement and will not have to complete the continuing education requirement for this license renewal.

- CONTINUED ON REVERSE -

- If your new salesperson license application deadline is on or after December 31, 2018 and you do not desire to be licensed as a salesperson in 2018, **and the licensing renewal application period is in effect**, you may submit your complete salesperson license application during the renewal application period and request that your new salesperson license be effective January 1, 2019. Please call for specific information on this procedure. The aforementioned continuing education equivalency will not be applicable if licensed in calendar year 2019.

BROKER APPLICANTS and BROKER LICENSEES:

- All broker applicants and broker licensees must complete the continuing education requirement prior to the renewal application deadline in order to successfully renew their salesperson or broker license on an active status.
- If your broker license application deadline is on or after December 31, 2018, and you do not desire to be licensed as a broker in 2018, **and you received the renewal application for your salesperson license**, you may submit your complete broker license application during the renewal application period (must be received by November 30, 2018) and request that your salesperson license not be renewed and the new broker license be effective January 1, 2019. This procedure does not excuse completion of continuing education requirements for active licensees. Please call for specific information on this procedure.

For more information, please contact our office at 586-2643, or visit our website at www.hawaii.gov/hirec.

**THE LAW DOES NOT PROVIDE FOR: PRORATION OF FEES OR REFUND OR
CREDIT OF FEES PAID; EXTENSION OF TIME TO APPLY FOR LICENSE;
EXTENSION OF TIME TO RENEW A LICENSE.**

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

Administrative Actions

January 2018

**REINE F. AH MOO also
known as REINE AH MOO**
RB 21168

Case No. REC-2017-354-L

Dated 1/26/18

Uncontested Facts:

On or about July 2017, the Respondent was convicted in the State of Hawaii of the criminal offense of Operating a Vehicle Under the Influence of an Intoxicant ("OVUII") or what is commonly referred to in this State as a "DUI" - Driving Under the Influence (hereinafter "Conviction"). The Respondent fulfilled all Court-imposed terms and conditions of the Conviction. On or about July 2017, the Respondent was convicted in the State of Hawaii of the criminal offense of Operating a Vehicle Under the Influence of an Intoxicant ("OVUII") or what is commonly referred to in this State as a "DUI" - Driving Under the Influence (hereinafter "Conviction"). The Respondent fulfilled all Court-imposed terms and conditions of the Conviction.

Violations:

HRS § 436B-19(12), HRS § 436B-19(14)

Sanctions:

Fine of \$500.00.

**SCOTT A. SHERLEY and
PENNY T. SHERLEY**
RB 14683
RS 60158

Case No. REC-2016-21-L, REC-
2016-86-L, REC-2016-227-L

Dated 1/26/18

Uncontested Facts:

Respondents managed properties outside of the brokerage firm they were associated with without a written contract and deposited client trust money in bank accounts other than client trust accounts;

Respondents failed to account for funds withdrawn from the bank account of an AOAO for which Respondents were managers; and

Respondents made false statements to the Commission on applications for real estate continuing education provider reregistrations.

Violations:

HRS §§ 467-14(7), (8), HRS § 467-14(15), HRS § 467-14(16), HRS § 467-14(20), HRS § 467-20, HAR § 16-99-3(f), HAR § 16-99-3(h), HAR § 16-99-3(v), HRS § 436B-19(7), HRS § 436B-19(8), HRS § 436B-19(11), HRS § 436B-19(12)

Sanctions:

Voluntary revocation of Respondents' licenses.

JOSEPH K. MILBURN
RS 79057

Case No. REC-2017-65-L

Dated 1/26/18

Allegations:

Before being issued a license by the Commission the Respondent was convicted in Hawaii of the crime of harassment, a petty misdemeanor, pursuant to a guilty plea. Despite the Conviction the Respondent answered "NO" to the question on the license application form that asked: "During the past 20 years have you ever been convicted of a crime where there has not been an order annulling or expunging the conviction?"

Violations:

HRS § 436B-19(2), HRS § 436B-19(5), HRS § 436B-19(17), HRS § 467-20

Sanctions:

Fine of \$1,000.00.

Administrative Actions (cont. from page 6)

SEAN M. FREAS
RS 75535

Case No. REC-2017-145-L

Dated 1/26/18

Uncontested Facts:

On or about December 31, 2014, Respondent's real estate salesperson's license expired and/or was forfeited. Respondent undertook activities requiring a license between approximately January 1, 2015 and December 28, 2016.

Respondent fully cooperated with RICO in the investigation of this matter, including providing RICO with documentation of his real estate transactions he engaged in while his license was not active.

Respondent restored his license on or about December 28, 2016.

Respondent's principal broker during the time his license was inactive will be the subject of a separate Settlement Agreement or proceeding.

Violations:

HRS § 467-7

Sanctions:

Fine of \$2,000.00.

RICHARD J. Y. LOUIS
RB 19396

Case No. REC-2014-167-L

Dated 1/26/18

Uncontested Facts:

Beginning on or about January 10, 2007, and at all relevant times thereafter, Respondent was the principal broker for Makiki Realty, Inc.

Respondent's real estate broker's license expired on or about December 31, 2012 and was restored on or about May 5, 2014.

While his broker's license was forfeited, Respondent engaged in activities requiring a real estate broker's license.

Respondent has provided Petitioner with information regarding any compensation earned by Respondent while his license was inactive and/or forfeited.

Respondent engaged in three real estate transactions between December 31, 2012 and May 5, 2014.

Violation:

HRS § 467-7

Sanctions:

Fine of \$1,000.00.

February 2018

ANDREW AH MOON
HATCHIE, JR.
RB 19396

Case No. REC-2017-001

Dated 2/23/18

Uncontested Facts:

On March 21, 2017, Petitioner requested an administrative hearing with the Commission to contest the denial of his application for a real estate salesperson's license.

Petitioner's request for hearing was received by the Office of Administrative Hearings on March 21, 2017, and the matter was duly set for hearing.

Petitioner was served with the Notice of Hearing and Pre-Hearing Conference on or about April 3, 2017. The prehearing conference was set for September 11, 2017 and the hearing was set for October 24, 2017.

Petitioner failed to appear at the September 11, 2017 prehearing conference and the October 24, 2017 hearing; nor did anyone appear at the hearing on Petitioner's behalf even though the hearing was delayed approximately 20 minutes to await the arrival of Petitioner.

Following the September 11, 2017 prehearing conference and, again on September 22, 2017,

Respondent's attorney attempted to contact Petitioner, with no success.

At the commencement of the hearing on October 24, 2017, Respondent moved to dismiss this matter.

Petitioner, as the party contesting the Commission's determination, has the burden of proving, by a preponderance of the evidence that the Commission erred in denying his application. Neither Petitioner nor anyone on his behalf appeared at the hearing to present evidence to support this appeal. Accordingly, the Hearings Officer finds and concludes that Petitioner has not proven by a preponderance of the evidence that the Commission erred in denying his application.

Order:

For the reasons set forth above, the Hearings Officer recommends that the Commission grant Respondent's motion to dismiss and affirm its denial of Petitioner's application for a real estate salesperson's license.

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Administrative Actions (cont. from page 7)

**ANDREA R. BOTEFUHR dba
ANDREA VON BOTEFUHR**
RS 78025

Case No. REC-2017-222-L

Dated 2/23/18

Allegations:

In or around March 2017, the Respondent was convicted in Hawaii of the crime of operating a vehicle under the influence of an intoxicant ("OVUII") or what is commonly referred to in this state as a "DUI"- driving under the influence (hereafter "Conviction"). See HRS § 291E-61. The Respondent fulfilled all Court-imposed terms and conditions of the Conviction, and, reported the Conviction in writing to the Commission.

Violations:

HRS § 436B-19(12), HRS § 436B-19(14), HRS § 436B-19(17)

Sanctions:

Fine of \$500.00.

March 2018

**JESSICA H. CHIU doing
business as JESSICA CHIU**
RS 74611

Case No. REC-2017-366-L

Dated 3/23/18

Rico Allegations:

On or about May 17, 2005, Respondent was convicted of Operating a Vehicle Under the Influence of an Intoxicant (hereinafter "OVUII"). The Respondent fulfilled all Court-imposed terms and conditions of the OVUII.

On Respondent's initial application for her Real Estate Salesperson's license which was received on or about June 28, 2012, Respondent answered "no" to question 2 which asked, "In the past 20 years have you been convicted of a crime where there has not been an order annulling or expunging the conviction?"

On Respondent's initial application for her Real Estate Broker's license which was received on or about January 3, 2016, Respondent answered

"no" to question 2 which asked, "In the past 20 years have you been convicted of a crime where there has not been an order annulling or expunging the conviction?"

Violations:

HRS § 436B-19(2), HRS § 436B-19(5), HRS § 436B-19(12), HRS § 436B-19(14), HRS § 436B-19(17), and HRS § 467-20

Respondent Representations:

Respondent admits that she answered "no" to question 2 on both the RS and RB initial applications; however, she asserts that she wasn't aware that a conviction for OVUII was a crime.

Sanctions:

Fine of \$2,000.00.

R. MICHAEL AUTH
RS 64344

Case No. REC-2017-368-L

Dated 3/23/18

RICO Allegations:

On or about December 12, 2012, Respondent was convicted of Operating a Vehicle Under the Influence of an Intoxicant (hereinafter "OVUII"). The Respondent fulfilled all Court-imposed terms and conditions of the OVUII.

On Respondent's renewal application which was received on or about December 27, 2012, Respondent answered "no" to question 3 which asked, "In the past 2 years have you been convicted of a crime in which the conviction has not been annulled or expunged?"

On Respondent's renewal application which was received on or about November 24, 2014, Respondent answered "no" to question 3 which asked, "In the past 2 years have you been convicted of a crime in which the conviction has not been annulled or expunged?"

On or about November 16, 2015, Respondent was convicted of Driving Without a License (hereinafter "DWOL").

On Respondent's renewal application which was received on or about October 20, 2016, Respondent answered "no" to question 3 which asked, "In the past 2 years have you been convicted of a crime in which the conviction has not been annulled or expunged?"

Respondent admits that he answered "no" to question 3 on the renewal application; however, he asserts that he believed his convictions for OVUII and DWOL were merely traffic violations.

Violations:

HRS § 436B-19(2), HRS § 436B-19(5), HRS § 436B-19(12), HRS § 436B-19(14), HRS § 436B-19(17), and HRS § 467-20

Sanctions:

Fine of \$2,250.00.

Administrative Actions (cont. from page 8)

MICHAEL B. REECE,
formerly known as MICHAEL
PETERSON
 RS 67889

Case No. REC-2017-442-L

Dated 3/23/18

Rico Allegations:

On or about December 2, 1994, Respondent was convicted of two counts of Contempt of Court.

On or about November 27, 1995, Respondent was convicted of Criminal Trespass in the 1st degree.

On or about March 9, 2005, Respondent was convicted of Operating a Vehicle Under the Influence of an Intoxicant (hereinafter "OVUII").

On or about September 30, 2008, Respondent was convicted of a second OVUII. The Respondent fulfilled all Court-imposed terms and conditions of the OVUIIs.

On Respondent's initial application which was dated March 22, 2006, Respondent answered "no" to question 2 which asked, "During the past 20 years have you ever been convicted of a crime where there has not been an order annulling or expunging the conviction?"

On Respondent's renewal application which was received on December 5, 2008, Respondent answered "no" to question 3 which asked, "In the past 2 years have you been convicted of a crime which has not been annulled or expunged?"

Violations:

HRS § 436B-19(2), HRS § 436B-19(5), HRS § 436B-19(12), HRS § 436B-19(14), HRS § 436B-19(17), and HRS § 467-20

Respondent Representations:

Respondent admits that he answered "no" to question 2 on the initial application and to question 3 on the renewal application; however, he asserts that he believed the offenses of OVUII, Criminal Trespass I and Contempt of Court were not criminal convictions.

Sanctions:

Fine of \$1,750.00.

KATHLEEN SPANO, aka
KATHLEEN ANN SPANO, aka
KATHLEEN ANN JACKSON-
SPANO
 RB 19228

Case No. REC-2017-71-L

Dated 3/23/18

Rico Allegations:

On or about August 24, 2015, Respondent was convicted in Nevada of the crime Of D.U.I. 2nd Offense within Seven Years of a Prior Offense ("DUI") or what is commonly referred to in this state as a "DUI" - driving under the influence (hereafter "Conviction"). See HRS § 291E-61. The Respondent fulfilled all Court-imposed terms and conditions of the Conviction, and, disclosed the conviction on her November 20, 2016 Renewal Application.

Violations:

HRS § 436B-19(12), HRS § 436B-19(14), and HRS § 436B-19(17)

Sanctions:

Fine of \$500.00.

Administrative Actions (cont. from page 9)

BRADFORD G. LUSK, JR.
RB 21012

Case No. REC-2017-116-L

Dated 3/23/18

Rico Allegations:

On or about May 15, 2015, Respondent was convicted of Accidents Involving Vehicles or Property and Reckless Driving (hereinafter "Conviction;"). The Respondent fulfilled all Court-imposed terms and conditions of the Convictions.

On Respondent's renewal application which was received on or about November 9, 2016, Respondent answered "no" to question 3 which asked, "In the past 2 years have you been convicted of a crime in which the conviction has not been annulled or expunged?"

Violations:

HRS § 436B-19(2), HRS § 436B-19(5), HRS § 436B-19(12), HRS § 436B-19(14), HRS § 436B-19(17), and HRS § 467-20

Respondent Representations:

Respondent admits that he answered "no" to question 3 on the renewal application; however, he asserts that he believed his Convictions were merely traffic violations.

Sanctions:

Fine of \$750.00.

SUSAN E. DECKER, a real estate broker and LENTZ REAL ESTATE, INC., a real estate broker

RB 15230
RB 15847

Case Nos. REC-2011-298-L, REC-2012-116-L, REC-2012-355-L, REC-2013-387-L

Dated 3/23/18

Findings of Fact:

In 1990, Respondent Susan E. Decker was licensed by the Real Estate Commission ("Commission") to act as a real estate broker, License No. RB 15230. Said license is set to expire on December 31, 2018. In 1991, Respondent Lentz Real Estate, Inc. was licensed by the Commission to act as a real estate broker, License No. RB 15847. Said license is set to expire on December 31, 2018. Respondent Susan E. Decker, at all times relevant herein, was the sole principal or officer of Respondent Lentz Real Estate, Inc.

REC-2011-298-L

In or around March 2010, out-of-state homeowners contracted with Respondents for Respondents to manage their property in Kealahakua Hawaii. Between April 2010 and November 2010, Respondents rented out the property.

Respondents were responsible for providing a written accounting that reflected the receipts, disbursements, and charges pertaining to the rental each month. However, Respondents did not provide the rents and other distributions each month.

Additionally, according to contract, Respondents were responsible for the filing of tax returns and paying the general excise tax ("GET") on the rental.

However, Respondents did not provide the timely accounting statements.

Respondents failed to provide a written statement for September 2010.

Respondents failed to pay the owners \$954.40 and other distributions for November 2010.

Respondents also failed to pay the rental's GET for June through December 2010.

In 2011, Respondents submitted a 1099 Form to the owners, which showed that \$9,270.81 was paid to them. However, \$1,145.83, the September 2010 rent that was collected by Respondents but not accounted for in writing, was not remitted.

Respondents have not paid a total of \$2,321.40, which includes rental receipts that were not remitted, and unpaid GET taxes that Respondents had deducted from rents collected.

REC-2012-116-L

In or around 2009, out-of-state homeowners contracted with Respondents for Respondents to manage their rental property in Kailua-Kona, Hawaii.

According to the contract between the homeowners and Respondents, Respondents were responsible for a written accounting that reflected the receipts, disbursements, and charges pertaining to the rental each month. However, Respondents did not provide the homeowners with the rents and other distributions at the time they were due.

Administrative Actions (cont. from page 10)

September 2016

Around March 2011, the homeowners advised Respondent Decker that they were concerned about Respondent's performance as a property manager, and her failure to disburse monthly rents and other distributions. Respondent Decker promised to timely disclose rents and other distributions, and that the homeowners would have a say in selecting and pre-approving future tenants. However, in July 2011, Respondent Decker rented the property to a person without pre-approval from the homeowners.

Between August 2011 and December 2011, Respondents did not provide the rents and other distributions at the time they were due.

Despite January 9 and 17, 2012 written demands for overdue rents and other distributions, Respondents did not answer the written demands. A written demand on January 17, 2012 to the tenant was also not answered.

In mid-March 2012, the homeowners personally inspected their property, and found that it was unfit for habitation and that personal property items were missing, and that other items needed repair.

On March 22, 2012, the homeowners sent Respondents a final demand letter for overdue rents and other disbursements. Respondents did not answer this letter. Respondents failed to pay a total of \$1,021.00, which represents \$873.00 for January 2012 rents and late fees, and \$148.00 for utility charges.

REC-2012-355-L

Between April 2006 and October 2012, the owners (hereafter "owner") of two properties in Hawaii County, contracted with Respondents for Respondents to manage their rental properties.

According to the terms of the contract, Respondents were responsible to collect and account for rents, deposits, fees and reimbursements from the tenants. Respondents were required to "render a monthly statement of receipts, disbursements and charges, prepared on a cash basis, and shall remit to Owner the receipts less disbursements and charges with said statement."

Sometime in 2012, the owner reviewed the book-keeping records for the rentals, but was unable to locate any monthly statement or record of rents from Respondents during the period between December 2011 to October 2012. Although multiple attempts to contact Respondent Decker by phone were made, the owner was able to speak to her only once. At that time, Respondent Decker admitted that the rents for both rentals were not provided to the owners. Respondent Decker asked the owner to call back later, and although the owner made multiple attempts to contact Respondent Decker, he was not able to reach her again.

The owner sent an October 2012 letter to Respondents terminating their services, and requesting that back rents that have been collected but not submitted needed to be forwarded to the owners immediately.

The owner obtained copies of the rental agreements for his rentals and contacted the tenants, who stated that they had paid their rents to Respondents. The tenants provided copies of rental checks.

Through his attorneys, the owner filed a lawsuit against Respondents seeking missing rents and other fees that Respondents had collected but never paid. On January 9, 2017, the owner obtained a judgment against Respondents of \$23,906.00 in damages for rent and monetary losses, plus interest and attorney's fees for a total of \$37,738.21.

REC-2012-387-L

From around 1986 until 2012, out-of-state homeowner was the owner of rental in Kailua-Kona, Hawaii.

On August 30, 1997, the owner and Respondents entered into a Rental Property Management Agreement for Respondents to manage the owner's rental property. One of the terms of the Agreement required Respondents to "collect and account for rents, deposits, fees and reimbursements from Owner's tenants."

Respondents were also responsible to "render a monthly statement of receipts, disbursements, and charges prepared on a cash basis, and shall remit to Owner the receipts less disbursements and charges with said statement."

Administrative Actions (cont. from page 110)

Additionally, according to the contract, Respondents were responsible for the filing of tax returns and paying the GET on the rental.

Around January 2011, the owner was not receiving her monthly statements and rental receipts on time. The owner contacted Respondent Decker who stated that the tenant was in arrears, and that she was chasing him down to obtain rent that was owed.

Although the owner asked Respondent Decker to remove the tenant, Respondent Decker appeared reluctant to do so.

Through an August 19, 2011 letter, the owner terminated Respondents.

On October 7, 2011, the owner had her friend take pictures of the apartment. The pictures show an accumulation of garbage and bottles throughout the apartment. According to the owner, the bathroom plumbing appeared to be not working or not usable.

Although Respondents had provided statements indicating that the GET taxes had been paid for 2008, 2009, and 2010, the owner received a letter from the State Tax Department indicating that the GET taxes for these years were not paid.

On November 19, 2012, the owner e-mailed Respondents demanding payment of \$1,138.65 for unpaid GET payment. Respondents did not pay and instead, the owner paid the delinquent GET payments.

Respondents have not paid a total of \$1,388.65 which includes \$250.00 in reserves held by Respondents and \$1,138.65 for unpaid GET taxes that Respondents had deducted from rents collected.

Order:

The Hearings Officer concluded that the preponderance of the evidence provided that Respondents violated all the allegations in the Petition in their dealings with the homeowners in all counts of the Petition.

Violations:

HRS § 467-14(1), HRS § 467-14(2), HRS § 467-14(3), HRS § 467-14(7), HRS § 467-14(8), HRS § 467-14(13), HRS § 467-14(16), HRS § 467-14(20), HRS § 436B-19(7), HRS § 436B-19(8), HAR § 16-99-3(b), and HAR § 16-99-3(v)

Order:

Revocation of Respondents' real estate broker licenses.

Sanctions:

Fine of \$40,050.00 (\$10,000 per complaint).

The Hearings Officer recommends that Respondents be ordered to pay restitution as follows:

In REC 2011-298-L, to Albert and Pauline Morita in the amount of \$2,321.40;

In REC 2012-116-L, to Patty and Joseph Gilmour in the amount of \$1,021.00;

In REC 2012-355-L, to satisfy the judgment in the amount of \$37,738.21 to Dr. Francis Foo; and

In REC 2012-387-L, to Denise Fantuzzi in the amount of \$1,388.65.

Payment of these restitution amounts shall be made a condition for relicensure following the revocation period.

Online Continuing Education Course Certification Requirements

To raise the standard of Hawaii's continuing education courses, the following policies are required for all online continuing education courses submitted for review by the Hawaii Real Estate Commission's Education Review Committee ("ERC"). These policies are based on the ARELLO (Association of Real Estate License Law Officials*) Distance Education Certification Program policies and procedures.

* Additional information on ARELLO may be found at www.arello.org

1. Online continuing education courses are required to provide the following information to students
 - The name and direct contact information of the instructor
 - Instructor response time
 - Course description
 - Prerequisites for the course (if any)
 - Criteria for successful completion of the course
 - Exam information, if applicable
 - Refund policies
 - Equipment and system requirements
 - Any relevant state or jurisdiction specific requirements
 - Technical support availability and contact information.
 - The orientation must contain a mandatory acknowledgement by the learner that the learner has read and understands the orientation.

2. Online continuing education courses are required to have learning objectives that describe the outcome of the learning process

Students need to know what they are expected to learn in the course. The learning objectives or outcomes define the skills and knowledge the students should have at the end of the course. The learning objectives should be stated in terms of performance. For instance, "Upon completion of this course, the student will be able to identify from a set of facts, the real estate issues involved and any possible licensing law violations." Or, "Upon completion of this course, the student will be able to describe violations of the fair housing laws applicable in Hawaii."

3. All courses submitted for certification are required to have quantifiable evidence of clock hour requested. See Course Curriculum form in CE elective course app.

4. All courses submitted for certification are required to have time tracking mechanism. Providers are required to have a system in place that quantifies the amount of time learners spend in a course..

5. Online continuing education courses are required to have interactivity.

All courses must have learning strategies that provide interactivity throughout the course. Courses must show evidence of learner-to-content interaction. (Examples include, but are not limited to, links to vocabulary words, links to supplemental reference material, exercises, quizzes, final exams and remediation exercises. It should be noted that "clicking" does not constitute learner-to-content interaction.

6. Online continuing education courses are required to have assessments and use remediation within the course.
 - A. Incremental assessments should be designed to properly measure whether or not mastery of the material has been achieved. Incremental assessments may include quizzes given throughout each logical unit of instruction.

Online Continuing Education Course Certification Requirements (cont. from page 13)

- B. Remediation involves providing a learner who has answered an item incorrectly with an indication of why their answer was incorrect. The following are not considered adequate remediation: giving the learner an immediate opportunity to retake an identical question, or providing the learner with the correct answer without providing an accompanying explanation.
7. Online continuing education courses are required to have evaluations of the learning experience.
- A. The evaluation must assess the effectiveness of the instructor, course delivery, and course content. This important feedback tool allows the provider to continue their commitment to providing quality distance education.
 - B. Tabulation of the responses to each question presented in the evaluation is required to be submitted for recertification of the course. All comments must be provided.

The following are suggested evaluation questions to include on an Online CE Course Evaluation form which should have a rating scale for each item, e.g. 1 – 5, with 1 being the lowest rating, and 5 being the highest rating:

1. Course expectations – “Did the course cover the content you were expecting?”
2. Course structure and content – “Was the content arranged in a clear and logical way?”
3. Quizzing – “Was the quiz feedback timely and relevant?”
“Did the quiz feedback present new knowledge?”
“Were the quizzes presented in adequate intervals?”
4. Timing – “What was the (average) amount of time you spent on this online CE course?”
“Did you feel the amount of time it took to complete the course was appropriate for the content?”
5. Online CE pace and navigation – “How would you rate the ease of navigation?”
6. Interactivity – This online CE course contained opportunities for interactive learning.
7. Visual design – “Rate the legibility of the text and fonts in this course.”
8. Overall experience – “Based on this experience, would you take another online CE course?”
9. “Would you recommend this course to others?”

Tidbits

Applicants and licensees may check the status of their applications/renewals at <https://pvl.ehawaii.gov/plvsearch/> Please note this is for use by the applicant only.

The Commission’s mandatory core course, offered in Parts A and B, is considered ONE course, and both parts A and B must be completed to receive credit for the biennium’s core course. The Commission’s Education Review Committee approved this at its meeting in June, 2009.

Preliminary School pass-fail rates (first-time takers of the license exam only) will be available for review on the Commission’s website, www.hawaii.gov/hirec, click on Real Estate Education and Licensing, click on Examination Candidates and Licensing Applicants.

Remember: IF YOU GET THE TICKET, YOU MUST ADMIT IT!

A misdemeanor, for example, a DUI (driving under the influence) is a conviction and should be reported to the Commission in a timely manner. Pursuant to Hawaii Revised Statutes (“HRS”) §436B-16, the time frame for reporting in writing any judgment, award, disciplinary sanction, order, or other determination, is thirty days. Traffic violations are not reportable.

Prelicense Schools

Abe Lee Seminars	808-942-4472
Akahi Real Estate Network, LLC	808-331-2008
All Islands Real Estate School	808-564-5170
American Dream Real Estate School, LLC	720-322-5470
Scott Alan Bly School of Real Estate, LLC dba Bly School of Real Estate	808-738-8818
Carol Ball School of Real Estate	808-871-8807
CE Shop, Inc.	888-827-0777
Coldwell Banker Pacific Properties Real Estate School	808-551-6961
Continuing Ed Express, LLC	866-415-8521
Digital Learning Centers, LLC dba REMI School of Real Estate	808-230-8200
Inet Realty	808-955-7653
Maui Real Estate Academy, LLC dba Hawaii Real Estate Academy	808-431-1218
OnCourse Learning Corporation dba OnCourse Learning Real Estate	800-532-7649
Ralph Foulger's School of Real Estate	808-239-8881
Savio Realty, Ltd. dba Savio Real Estate Academy	808-943-7300
Seiler School of Real Estate	808-874-3100
Vitousek Real Estate Schools, Inc.	808-946-0505



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This material may be made available to individuals with special needs. Please call the Senior Real Estate Specialist at 808-586-2643 to submit your request.

Continuing Education Providers

Abe Lee Seminars	808-942-4472	Ho'akea LLC dba Ku'iwalu	808-539-3580
All Islands Real Estate School	808-564-5170	Honolulu Board of Realtors	808-732-3000
American Dream Real Estate School, LLC	720-322-5470	Institute of Real Estate Management Hawaii Chapter #34 (IREM)	808-384-2801
Asentiv Hawaii	808-960-9630	International Association of Certified Home Inspectors (InterNACHI)	303-225-9149
At Your Pace Online, LLC	877-724-6150	International Council of Shopping Centers, Inc.	646-728-3800
The Berman Education Company, LLC	808-572-0853	Kauai Board of Realtors	808-245-4049
Scott Alan Bly School of Real Estate, LLC dba Bly School of Real Estate	808-738-8818	McKissock, LLC	800-328-2008
Building Industry Association of Hawaii	808-629-7505	Shari S. Motooka-Higa	808-492-7820
Carol Ball School of Real Estate	808-871-8807	OnCourse Learning Corporation dba OnCourse Learning Real Estate	800-532-7649
The CE Shop, Inc.	888-827-0777	Preferred Systems, Inc.	888-455-7437
CMPS Institute, LLC	888-608-9800	Ralph Foulger's School of Real Estate	808-239-8881
Coldwell Banker Pacific Properties Real Estate School	808-551-6961	Realtors' Association of Maui, Inc.	808-873-8585
Continuing Ed Express, LLC	866-415-8521	REMI School of Real Estate	808-230-8200
Council of Residential Specialist, The Dexterity CE, LLC	800-462-8841	Russ Goode Seminars	808-597-1111
The Council of Residential Specialists	800-462-8841	Servpro Industries Inc.*	615-451-0200
Eddie Flores Real Estate Continuing Education	808-951-9888	USA Homeownership Foundation, Inc., dba Veterans Association of Real Estate Professionals (VAREP)	951-444-7363
Hawaii Association of Realtors	808-733-7060	Vitousek Real Estate Schools, Inc.	808-946-0505
Hawaii Business Training	808-250-2384	West Hawaii Association of Realtors	808-329-4874
Hawaii CCIM Chapter	808-528-2246		
Hawaii First Realty, LLC	808-282-8051		
Hawaii Island Realtors	808-935-0827		

State of Hawaii
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335 Merchant Street, Room 333
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2018 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, May 9, 2018

Wednesday, June 13, 2018

Wednesday, July 11, 2018

Wednesday, August 8, 2018

Wednesday, September 12, 2018

Wednesday, October 10, 2018

Wednesday, November 14, 2018

Wednesday, December 12, 2018

Real Estate Commission – 9:00 a.m.

Friday, May 25, 2018

Friday, June 29, 2018

Friday, July 27, 2018

Friday, August 24, 2018

Friday, September 21, 2018

Friday, October 26, 2018

Friday, November 21, 2018

Friday, December 21, 2018

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 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.