

Real Estate Commission Bulletin



COVID-19 – Its Impact on Real Estate Licensing

About all you're hearing and reading nowadays is about COVID-19, the novel corona virus, and how it is impacting every aspect of our lives. Here is a rundown of its affect so far on real estate licensing in Hawaii.

REAL ESTATE BRANCH

Beginning Friday, March 20, 2020, the entire Department of Commerce and Consumer Affairs ("DCCA"), which includes the Real Estate Branch ("REB") started tele-working, working from home. The King Kalakaua Building will be closed to all public access from March 20, 2020 – April 30, 2020. The return-to-work day is set for Friday, May 1, 2020, 7:45 a.m., HST, barring any unforeseen circumstances.

Any snail mail correspondence, applications, etc., not received by the DCCA prior to the Friday, March 20th start of tele-working by the DCCA, will be processed upon the return to work date currently scheduled for Friday, May 1, 2020, 7:45 a.m., HST. Change Forms may be submitted electronically to the Real Estate Branch, at hirec@dcca.hawaii.gov as long as there is no processing fee required, or mailed to Licensing Branch along with the required processing fee. Form-fillable Change Forms are available on the Commission's website, www.hawaii.gov/hirec, click on "Forms."

Equivalency applications (Prelicense Education Equivalency, Equivalency to the Uniform Section of the Hawaii Real Estate Licensing Exam, Broker Experience Certificate) and licensing applications may be mailed to the Licensing Branch. Fees submitted with forms and applications will be processed when DCCA opens for business on May 1, 2020, barring any unforeseen circumstances.

PSI test sites: The Honolulu test site will be open for testing beginning Monday, April 13, 2020. The Honokaa test site will reopen on May 9, 2020. The Kahului test site will reopen on June 6, 2020, and the Kauai test site will reopen on May 30, 2020. For the most up-to-date information from PSI, go to: <https://www.psionline.com/important-notice-update-concerning-covid-19-coronavirus/>

REAL ESTATE COMMISSION

The Friday, March 27, 2020 monthly Real Estate Commission meeting was cancelled. The Commission's monthly committee meetings scheduled for Wednesday, April 8, 2020, were cancelled. The Real Estate Commission meeting scheduled for Friday, April 24, 2020 was cancelled. At this time, there is no date for the next Commission committee meetings or the next Commission meeting.

Work will continue on the development of Core B 2019-2020, "Principal Brokers: The Buck Stops Here!". There is no decision yet regarding any change in the Train-the-Trainer session for Core B which is currently scheduled for Tuesday, July 22, 2020, Honolulu Board of REALTORS®, 9:30 a.m. – 12:30 p.m. The release date for Core B will be a few days after the Train-the-Trainer session.

The salesperson's prelicense curriculum update will continue. The first draft of the updated curriculum was completed March 31, 2020. The deadline for the completion of the curriculum update is still the end of June 2020. The newly updated curriculum will be effective January 1, 2021. All approved prelicense schools must roll out the updated salesperson's prelicense curriculum beginning January 1, 2021.

The Commission-sponsored Instructors Development Workshop ("IDW"), "Delivering A Stellar Class," by Theresa Barnabei, was originally scheduled for presentations in Hilo, April 29, Maui, May 1, Kauai, May 4, and Oahu, May 6. The IDW sessions are rescheduled to August 25, Hilo, August 26, Maui, August 28, Kauai, and August 31, Oahu. These new dates are subject to change depending on the circumstances.

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State Provides Guidance For Homeowners and Renters

The Office of Consumer Protection (OCP) is providing answers to the following Frequently Asked Questions (FAQS) to assist homeowners and renters and with inquiries regarding the Landlord-Tenant code.

This FAQ along with more information regarding the Hawai'i Landlord-Tenant code is available at <https://cca.hawaii.gov/ocp/landlordtenant/>.

Landlord Tenant FAQs

Governor David Ige's recent emergency proclamations concerning the coronavirus invoked special legal requirements applicable to Landlords and Tenants in Hawai'i.

The Office of Consumer Protection has created FAQs pertaining to how these provisions impact their legal relationship. The guidance provided is current as of March 31, 2020 and may be subject to change per actions taken at the state and/or federal level.

I'm current on my rent, but my Landlord has informed me that I must vacate; can they do this?

No. Unless there is a material breach of the lease or the premises are unfit for occupancy, a Landlord cannot currently require you to move. Governor David Ige's State of Emergency Proclamation(s) automatically activates the provisions of section 127A-30(2) of the Hawaii Revised Statutes, which states, that "no Landlord shall terminate any tenancy for a residential dwelling unit in the area that is the subject of the proclamation...except for a breach of a material term of a rental agreement or lease, or if the unit is unfit for occupancy".

How long will the special provisions of section 127A-30(2) remain in effect?

A state of emergency terminates automatically sixty days after the issuance of a proclamation of a state of emergency or by a separate proclamation of the governor, whichever occurs first. The date of termination may be extended by a new proclamation.

Do I still have to pay my rent?

Yes. You are still legally obligated to pay your rent.

What if I can't pay my rent?

You should inform your Landlord if you are unable to pay your rent and explain why. Renters are advised to contact their landlords as soon as they can to talk through delayed or partial payment options.

Can the Landlord evict me if I don't pay my rent?

Currently, the Hawaii Judiciary has issued several orders that impact the ability of Landlords and their agents to use legal process to evict a Tenant for non-payment of rent. The Judiciary has stated that legal proceedings relating to summary possession or eviction have been postponed to at least April 30, 2020. What this means is that absent extraordinary circumstances, no eviction orders will be issued until at least after April 30, 2020.

I have already been served with an eviction notice; can I be evicted?

If the eviction notice was validly issued by the court you may be subject to an eviction, however, the Sheriff's Division of the Department of Public Safety, which often assists Landlords with the lawful removal of Tenants and their possessions, has stated that it will not be assisting anyone in the eviction process until further notice.

What if I have a Tenant who is dangerous, or is engaging in illegal activity?

Under these circumstances, a Landlord may go to court to seek relief, including petitioning the court for an order allowing for the lawful removal of the Tenant.

How do I go to court to try to get a Temporary Restraining Order (TRO)?

Petitions for Temporary Restraining Orders may be filed at the State District Court Courthouse.

Please see the following link for information related to the district court in your jurisdiction: <https://cca.hawaii.gov/ocp/files/2020/03/Courthouses-Info-3.30.2020.pdf>

Are the provisions of the Landlord Tenant Code still in effect?

Thus far, the Landlord Tenant Code has not been suspended by any of the Proclamations issued by the Governor.

Can a Landlord raise my rent?

No. Pursuant to section 127A-30 of the Hawaii Revised Statutes a Landlord is prohibited from increasing rent during the period of the state of emergency declared by the Governor.

The Chair's Message

Dear Real Estate Licensees:

The unprecedented effects of the COVID-19 pandemic have significantly impacted the lives of all Americans, Hawaii included, and many millions worldwide. All aspects of travel, work, finances, education, sports, recreation, medical care and socialization quickly changed for everyone. COVID-19 uncertainty, inconvenience, hysteria and tragic effects have dominated the news for the past few months. Here is how the Hawaii Real Estate Commission ("Commission") has been impacted:



1. On March 19, the Department of Commerce and Consumer Affairs was closed and all employees mandated to telework from home through April 30, 2020. This delayed the business of the Commission, including licensing, condominium registration, assisting licensees and the public with their issues. It also caused cancellation of the March 23 Commission and April 8 Committee meetings and the April 24 Commission meeting. Unless further closure to REB's offices is mandated, it should reopen on Friday, May 1, 7:45 a.m. HST, barring any unforeseen circumstances. However, the situation is fluid and further cancellations and closures are possible.
2. The process to confirm the nominations of three Commissioners (two new and one interim-appointed) was halted when the Hawaii Legislature went into indefinite recess. All three need to either be confirmed by the Senate or interim-appointed by the Governor by June 30. If not, as of July 1 the Commission will have only six Commissioners. A minimum of five is needed to conduct business and make decisions. The next Commission meeting is not determined as of yet.
3. The May 2020 ARELLO (Association of Real Estate License Law Officials) Mid-Year Conference was cancelled. Interactions, updates and progress on programs were deferred until its Annual Meeting in September.

Although there has been inconvenience to licensees, applicants, condo registration, the public and Commission's staff, it has been moderate and pales in comparison to the hardships and tragedies suffered by so many others. My best wishes to you and yours, and for the return of normalcy in all our lives.

Mahalo,

Michael Pang, Chair
Hawaii Real Estate Commission

Reminder, 2020 is a license renewal year. You will need to complete 20 hours of approved continuing education courses, including the HIREC's Core A and B courses, and submit all required items to the HIREC on or before November 30, 2020. The required Core B class is being written and it should to be ready to take starting in late July, after a review-and-approval process. Please make it a priority to handle your renewal responsibility in a timely manner.

COVID-19 – Its Impact on Real Estate Licensing? (cont. from page 1)

CONTINUING EDUCATION AND PRELICENSING COURSES

Please comply with Governor Ige's proclamation and supplemental proclamations limiting gatherings to 10 people or less, and "social distancing" of at least 6 feet. Please wear a facial mask whenever venturing outside your home. This applies to live continuing education offerings as well as live classes of prelicense courses. In lieu of live courses, all approved continuing education courses and prelicense courses may convert their offerings using platforms such as Zoom, and other types of webinar-based learning and interaction. Please be sure to use secure websites and apps when holding any CE or prelicense courses.

If approved CE courses are for more than 3 hours, the course may be broken up into appropriate segments, for example, a previously-approved 6-hour course may be presented in two 3-hour segments. The minimum clock hours for a CE course remains at 3 hours, and courses of more than 3 hours must be broken into segments of a minimum of 3 clock hours.

The license renewal deadline of November 30 still stands. The continuing education requirement of 20 credits, including Core A and Core B 2019-2020, still stands. Based on inquiries received from some Boards of REALTORS®, some board members are reluctant to tackle online education, but because of the cancellations of many live continuing education classes, they feel "stuck" and are concerned they will not be able to meet the CE requirement in order to renew their license current and active for the 2021-2022 biennium. Please reach out to these concerned members and assist and encourage them to take CE online. There are MANY CE online courses offered. There are seven (7) months until the November 30th renewal deadline.

Should protocols change, please view the Commission's website for updated information.

State Provides Guidance For Homeowners and Renters (cont. from page 2)

Is a notice to increase rent before the issuance of the Proclamation still valid?

In the case of a residential dwelling unit, if rent increases were contained in a written instrument, such as, a lease, that was signed by the Tenant prior to the Proclamation, the increases may take place pursuant to the written instrument.

What if my rental is subject to a federal housing program?

These rentals are subject to federal jurisdiction.

Until July 26, 2020, property owners are prohibited from filing for eviction against or charging any fees for unpaid rent and fees to a tenant in properties with federally guaranteed loans or participating in federal housing programs. Property owners must also issue a notice to tenants to vacate 30 days before an eviction and the notice to vacate cannot be issued during this 120-day period.

This protection covers properties that receive federal subsidies such as public housing, Section 8 assistance, USDA rural housing programs, and Low Income Housing Tax Credits, as well as properties that have a mortgage issued or guaranteed by a federal agency (including FHA and USDA) or Fannie Mae or Freddie Mac.

Additionally, owners of multifamily buildings with federal loans in forbearance may not evict tenants for unpaid rent or charge late fees or penalties until the loan exits forbearance.

Renters seeking information on whether they are covered by the moratorium should contact Legal Aid Society of Hawaii or a HUD approved housing counselor. You can find the nearest housing counselor here <https://www.consumerfinance.gov/find-a-housing-counselor/> or by calling (800) 569-4287.

“Update: Governor Ige’s Fifth Supplemental Proclamation includes eviction moratorium

The Fifth Supplementary Proclamation forestalls evictions for failure to pay rents, leases, or other related charges, such as maintenance fees, utilities, and taxes during the COVID-19 crisis. Violations of this provision and any others of this and prior Supplementary Proclamations is a misdemeanor, upon conviction, punishable by fines as much as \$5000 or a year in jail, or both.”

Can a Broker or Salesperson Associated with Brokerage A, Form an Entity and Have Commissions Paid to this Entity?

This is one of the most frequently asked questions of the staff of the Real Estate Branch. The answer is “No.”

“But my accountant advised me to do this for ‘tax purposes!’” Yes, that is the most common response from the inquirer. However, Hawaii Revised Statutes (“HRS”) and the Hawaii Administrative Rules (“HAR”) together dictate that a licensee associated with a brokerage firm cannot form an entity and have the licensee’s earned real estate commissions paid directly to the entity. Once earned, commissions are **paid directly to the licensee by his or her broker**, and the licensee may do what he or she wishes with that commission, **once received**.

If a real estate salesperson or broker-salesperson licensee, associated with Brokerage A, forms an entity, for example, ABC Realty, Inc., for the purpose of having this entity receive the licensee’s earned commissions from Brokerage A, this would constitute unlicensed activity on the part of ABC Realty, Inc. This would also mean the real estate salesperson or broker-salesperson licensee, would be accepting commissions from other than his own employer or the broker with whom he or she is associated. This would also mean that the real estate salesperson is acting as a real estate broker. The principal broker of Brokerage A may also be aiding and abetting an unlicensed entity by paying the unlicensed ABC Realty, Inc. commissions. These are all possible licensing law violations and may result in disciplinary action by the Regulated Industries Complaints Office (RICO) against the licensee’s license, as well as the license of the principal broker and the brokerage, itself.

If ABC Realty, Inc. was formed and actually received a real estate broker license, there must be a principal broker in place in order for the brokerage to engage in real estate activity. A licensed entity may not be associated under an existing licensed entity. For example, ABC Realty, Inc. cannot be associated, or under Brokerage A. Only individual licensees are associated under a brokerage. Licensees may be associated with only one brokerage at a time.

Let’s review what the real estate licensing laws and rules state.

HRS, §467-14(5)

This section states, in part, that a real estate salesperson must not accept any commission or other compensation for any real estate-related activity from any person other than the salesperson’s **employer or the real estate broker with whom the real estate salesperson associates**.

(cont. page 5)

Can a Broker or Salesperson Associated with Brokerage A, Form an Entity and Have Commissions Paid to this Entity? (cont. page 4)

HRS, §467-14(6)

This section states that a real estate salesperson must not act or attempt to act as a real estate broker, and must not represent, or attempt to represent any real estate broker other than the real estate salesperson's employer or the real estate broker with whom the real estate salesperson is associated.

HRS, §§467-8(a)(4), (5), (8)

These sections state that no real estate license shall be issued to any partnership, corporation, or limited liability company unless the real estate brokerage business is under the direct management of a principal broker who holds a current active real estate broker's license.

HRS, §467-8(a)(7)

This section states that no real estate salesperson's license shall be approved or issued with a trade name.

HRS, §467-14(11)

This section states that a real estate salesperson must file a written statement naming the broker by whom the real estate salesperson is employed or associated.

HAR, §16-99-3(p)

This section states that no real estate licensee shall act as a broker, real estate broker-salesperson or real estate salesperson **for more than one** brokerage firm.

HAR, §§16-99-3(m), (n)

These sections state that there shall be a principal broker or one or more brokers-in-charge at the principal place of business and that the principal place of business must be located in the state with the address registered with the Commission.

HAR, §16-99-2 Definitions

"Broker-salesperson" means an individual broker licensee who associates that individual's own license with a brokerage firm as an employee or independent contractor.

"Place of business" means the physical place where business is conducted other than a post office box, telephone, telephone answering service, letter or mail drop service, or motor vehicle within the State, and may include a home occupation office. ". . . Each brokerage firm shall have one, and only one, principal place of business."

What Do You Think?

ABC Realty, LLC is a licensed brokerage. Bob Aloha, a real estate salesperson, associated with ABC Realty, LLC, and forms his own entity, XYZ Real Estate Investments, LLC. XYZ Real Estate Investments, LLC is not licensed as a real estate brokerage. Bob Aloha has an advertisement in the local newspaper which lists his employing broker, ABC Realty, LLC, but in the corner of the advertisement, he also includes XYZ Real Estate Investments, LLC's name and his contact telephone number. Bob Aloha also lists his name in the advertisement as the person to contact for XYZ Real Estate Investments, LLC. What are the possible violations found in this advertisement?

ANSWERS

Possible violations may include:

Unlicensed entity – XYZ Real Estate Investments, LLC (HRS, §467-7)

Acting as a real estate broker on the part of Bob Aloha (HRS §467-14(6))

Aiding and abetting an unlicensed entity on the part of ABC Realty, LLC and its principal broker – (HRS, §436B-19(6))

Misrepresentation – that XYZ Real Estate Investments, LLC is a licensed broker (HRS §467-14(3), HAR §16-99-3(b))

If you have any questions or concerns, please contact the Real Estate Branch at email, hirec@dcca.hawaii.gov, or telephone, 808-586-2643, or by snail mail to 335 Merchant Street, Room 333, Honolulu, HI 96813.

Administrative Actions

January 2020

DONNA JEAN BOWLES
fka DONNA) JEAN REISING
RB 21681

Case No. REC-2019-163-L

Dated 1/24/20

RICO ALLEGATIONS:

RICO alleges that on or about March 10, 2005, Respondent was convicted of the petty misdemeanor offense of Driving Under the Influence of an Intoxicant, a petty nus emea, in the District Court of the Third Circuit, Kona Division, State of Hawaii. Respondent fulfilled all the terms of the Conviction.

Respondent, however, answered "No" to the question on her 2006 real estate salesperson application form and on her 2014 real estate broker's application form that asked: "[d]uring the past 20 years have you been convicted of a crime where there has not been an order annulling or expunging the conviction?"

REPRESENTATIONS BY RESPONDENT:

Respondent erroneously believed that Driving

Under the Influence of an Intoxicant was a traffic infraction and did not constitute a criminal offense. Respondent's incorrect response were not an attempt on her part to hide or conceal the fact of her conviction, but stemmed from an honest, but ultimately mistaken belief.

Respondent is extremely remorseful for her past conduct and learned a great deal from what happened. Respondent represents that this will not happen again.

Violations:

HRS § 436B-19(2), HRS § 4363-19(5) and HRS § 467-20

Sanctions:

Fine of \$1,500.00

REALHOME SERVICES AND SOLUTIONS, INC., dba OWNERS.COM, and COURTNEY M. READ

RB 21392
RB 22444

Case No. REC-2019-304-L

Dated 1/24/20

UNCONTESTED FACTS:

Respondent REALHOME is a Georgia based company-that has been licensed to do business in the State of Hawaii since August 8, 2013.

At all relevant times herein, Respondent REALHOME was licensed by the Real Estate Commission (the "Commission") as a real estate broker under license number RB 21392. The license was issued on or about November 1, 2013 and has an expiration date of December 31, 2020.

At all relevant times herein, Respondent REALHOME's principal place of business in the State of Hawaii is located at 1003 Bishop Street, Suite 2700 (Room 45), Honolulu, Hawaii 96813.

At all relevant times herein, Respondent READ was licensed by the Commission as a real estate broker under license number RB 22444. The license was issued on or about November 21, 2017 and has an expiration date of December 31, 2020.

RICO ALLEGATIONS:

Respondent READ was registered as Respondent REALHOME's principal broker from April 2, 2018 until August 12, 2019.

On or about April 2, 2018, Joel W. Lawrence, who was at all relevant times licensed as a real estate broker by the Commission under license number RB 22445, was designated as broker-in-charge for Respondent REALHOME.

On or about January 17, 2019, Neven L. Spralja, who was at all relevant times licensed as a real

estate broker by the Commission under license number RB 22814, was designated as broker-in-charge for Respondent REALHOME.

On or about February 1, 2019, Lucianne C. Manders, dba Carey Manders, who was at all relevant times licensed as a real estate broker by the Commission under license number RB 22816, was designated as broker-in-charge for Respondent REALHOME.

RICO asserts that during the months of April 2018, May 2018, and May 2019, neither Respondent READ nor any of Respondent REALHOME's respective brokers-in-charge were present at Respondent REALHOME's principal place of business in the State of Hawaii at anytime.

RICO asserts that Respondent READ failed to submit written notification to the Commission regarding the aforementioned prolonged absences from REALHOME's principal office in the State of Hawaii, and failed to designate a temporary principal broker or temporary broker-in-charge to be present at REALHOME's principal office during Respondent READ's absences.

Violations:

HRS § 467-14(13), HAR § 16-99-3(m) and HAR § 16-99-3(o)

Sanctions:

READ fine of \$2,000.00

REALHOME fine of \$500.00

February 2020

MEI YUN HE, dba COCO HE
RS 78536

Case No. REC-2019-472-L

Dated 2/28/20

RICO ALLEGATIONS:

RICO alleges that Respondent's real estate salesperson's license was inactive from January 1, 2017 to January 31, 2018.

During this time period, Respondent engaged in various transactions.

Respondent restored her license on or about January 23, 2018.

Respondent fully cooperated with RICO's inves-

tigation into this matter and failed to timely renew her real estate salesperson's license based upon a mistaken belief that her license would not expire until January 31, 2018.

RICO initiated a separate case involving the Respondent's principal broker.

Violations:
HRS § 467-7

Sanctions:
Fine of \$1,500.00

RICHARD M. DEGUTIS
RS 75362

Case No. REC-2019-521-L

Dated 2/28/20

RICO ALLEGATIONS:

On or about February 21, 2012, Respondent was convicted of harassment.

On or about April 23, 2013, Respondent was convicted of Operating a Vehicle Under the Influence of an Intoxicant (hereinafter "OVUII").

On Respondent's initial application for his real estate salesperson's license which was dated on or about June 24, 2013, 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?"

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 \$1,500.00

TERRANCE W.H. WONG, JR., HONOLULU PROPERTY MANAGEMENT LLC, and MATTHEW A. BRUMMEL
RS 55394

Case No. REC-2019-479-L

Allegations against Respondents Honolulu Property Management LLC and Matthew A. Brummel will be handled separately.

Dated 2/28/20

UNCONTESTED FACTS:

At all relevant times, Respondent was affiliated with HONOLULU PROPERTY MANAGEMENT LLC as a real estate salesperson.

RICO ALLEGATIONS:

In or around May 2019, a tenant vacated a rental unit that had been managed by Respondent through Respondents Honolulu Property Management LLC (brokerage firm) and Matthew A. Brummel (principal broker). Respondents wrongfully withheld a portion of the deposit, which was subsequently returned to the tenant.

Tenant vacated the unit one month prior to the ending date in the lease agreement. Respondent failed to return the lease breakage fee even after the tenant paid the rent for the remainder month on the lease.

After the tenant vacated the unit, Respondent used a photo of another unit in the building in an advertisement of the vacated unit for rental on the brokerage firm's website.

Violations:
HRS § 467-14(1), HRS § 467-14(7), HRS § 467-14(8), HRS § 467-14(13), HRS § 467-14(18), HRS § 467-14(20) and HAR § 16-99-3(b)

Sanctions:
Fine of \$1,000.00

Education Course(s).
Respondent, at his own expense, shall enroll in and successfully complete an education course or courses to be determined by the Commission. The education course or courses are in addition to, and do not take the place of, any continuing education requirements under HRS Chapter 467 and HAR Chapter 16-99.

VINCENT LAO
RB 18181

Case No. REC-2019-473-L

Dated 2/28/20

UNCONTESTED FACTS:

Respondent is the principal broker for Five Star Realty, Inc., since on or about January 5, 2004.

RICO ALLEGATIONS:

RICO alleges that the real estate salesperson's license of Mei Yun He, dba Coco He (hereinafter "He") and who is associated with Five Star Realty, Inc., was expired and/or forfeited from January 1, 2017 to January 31, 2018 due to a misunderstanding of the renewal period. During this time, He earned commissions from various real estate transactions.

He will be the subject of another proceeding.

He subsequently restored her license on or about January 23, 2018.

Violations:
HRS § 467-1.6(b)(7)

Sanctions:
Fine of \$2,000.00

Administrative Actions (cont. from page 7)

TERRANCE W.H. WONG, JR., HONOLULU PROPERTY MANAGEMENT LLC, and MATTHEW A. BRUMMEL
RB 21164
RB 22145

Case No. REC-2019-479-L

Allegations against Respondent Terrance W.H. Wong, Jr. will be handled separately.

Dated 2/28/20

UNCONTESTED FACTS:

Respondent Honolulu Property Management LLC is a domestic limited liability company managed by HHL Holdings, Inc.

At all relevant times, Respondent Matthew A. Brummel served as the principal broker of Respondent Honolulu Property Management LLC.

Respondents' mailing address is 1003 Bishop Street, #2250, Honolulu, Hawaii 96813.

At all relevant times, Respondent Terrance W.H. Wong, Jr. was affiliated with Honolulu Property Management LLC as a real estate salesperson.

RICO ALLEGATIONS:

In or around May 2019, a tenant vacated a rental unit that had been managed by Respondents through Respondent Honolulu Property Management LLC (hereafter "brokerage firm") and Respondent Matthew A. Brummel (hereafter

"principal broker"). Respondents wrongfully withheld a portion of the deposit, which was subsequently returned to the tenant.

Respondents failed to return the lease breakage fee even after the tenant honored the one-year lease by paying the rent for the remainder month on the lease.

After the tenant vacated the unit, Respondents used a photo of another unit in the building in advertising the vacated unit for rental on the brokerage firm's website.

Violations:

HRS § 467-1.6(a), HRS § 467-1.6(b)(3), HRS § 467-14(1), HRS § 467-14(7), HRS § 467-14(8), HRS § 467-14(13), HRS § 467-14(18), HRS § 467-14(20) and HAR § 16-99-3(b)

Sanctions:

Fine of \$1,000.00

Restitution of \$275.00

SANDRA L. BANGERTER, a real estate broker, and RED FLASH LLP, dba RE/MAX KAI LANI, a real estate broker
RB 16453
RB 18938

Case No. REC 2016-225-L

Dated 2/28/20

UNCONTESTED FACTS:

At all relevant times herein, Ms. Bangerter was licensed by the Real Estate Commission (the "Commission") as a real estate broker pursuant to license RB 16453. The license was issued on or about January 18, 1994. The license expired on or about December 31, 2016. Before becoming a real estate broker in 1994, Ms. Bangerter was licensed as a real estate salesperson beginning on or around January 1, 1987 pursuant to license RS 39463.

At all relevant times herein, RMKL was licensed by the Commission as a real estate broker pursuant to RB 18938. The license was issued on or about November 8, 2005. The license was forfeited on or about December 31, 2017.

At all relevant times herein, Ms. Bangerter was the principal broker of RMKL.

RICO ALLEGATIONS:

On or about August 8, 2019, RICO filed Petitions for Disciplinary Action Against Real Estate Licenses in RICO Case Nos. REC 2016-225-L, REC 2016-243-L, REC 2016-249-L, REC 2016-255-L, REC 2016-264-L, REC 2016-265-L, REC 2016-267-L, REC 2016-274-L, REC 2016-275-L, REC 2016-286-L, REC 2016-288-L, REC 2016-293-L, REC 2016-305-L, REC 2016-318-L, REC 2016-362-L, REC 2017-30-L, and REC 2017-389-L.

Violations:

HRS § 436B-16(a), HRS § 436B-19(2), HRS § 436B-19(7), HRS § 436B-19(8), HRS § 436B-19(9), HRS § 436B-19(17), HRS § 467-14(1), HRS § 467-14(7), HRS § 467-14(8), HRS § 467-14(13), HRS § 467-14(20), HAR § 16-99-3(b) and HAR § 16-99-3(v)

Sanctions:

Revocation of Licenses

Fine of \$10,000.00

Restitution of \$71,162.50

<u>Amount Due</u>	<u>Recipient(s)</u>
\$2,175.00	Bailey J. White
\$3,725.00	Joshua Gelerter
\$8,750.00	Shirley E. Efting
\$3,400.00	Colins A. Kawai
\$5,630.75	Virginia C. Millo
\$5,772.15	Arthur Mock
\$3,150.00	John M. Drake
\$2,450.00	Diane Kawamoto
\$5,147.60	Grant A. Shintaku
\$2,775.00	John W. Sheleg
\$2,850.00	David M. Armitage
\$3,100.00	Garrett J. Zane
\$5,075.00	George L. Druger
\$1,800.00	Kathy T. Takayama
\$11,162.00	Eric H. Ishida and Brian Y. Ishida
\$2,100.00	Mark R. Jenssen
\$2,100.00	Matthew R. Weaver

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 recommended order of the Hearings Officer.

- 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(2) Engaging in false, fraudulent, or deceptive advertising, or making untruthful or improbable statements.
- HRS §436B-19(5) Procuring a license through fraud, misrepresentation, or deceit.
- HRS §436B-19(7) Professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of the licensed profession or vocation.
- HRS §436B-19(8) Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity.
- HRS §436B-19(9) Conduct or practice contrary to recognized standards of ethics for 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, whether by nolo contendere or otherwise, of a penal crime directly related to the qualifications, functions, or duties of the licensed profession or vocation.
- HRS §436B-19(17) Violating this chapter, the applicable licensing laws, or any rule or order of the licensing authority.
- HRS §467-1.6(a) The principal broker shall have direct management and supervision of the brokerage firm and its real estate licensees.
- HRS §467-1.6(b)(3) The principal broker shall be responsible for: All real estate contracts of the brokerage firm and its handling by the associated real estate salesperson;
- HRS §467-1.6(b)(7) The principal broker shall be responsible for ensuring that the licenses of all associated real estate licensees and the brokerage firm license are current and active.
- HRS §467-7 No person within the purview of this chapter shall act as real estate broker or real estate salesperson, or shall advertise, or assume to act as real estate broker or real estate salesperson without a license previously obtained under and in compliance with this chapter and the rules and regulations of the real estate commission.
- HRS §467-14(1) Making any misrepresentation concerning any real estate transaction.
- HRS §467-14(7) Failing, within a reasonable time, to account for any moneys belonging to others that may be in the possession or under the control of the licensee.
- HRS §467-14(8) Conduct constituting fraudulent or dishonest dealings.
- HRS §467-14(13) Violating this chapter, chapters 484, 514B, 514E, or 515, or section §516-71, or the rules adopted thereto.
- HRS §467-14(18) Failing to ascertain and disclose all material facts concerning every property for which the licensee accepts the agency, so that the licensee may fulfill the licensee's obligation to avoid error, misrepresentation, or concealment of material facts.
- HRS §467-14(20) Failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.
- HRS §467-20 False statement.
- HAR §16-99-3(b) The licensee shall protect the public against fraud, misrepresentation, or unethical practices in the real estate field. The licensee shall endeavor to eliminate any practices in the community which could be damaging to the public or to the dignity and integrity of the real estate profession. The licensee shall assist the commission in its efforts to regulate the practices of brokers and salespersons in this State.
- HAR §16-99-3(m) There shall be a principal broker or one or more brokers-in-charge, or both, at the principal place of business, and one or more brokers-in-charge at a branch office who shall be immediately responsible for the real estate operations conducted at that place of business.
- HAR §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.
- HAR §16-99-3(v) The licensee shall not convert other people's money to the licensee's own use.

Banking and Financial Resources Available During COVID-19

The Department of Commerce and Consumer Affairs, Division of Financial Institutions encourages the public to contact their financial institutions and government agencies to discuss opportunities for financial assistance during the COVID-19 pandemic.

“We encourage both individuals and businesses to look into the available financial assistance programs being provided. Banks and financial institutions are ready to support the federal stimulus initiatives and are continuing to provide services for consumers,” said Iris Ikeda, Hawai‘i Commissioner of Financial Institutions.

Nearly \$2.2 trillion in emergency economic relief will be made available through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which was signed into law in late March. Local and national banks will be processing Small Business Association (SBA) loans and in particular the Paycheck Protection Program (PPP) of the CARES Act.

The PPP authorizes up to \$349 billion in loans to small businesses to pay their employees during the COVID-19 pandemic. The program is available to all businesses with 500 or fewer employees to include nonprofits, veterans’ organizations, tribal business concerns, sole proprietorships, self-employed individuals, and independent contractors. Loans granted through the PPP will be at a fixed term and are to be used to cover payroll costs including healthcare benefits, loan and rent payments, and utilities. Loan forgiveness is subject to the borrower using all of the loan proceeds for forgivable purposes and maintaining its employee and compensation levels.

“Banks are now accepting applications from Hawai‘i’s small businesses. The funding is made on a first come first served basis, so I urge all to contact your bank immediately to start the process,” added Ikeda.

On April 3rd, loan applications were opened for small businesses and sole proprietors and starting April 10th, independent contractors and self-employed individuals would be able to apply. Applicants need to apply through an approved SBA lender or any federally insured financial institution and are strongly encouraged to apply as soon as possible while funding remains available.

More details and information about the program is available on the United States Treasury website at <https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-smallbusinesses>. A borrower’s fact sheet can be found at <https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>.

In addition to being available to facilitate emergency initiatives provided through the federal CARES Act, Hawai‘i’s banks remain available to their clients and are assisting in many ways by:

- Providing relevant information about COVID-19 and the financial assistance programs being offered;
- Offering loan deferments and loan modification options;
- Making available small consumer loans up to \$8,000;
- Maintaining physical banking branches and limiting closures across the state;
- Bolstering call center operations to assist with inquiries; and
- Waiving certain fees such as ATM surcharges and early withdrawal fees for time certificates.

In order to receive the available financial assistance, the public is reminded that they need to reach out to their financial institution to request the assistance and to discuss what options are available to them.

Additional information on the CARES Act and what Hawai‘i’s residents and business should do to seek financial assistance were provided in Governor David Ige’s Community Connection held yesterday, link at <https://www.facebook.com/GovernorDavidIge/videos/2293014734334545/>.

In an opinion editorial published in the Honolulu Star-Advertiser on April 6th, Commissioner Ikeda emphasized the strength of Hawai‘i’s banking industry and that it is committed providing for Hawai‘i throughout the COVID-19 pandemic. Column: Hawai‘i’s banks strong, committed to help during pandemic (<https://www.staradvertiser.com/2020/04/06/editorial/islandvoices/column-hawaii-banks-strong-committed-to-help-during-pandemic/>).

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The Hawai‘i Division of Financial Institutions (DFI) ensures the safety and soundness of statechartered and state-licensed financial institutions, and ensures regulatory compliance by statelicensed financial institutions, escrow depositories, money transmitters, mortgage servicers, mortgage loan originators and mortgage loan originator companies, by fairly administering applicable statutes and rules, in order to protect the rights and funds of depositors, borrowers, consumers and other members of the public. Website: <http://cca.hawaii.gov/dfi/>. Twitter: @HawaiiDFI

Prelicense Schools

Abe Lee Seminars	808-942-4472
Akahi Real Estate Network, LLC	808-896-1414
All Islands Real Estate School	808-564-5170
American Dream Real Estate School, LLC	720-322-5470
Carol Ball School of Real Estate	808-280-0470
The CE Shop, Inc.	888-827-0777
Coldwell Banker Pacific Properties Real Estate School	808-551-6961
Continuing Ed Express, LLC	866-415-8521
Diamond Resorts Real Estate Academy – Hawaii, LLC	480-392-2337
Excellence in Education dba Maui Real Estate School	808-212-4861
Inet Realty	808-955-7653
Maui Real Estate Academy, LLC dba Hawaii Real Estate Academy	808-633-5737
OCL Real Estate, LLC dba OnCourse Learning Real Estate	800-532-7649
Ralph Foulger’s School of Real Estate	808-239-8881
Real Estate School Hawaii	808-551-6961
REMI School of Real Estate	808-230-8200
Scott Alan Bly School of Real Estate, LLC dba Bly School of Real Estate	808-738-8818
Seiler School of Real Estate	808-874-3100
Vitousek Real Estate Schools, Inc.	808-946-0505



State of Hawaii Real Estate Commission

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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	Kauai Board of Realtors	808-245-4049
All Islands Real Estate School	808-564-5170	McKissock, LLC	800-328-2008
American Dream Real Estate School, LLC	720-322-5470	OCL Real Estate, LLC dba OnCourse Learning Real Estate	800-532-7649
Asentiv Hawaii	808-960-9630	Preferred Systems, Inc.	888-455-7437
At Your Pace Online, LLC	877-724-6150	Ralph Foulger’s School of Real Estate	808-239-8881
The Berman Education Company, LLC	808-572-0853	The Real Estate Café	808-728-0223
Building Industry Association of Hawaii	808-629-7505	Real Estate School Hawaii	808-551-6961
Carol Ball School of Real Estate	808-280-0470	Realtors’ Association of Maui, Inc.	808-873-8585
The CE Shop, Inc.	888-827-0777	REMI School of Real Estate	808-230-8200
CMPS Institute, LLC	888-608-9800	Residential Real Estate Council	800-462-8841
Coldwell Banker Pacific Properties Real Estate School	808-551-6961	Russ Goode Seminars	808-597-1111
Continuing Ed Express, LLC	866-415-8521	Scott Alan Bly School of Real Estate, LLC dba Bly School of Real Estate	808-738-8818
Dexterity CE, LLC	512-893-6679	Servpro Industries, LLC	615-451-0200
Eddie Flores Real Estate Continuing Education	808-951-9888	Shari S. Motooka-Higa	808-492-7820
ExceedCE	415-885-0307	Sirmon Training and Consulting Group, LLC	704-458-5295
Franklin Energy Services, LLC	510-298-5497	Systems Effect LLC, dba Training Cove	480-517-1000
Hawaii Association of Realtors	808-733-7060	USA Homeownership Foundation, Inc., dba Veterans Association of Real Estate Professionals (VAREP)	951-444-7363
Hawaii Business Training	808-250-2384	Vitousek Real Estate Schools, Inc.	808-946-0505
Hawaii CCIM Chapter	808-528-2246	West Hawaii Association of Realtors	808-329-4874
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		

State of Hawaii
Real Estate Commission
King Kalakaua Building
335 Merchant Street, Room 333
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2020 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 13, 2020

Wednesday, June 10, 2020

Wednesday, July 8, 2020

Wednesday, August 12, 2020

Wednesday, September 9, 2020

Wednesday, October 7, 2020

Wednesday, November 4, 2020

Wednesday, December 9, 2020

Real Estate Commission – 9:00 a.m.

Friday, May 29, 2020

Friday, June 26, 2020

Friday, July 24, 2020

Friday, August 28, 2020

Friday, September 18, 2020

Friday, October 23, 2020

Friday, November 20, 2020

Friday, December 18, 2020

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.