

Real Estate Commission Bulletin



High School Diploma or Equivalent

This legislative session the Commission is supporting a bill to require a high school education or its equivalent as a condition for real estate licensure as a broker or salesperson.

SB 770, S.D.1, H.D.1, is alive and moving through the process. The Hawaii Association of REALTORS® is also supporting the bill. If passed, the high school education requirement will apply to all candidates applying for licensure as a real estate salesperson or a real estate broker for the first time on or after the effective date of the bill.

The exact language of the bill has not yet been finalized.

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Offers of Gifts or Reimbursements

The real estate licensing laws and rules, Hawaii Revised Statutes, Chapters 467 and 436B, and Hawaii Administrative Rules, Chapter 99, prohibit licensees from compensating unlicensed persons for performing any real estate activities or for referring business

Thus, a licensee who offers gifts or other inducements to an unlicensed individual for referring business would be violating the licensing laws and rules.

However, offers of a gift (appliance, furniture, vacation packages, etc.) or reimbursement of expenses (inspection fees, escrow fees, etc.) by a broker to a buyer or seller or an inducement to utilize the services of the broker are not prohibited by Hawaii's licensing laws and rules.

With respect to the transaction in which the buyer or seller is involved, the buyer or seller is neither engaged in real estate activities, as defined in HRS § 467-1, nor engaged in referring business to the broker. The inducements are, in fact, a reduction in purchase price to the buyer or an increase in revenue to the seller. Therefore, gifts, reimbursements of expenses, or rebates of commissions to the buyer or seller are not prohibited by Hawaii licensing laws and rules. However, brokers should observe the following cautionary notes.

1. The offers may only be made by a real estate-licensed brokerage corporation, partnership, LLC, LLP, or sole proprietor, or on behalf of the brokerage firm by an authorized salesperson or broker-salesperson. Under HRS § 467-1, every salesperson must be under the direction of a broker for all real estate transactions. A salesperson or broker-salesperson who offers gifts, rebates, or reimbursement of expenses without the broker's authority is in violation of HRS § 467-1 and therefore, subject to disciplinary action under HRS § 467-14(13).
2. HAR § 16-99-3(f), requires all financial obligations and commitments regarding real estate transactions to be in writing, expressing the exact agreement of the parties, and setting forth the essential terms and conditions of the agreement. Copies of the agreement must be given to all parties involved at the time of execution.
3. While gifts and reimbursements offered to a buyer or seller as inducements to utilize the broker's services are not prohibited, such inducements, if offered to a buyer or seller for referring business to the broker would be in violation of HRS, Chapters 467 and 436B. For example, a broker is permitted to offer a seller \$1,000 for listing property with the broker but may not offer \$1000 to the seller for referring potential buyers or sellers to the broker.
4. Be aware of current tax laws as they apply to all parties in the transaction.
5. Lastly, there are federal laws that prohibit such offers of gifts or reimbursement of expenses by a real estate licensee. Be cognizant of these federal laws.

Licensees should familiarize themselves with these laws to avoid any possible violations. If other states are involved, the licensee should also review the laws of those states.

Administrative Actions

January 2019

KAREN OSTLIE,
a.k.a. **KAREN Y OSTLIE**
RS 60256

Case No. REC 2018-232-L

Dated 1/18/19

RICO Allegations:

In or around July 2018, the Respondent was convicted in Hawaii of the crime of operating a vehicle under the influence of an intoxicant ("OVUII"), (hereafter "Conviction").

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) and HRS § 436B-19(17).

Sanctions:

Fine of \$500.00.

E.D. CHRISTENSEN
dba **DYANNE CHRISTENSEN**
RS 76299

Case No. REC 2017-24-L

Dated 1/18/19

RICO Allegations:

On or about December 13, 2016 and July 24, 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 "Convictions"). The Respondent fulfilled all Court-imposed terms and conditions of the Convictions and disclosed the December 13, 2016, conviction on her Restoration Application dated February 20, 2017.

Violations:

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

Sanctions:

Fine of \$1,000.00.

\$100.00 is due upon the return of this document to RICO. Subsequent payments of at least \$100.00 shall be due by the end of each calendar month thereafter until the balance has been paid in full.

February 2018

DANIEL R.T. CARLSON
RS 20927

Case No. REC 2018-289-L

Dated 2/22/19

Uncontested Facts:

In or around December 2017, the Respondent was convicted in Hawaii of the crime of operating a vehicle under the influence of an intoxicant ("OVUII"), (hereafter "Conviction"). 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) and HRS § 436B-19(17).

Administrative Fine:

Fine of \$500.00.

TABATHA D. HAZEN
RS 77686

Case No. REC 2018-283-L

Dated 2/22/19

RICO Allegations:

In or around August 2018, the Respondent was convicted in Hawaii of the crime of operating a vehicle under the influence of an intoxicant ("OVUII"), (hereafter "Conviction").

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) and HRS § 436B-19(17).

Administrative Fine:

Fine of \$500.00.

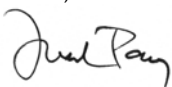
The Chair's Message

Aloha, Real Estate Licensees:

First, I wish to extend gratitude to the Hawaii Association of REALTORS® for supporting high school diploma or its equivalent as a condition of licensure. There are currently bills in the Legislature to require it. While approval looks good at this time, anything could still happen and we aren't sure as to what specific details might be included, such as when it is effective. Further updates on this are forthcoming. As mentioned, this is not to deprive anyone of a career in real estate, but rather to support a minimum educational standard for licensees doing business in our real estate profession, much like licensing exams are now testing for minimum qualified-applicants for a real estate license. All this is good for the industry collectively and consumer protection.

Second, the use of "TEAMS" have become more prevalent in Hawaii and throughout the nation. Personally, I see it as a marketing vehicle which seeks to provide assurances to the public of a team that is supporting their interests. As such, I see nothing wrong with licensees and support staff grouping themselves into teams. All we and other real estate regulators across the country are concerned about is maintaining consumer protection aspects and adherence to existing licensing laws. Ensuring that this occurs, including that the public is aware of the actual licensed entity and person(s) who formally represent their interests, are some of the concerns. As with other jurisdictions, the Hawaii Real Estate Commission is currently drafting rules to address this and hopes to have them ready for public review in the coming months.

Mahalo,



Michael Pang, Chair
Hawaii Real Estate Commission



Administrative Actions (cont. from page 2)

March 2019

JAMES E. BUCHMILLER,
also known as **James E.**
"CHIP" Buchmiller
RS 57243/RB 18322

Case No. REC-2017-285-L

Dated 3/22/19

Representations by Respondent:

Respondent further submits that any alleged misrepresentation on his real estate salesperson and real estate broker applications was not based upon a desire to deceive the Commission, but occurred, in part, due to the reliance he placed on legal advice he received from his now deceased attorney claiming that the matter would be expunged although the State of Arizona does not permit expungements.

Facts Supporting the Licensing Violations:

On or about January 4, 1999, Respondent submitted an application for a real estate salesperson license with the Commission.

Question 2 on the application asked Respondent, "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?"

Respondent answered "No."

On or about May 13, 2004, Respondent submitted an application for a real estate broker license with the Commission.

Question 2 on the application asked Respondent, "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 or about January 16, 1990, Respondent was convicted in the Superior Court of Arizona, Maricopa County in case number CR 89-02399 of the criminal offense of Facilitating to Possess Narcotic Drugs.

Violations:

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

Sanctions:

Fine of \$1,500.00.

JIM POPE, doing business
as **JAMES F. POPE**
RS 66012

Case No. REC-2018-353-L

Dated 3/22/19

RICO Allegations:

RICO alleges that Respondent conducted property management from January 14, 2016 to June 18, 2018, in violation of Hawaii Revised Statutes § 467-14(5) (accepting compensation from person other than employer or real estate broker), §467-14(6) (real estate salesperson act as a real estate broker), and § 467-14(8) (fraudulent or dishonest dealings).

Terms of Settlement

Respondent agrees to the voluntary surrender of Respondent's license.

State of Hawaii
Real Estate Commission
King Kalakaua Building
335 Merchant Street, Room 333
Honolulu, HI 96813

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Continuing Education Providers

Abe Lee Seminars	808-942-4472
All Islands Real Estate School	808-564-5170
American Dream Real Estate School, LLC	720-322-5470
Asentiv Hawaii	808-960-9630
At Your Pace Online, LLC	877-724-6150
The Berman Education Company, LLC	808-572-0853
Scott Alan Bly School of Real Estate, LLC dba Bly School of Real Estate	808-738-8818
Building Industry Association of Hawaii	808-629-7505
Build It Green	510-590-3360
Carol Ball School of Real Estate	808-871-8807
The CE Shop, Inc.	888-827-0777
CMPS Institute, LLC	888-608-9800
Coldwell Banker Pacific Properties Real Estate School	808-551-6961
Continuing Ed Express, LLC	866-415-8521
Dexterity CE, LLC	512-893-6679
Eddie Flores Real Estate Continuing Education	808-951-9888
ExceedCE	415-885-0307
Hawaii Association of Realtors	808-733-7060
Hawaii Business Training	808-250-2384
Hawaii CCIM Chapter	808-528-2246
Hawaii First Realty, LLC	808-282-8051
Hawaii Island Realtors	808-935-0827
Honolulu Board of Realtors	808-732-3000
International Association of Certified Home Inspectors (InterNACHI)	303-225-9149
Kauai Board of Realtors	808-245-4049
McKissock, LLC	800-328-2008
Shari S. Motooka-Higa	808-492-7820
OCL Real Estate, LLC dba OnCourse Learning Real Estate	800-532-7649
Preferred Systems, Inc.	888-455-7437
Ralph Foulger's School of Real Estate	808-239-8881
The Real Estate Café	808-728-0223
Realtors' Association of Maui, Inc.	808-873-8585

REMI School of Real Estate	808-230-8200
Residential Real Estate Council	800-462-8841
Russ Goode Seminars	808-597-1111
Servpro Industries LLC.	615-451-0200
USA Homeownership Foundation, Inc., dba Veterans Association of Real Estate Professionals (VAREP)	951-444-7363
Vitousek Real Estate Schools, Inc.	808-946-0505
West Hawaii Association of Realtors	808-329-4874

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
The CE Shop, Inc.	888-827-0777
Coldwell Banker Pacific Properties Real Estate School	808-551-6961
Continuing Ed Express, LLC	866-415-8521
Excellence in Education dba Maui Real Estate School	808-212-4861
Inet Realty	808-955-7653
OCL Real Estate, LLC dba OnCourse Learning Real Estate	800-532-7649
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
Vitousek Real Estate Schools, Inc.	808-946-0505