

# Real Estate Commission Bulletin



## Is a Cloud-Based Brokerage Legal?

The Real Estate Branch fields inquiries from both out-of-state real estate licensees and Hawaii-domiciled licensees who want to know if a “cloud-based” real estate office is compliant with Hawaii real estate licensing laws and rules. The quick answer is “No.” While the inquirer does not blatantly state that a virtual office is in consideration, it is apparent the caller is trying to determine if a virtual brokerage can be established, and perhaps maintained despite existing Hawaii real estate licensing laws and rules to the contrary. The Real Estate Branch has also received inquiries from Hawaii licensees who are considering joining a large brokerage here in Hawaii that provides information to the potential associated licensee that their business is “in the cloud”.

Recently, a brokerage applicant submitted the address of the place of business. Recognizing the address to be a possible maildrop type location, further review showed a website for the address as providing “virtual” office space. The applicant was advised to find a brick and mortar place of business. Again, another address submitted revealed a similar virtual office set-up. Third time around, a legitimate place of business address was provided.

The digital age has created new ways of doing business. To compound this trend, the Covid-19 pandemic has prompted many brick and mortar principal places of business to either temporarily close or to close for good. What was normal and common-place just a handful of years ago, may already be outdated, inefficient, and maybe ineffective. Brick and mortar businesses may be losing ground to virtual locations, but the existing real estate licensing laws and rules still require a definite, physical place of business, where regularly scheduled office hours are maintained, and the principal broker has direct supervision of associated licensees and management oversight of all real estate-related activity emanating from the brokerage.

If you’re a real estate licensee thinking of becoming a Hawaii-licensed broker, and opening up a brokerage firm, read and pay heed to the below Hawaii Administrative Rules (“HAR”) and Hawaii Revised Statutes (“HRS”), which define the place of business.

§16-99-3(m) HAR states there shall be a principal broker or one or more brokers-in-charge, or both, at the principal place of business . . .who shall be immediately responsible for the real estate operations conducted at that place of business.

§16-99-3(n) HAR states a brokerage firm shall maintain a principal place of business located in this State at a business address registered with the commission from which the brokerage firm conducts business and where the brokerage firm’s books and records are maintained.

§16-99-2 HAR defines place of business as follows:

“**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. The place of business shall conform with the permitted use under the zoning code of the county in which the place of business is situated and with any declarations, bylaws, house rules, recorded restrictions, or covenants that may govern the place of business. The commission may use as guidelines, but is not limited to, the following factors in finding that a brokerage firm is maintaining a place of business: **physical presence of the broker during reasonable scheduled office hours**; on-site maintenance of confidential clients’ files which shall be immediately accessible to the commission upon request; the prominent display of the brokerage firm’s name or trade name as licensed by the commission and the listing of the brokerage firm name where permissible in the building directory; the operation of the brokerage firm at a place of business directly accessible to the public; and the on-site maintenance of personnel and compensation records on all real estate salespersons and broker-salespersons employed by or associated with the brokerage firm. Client files as used in this definition includes but is not limited to: real estate contracts, escrow records, trust account records, and confidential client data. “Place of business” does not include the operation of a place of business designed to evade the requirements of the definition as set forth in this paragraph. Each brokerage firm shall have one, and only one, principal place of business.

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## Is a Cloud-Based Brokerage Legal? (cont. from page 1)

§16-99-4 HAR indicates that a client's trust fund account shall be maintained "in this State", and shall designate the principal broker as trustee.

The display of a license is required of both the brokerage and the broker by §16-99-6 HAR and §467-12(a) HRS as follows:

**§16-99-6 HAR Display of license.** The brokerage firm's certificate of license shall be conspicuously displayed in the principal place of business.

**§467-12 HRS Place of business and posting of license.** (a) A licensed real estate broker shall have and maintain a definite place of business in the State, in compliance with this chapter and the rules of the commission, and shall display therein the real estate broker's license and upon request make available any associating real estate salesperson's license.

§16-99-2 HAR indicates that use of a mail drop/answering service is insufficient to meet the requirements of §§16-99-3 and 16-99-6 HAR and §467-12 HRS. Similarly, a "virtual office" location may not meet the same requirements.

**§467-1.6 HRS Principal brokers** spells out the responsibilities of the principal broker, and states directly, "The principal broker shall have direct management and supervision of the brokerage firm and its real estate licensees."

An inappropriate principal place of business impedes regulatory oversight. It also hampers a consumer's ability to conduct timely and expedient transactions with their real estate agent. Licensees are encouraged to review the laws and rules and seek competent legal counsel to determine if their brokerage complies with laws and rules relating to the business of real estate.

## The Regulated Industries Complaints Office and The Disciplinary Process for Real Estate Licensees by the Regulated Industries Complaints Office

Each quarter you are able to review in this publication, summaries of disciplinary actions that have been imposed on licensees by the Real Estate Commission. As a licensed real estate professional, you are required to follow state laws and rules regulating your profession or you could be disciplined by the Real Estate Commission (Commission). The Regulated Industries Complaints Office or RICO, a division within the Department of Commerce and Consumer Affairs (the Department), is the investigative and prosecutorial agency for the licensing boards located within the DCCA, including the Commission. RICO, together with the Commission, enforces the laws and rules regulating your profession.

As investigator, RICO receives and screens thousands of complaints and inquiries yearly involving licensees. Many of the complaints are investigated. As prosecutor, RICO will take some of the investigated complaints and attempt to pursue disciplinary action against licensees through a negotiated settlement or a contested case hearing. As prosecutor, RICO does not have the power to discipline real estate licensees; only the Commission can do that by accepting a proposed settlement agreement that was negotiated between RICO and the licensee, or through issuing a final order based on a recommended decision that followed a contested case hearing, under Chapter HRS 91, between RICO and the licensee. Chapters 467 HRS and 436B contain the different disciplines that RICO can seek against a licensee and that can be imposed by the Commission.

Not all RICO complaints against licensees will result in discipline. Still, many complaints are filed every year, all are unique, and each of them must be screened or evaluated separately by RICO staff. Many end quickly for technical reasons, such as the dispute or issue does not fall within the laws enforced by RICO, many are withdrawn, many may end after the parties are able to work out a misunderstanding. Many will not meet the evidentiary threshold for proving a violation. For those that do, RICO will put on its prosecutor hat and may pursue discipline.

How can you avoid being on RICO's radar? Be familiar with the legal requirements for maintaining your license. You were required to learn about the laws governing licensees when you obtained your license, but that may have been the last time you familiarized yourself with the licensing laws and rules. Periodically read Hawaii Revised Statutes Chapters 436B and 467, and Hawaii Administrative Rules, Title 16, Chapter 99, so that you know the legal standards governing your privilege to serve customers and clients who engage in real estate transactions in Hawaii. You can access the licensing laws and rules through the "HRS/HAR" tab located at the top of DCCA's Real Estate Branch's homepage.

Remember too that Chapter 467 HRS regulates your conduct respecting real estate transactions even when you are not representing a client or assisting a customer but are involved in a personal transaction.

Finally, if you happen to be the subject of a RICO complaint, please cooperate. A licensee can be disciplined by the Commission for failing to cooperate during the investigations process.

More information about RICO can be found at their website: <https://cca.hawaii.gov/rico/>.

# The Chair's Message

Aloha Real Estate Licensees:

Reopening progress has been made. More of our population has been vaccinated, restaurants are filling up (50% capacity) and Hawaii has a lot of tourists again. I am looking forward to herd immunity, all keiki getting back to live classes, and further easing of travel restrictions. It's been a long time but, for me, there is light at the end of the tunnel.

## HIREC OPERATIONS

For the Hawaii Real Estate Commission ("HIREC"), each staff person continues on a rotation schedule to limit the number in the office and Commission meetings (combined with Committee agendas) will continue to be held remotely once per month for the foreseeable future.

## THANK YOU LAURIE LEE AND ALETA KLEIN

June 30, 2021 marks the end of HIREC's year and the completion of the term limit (two 4-year terms) for Commissioners Laurie Lee and Aleta Klein. Laurie has chaired HIREC's Condominium Review Committee for the past four years (HIREC approves and regulates condominium projects) and Aleta has served on A.C.E. (HIREC's Ad Hoc Committee on Education) which conceives continuing education CORE courses each biennium and handles a variety of advanced education issues for HIREC.

As HIREC meetings are still required to be remote, in-person recognition for Laurie and Aleta's accomplishments are not able to occur. However, both will receive certificates of recognition and wooden plaques memorializing their contributions to HIREC and the real estate industry. Thank you Laurie and Aleta for your valuable service.

## "HAWAII CONDO LIVING GUIDE" VIDEO SERIES NOW ONLINE


HIREC has just released the first six segments of its new, locally-produced "Hawaii Condo Living Guide" video series to publically deliver important information on condominiums, primarily to current and prospective condo owners, their boards and real estate licensees. These short-segment videos are available at <https://cca.hawaii.gov/reb/hawaii-condo-living-guide/> and on YouTube.

Initial topics include:

- Important Things to Know When Purchasing a Condo
- New Condo Owners in Hawaii
- Owner's Rights and Responsibilities
- Board of Directors
- Common Governance Issues
- Dispute Resolution

Another nine episodes for a total of 15 are being produced and will be released periodically when ready.

Mahalo,



Michael Pang, Chair  
Hawaii Real Estate Commission



## Ho'ala!

A new licensing and education database, "Ho'ala", was recently launched and replaces the antiquated database used by the Professional and Vocational Licensing Division for decades. The former Real Estate CE and Prelicense database, referred to as "RECE" is now integrated within Ho'ala. With many new ventures, Ho'ala is experiencing growing pains and this has affected the MyPVL, Continuing Education and Prelicense Education platforms.

The developer and staff are keenly aware of the glitches that have occurred, and these are continually being addressed and resolved.

Your patience and understanding is much appreciated.

# Administrative Actions

## January 2021

**GARY M. SAKAI**

RB 22831

Case No. REC-2019-603-L

Dated 1/29/21

**Uncontested Facts:**

At all relevant times, Respondent was licensed as a real estate salesperson pursuant to license RS 61877. The real estate salesperson license was issued on or about May 2, 2003 and is scheduled to expire on December 31, 2020.

On or about January 24, 2019, Respondent submitted a real estate broker's license application (the "Application") to the Real Estate Commission (the "Commission").

In response to question 3 of the Application, "Are there any pending lawsuits, unpaid judgments, outstanding tax obligations, or any other type of involuntary liens against you?", Respondent answered "yes" and stated that he had entered into a monthly payment plan with the State of Hawaii for outstanding State tax obligations, and provided supporting documentation regarding the payment plan.

On or about June 26, 2019, the Commission issued Respondent a conditional real estate broker license pursuant to license RB 22831, effective January 24, 2019. The conditional license is scheduled to expire on December 31, 2020.

On or about July 1, 2019, the Commission received Respondent's written request for the removal of the conditions on Respondent's real estate broker license, stating that his State tax obligations were "being taken care of." Along with this request, Respondent submitted documentation which he downloaded from <https://www.ndc.org>, which included a "Debtor Case Summary" and "Claim Summary," presenting information on the Respondent's active bankruptcy case. The "Claim Summary" included information on outstanding State and Federal tax obligations. Respondent voluntarily provided this information to the Commission.

On or about July 16, 2019, the conditions were lifted from Respondent's license RB 22831.

Respondent is currently the principal broker for Axis Management HI LLC.

Axis Management HI LLC is licensed as a real estate brokerage pursuant to license RB 22933, which license was issued on or about July 16, 2019, with an expiration date of December 31, 2020.

**RICO Allegations:**

A Notice of Federal Tax Lien in the amount of \$69,125.40 was recorded against the Respondent in the Bureau of Conveyances of the State of Hawaii on June 10, 2015.

A Certificate of State Tax Lien in the amount of \$12,980.74 was recorded against the Respondent in the Bureau of Conveyances of the State of Hawaii on August 23, 2016.

Respondent failed to disclose on the Application that, in addition to the outstanding State tax obligations, he also had outstanding Federal tax obligations.

Portions of the outstanding State and Federal tax obligations arose from income that the Respondent generated from real estate activities during the 2005, 2006, and 2007 tax periods, during which time Respondent was licensed as a real estate salesperson pursuant to license RS 61877.

Respondent filed for relief under Chapter 13 of the United States Bankruptcy Code in Case No. 18-01019 in the United States Bankruptcy Court, District of Hawaii. Respondent's Chapter 13 Plan was filed on September 10, 2018, and the Court entered its Order Confirming Chapter 13 Plan on December 13, 2018.

Respondent is in full compliance with the Chapter 13 Plan, which is scheduled to end in September 2021.

**Violations:**

HRS § 436B-16(a), HRS § 436B-19(17), HRS § 467-14(13) and HRS § 467-20.

**Representations by Respondent:**

Respondent represents that it was his understanding that because his bankruptcy payment plan combined both his Federal and State tax obligations, he had fully and truthfully answered question 3 of the Application by stating that he had entered into a monthly payment plan with the State of Hawaii for outstanding tax obligations. Respondent now understands that he should have separately disclosed the Federal tax lien in response to question 3 of the Application, in addition to the State tax lien.

**Sanctions:**

Fine of \$1,500.00

**LOREN E. CLIVE**  
RB 20884

Case No. REC-2019-200-L

Dated 1/29/21

**RICO Allegations:**

RICO investigated a complaint involving Respondent's conduct in managing a short-term rental property known as Kamaole Sands, Unit 5-401, and located at 2695 S. Kihei Road, Kihei, Hawaii 96753 (the "Property") in or around November 2018.

Respondent failed to inform Ms. Pamela A. De Bruycker (the "Tenant"), the guest who reserved the Property for a ten-day stay in November 2018, of a scheduled painting project at the Property during the Tenant's stay at the Property (the "Project").

The Project constituted a material fact affecting the Property, and caused several significant inconveniences to the Tenant.

Respondent failed to ensure that proper notice of entry by maintenance staff into the Property was provided to the Tenant.

The Tenant contacted Respondent regarding the inconveniences that arose from the Project, and Respondent failed to make a good faith effort to propose a solution to address the Tenant's concerns.

Petitioner asserts that the allegations, if proven at an administrative hearing before the Commission, could constitute violations of at least the following statutes governing the conduct of real estate licensees in Hawaii.

**Violations:**

HRS § 436B-19(7), HRS § 436B-19(8), HRS § 436B-19(9), HRS § 436B-19(17), HRS § 467-14(13), HRS § 467-14(18), HRS § 467-14(20) and HAR § 16-99-3(b).

**Representations by Respondent:**

Respondent represents that the COVID-19 pandemic has negatively impacted her real estate business, and that she would suffer economic harm if a larger administrative fine were imposed. Respondent acknowledges that real estate licensees are held to high standards and Respondent promises to adhere to such standards in all future dealings.

**Sanctions:**

Fine of \$500.00

**CHARLES M. CARR**  
RB 20825

Case No. REC-2014-18-L

Dated 1/29/21

**Uncontested Facts:**

From approximately October 12, 2008, until at least December 29, 2013, Respondent was a manager of Red Rock Cas, LLC ("RRC"), a Hawaii manager-managed limited liability company.

During his involvement with RRC, Respondent acted as RRC's real estate broker.

On or about March 25, 2013, Respondent misrepresented his role and financial compensation incentive when he entered into a "Partnership Agreement" for the purpose of purchasing real estate in the State of Hawaii on behalf of RRC.

During his time as RRC's real estate broker, Respondent failed to document financial obligations regarding a real estate transaction in writing.

**Violations:**

HRS § 436B-19(7), HRS § 436B-19(8), HRS § 467-14(13), HAR § 16-99-3(b) and HAR § 16-99-3(f).

**Sanctions:**

Fine of \$1,500.00

## 6 Administrative Actions (cont. from page 5)

**KA'ILIPELEULI S. HOPKINS**  
RS 76436

Case No. REC-2019-44-L

Dated 1/29/21

**Uncontested Facts:**

RICO alleges that Respondent submitted a Request for Preliminary Decision: Real Estate Salesperson form to the Commission on or about December 27, 2013.

On that form, Respondent disclosed criminal conviction history.

Respondent was issued a conditional license by the Commission.

Subsequently on November 5, 2018, Respondent submitted a letter to the Commission where Respondent acknowledged that he failed to disclose a conviction for the petty misdemeanor offense of Driving Under the Influence of an Intoxicant from April 24, 2002.

**Violations:**

HRS § 436B-19(2) and HRS § 467-20.

**Representations by Respondent:**

Respondent erroneously believed that this conviction had been expunged after ten (10) years and upon recognizing that had not happened reported this information to the Commission.

**Sanctions:**

Fine of \$1,000.00

**KEVIN P. MCCABE**  
RB 14690

Case No. REC-2020-272-L

Dated 1/29/21

**RICO Allegations:**

RICO alleges that on January 22, 2001, Respondent was convicted for Driving under the Influence of Intoxicating Liquor, an offense commonly known as "DUI", in the Kona District Court of the Third Circuit, State of Hawaii.

On February 7, 2008, Respondent was convicted for Driving under the Influence of Intoxicants, an offense commonly known as "DUI", in the Kana District Court of the Third Circuit, State of Hawaii.

On December 2, 2008, Respondent electronically renewed his Hawaii real estate license and answered "No" to the question No. 3 which asks, "In the past 2 years have you been convicted of a crime which has not been annulled or expunged?" Respondent did not report the DUI conviction rendered against him which was effective February 7, 2008.

On June 1, 2010, Respondent was convicted for Driving under the Influence of Intoxicants, in the Kona District Court of the Third Circuit, State of Hawaii.

On December 1, 2010, Respondent electronically renewed his real estate license and answered "No" to question No. 3 which asks, "In the past 2 years have you been convicted of a crime which has not been annulled or expunged?" Respondent did not report the DUI conviction rendered against him which was effective June 1, 2010.

On March 13, 2020, the Commission received Respondent's letter dated March 10, 2020, disclosing his DUI convictions and misrepresentation on previous license renewal applications.

**Violations:**

HRS § 436B-19(12), HRS § 436B-19(14) and HRS § 467-20.

**Representations by Respondent:**

Respondent represents that he erroneously believed his DUI convictions were traffic violations. Respondent represents that he is remorseful of his actions and he complied with the imposed terms of sentence, including counseling.

**Sanctions:**

Fine of \$2,000.00

ROEL E. SALANGA

RS 80298

Case No. REC-2019-321-L

Dated 1/29/21

## Uncontested Facts:

At all relevant times herein, Respondent was licensed by the Real Estate Commission (hereinafter the "Commission") as a real estate salesperson under License Number RS 80298. The license was issued on or about November 21, 2017. The license will expire or forfeit on or about December 31, 2022.

At all relevant times, Respondent was employed by the State of Hawaii, Department of Health ("DOH") as a nurse consultant for the DOH Office of Health Care Assurance ("OHCA").

Respondent was responsible for performing on-site inspections of adult residential care homes to ensure that they complied with state licensing requirements. Adult residential care homes are subject to both annual and unannounced DOH inspections.

In or around September of 2018, Respondent performed an on-site inspection of an adult residential care home ("ARCH"). Respondent learned that the operator of the ARCH (Operator A) was interested in purchasing a property to use as a second care home.

At the conclusion of the inspection, Respondent also reviewed a preliminary report with Operator A of deficiencies in her care home found during the inspection that needed correction.

Respondent subsequently offered and Operator A accepted, Respondent's services as a real estate salesperson to find a property for Operator A.

Respondent provided Operator A with Respondent's private business card, his personal email address and his personal cell phone number.

Between approximately September of 2018 and June of 2019, Respondent, using a non-state email account, sent dozens of emails to Operator A regarding property listings. Many of these emails were sent during state working hours.

In one email communication in October of 2018 sent by Respondent via a non-state email account during state working hours, Respondent instructed Operator A to send her plans of corrections to his state office as soon as possible. In the same communication, Respondent asked Operator A if she had any interest in property listings he had sent her earlier.

At some point thereafter, Operator A informed Respondent that her mother-in-law was interested in purchasing a property to live in along with Operator A and Operator A's husband.

In or around late March 2019, Respondent represented Operator A's mother-in-law in the pur-

chase of a property in which Respondent earned a commission of \$9,947.50.

In or around March 2019, Respondent performed an on-site inspection of another adult residential care home. After the inspection concluded, the care home operator ("Operator B") informed Respondent that she was considering buying a different house to use as a care home.

Respondent informed Operator B that he was also a real estate salesperson that offered his services to find a property for her care home business.

At the conclusion of the inspection, Respondent reviewed with Operator B a preliminary report of the deficiencies in her care home that needed correction.

Beginning in approximately March 2019 and into June 2019, Respondent emailed Operator B several times through a non-state email account during non-state working hours to apprise her of property listings. Eventually, Operator B informed Respondent that she decided against buying a property and instead would renovate a house for use as a care home.

On or about August 28, 2020, the Hawaii State Ethics Commission issued a resolution of investigation of Respondent ("resolution") under which Respondent admitted to violations of several provisions of the State Ethics Code, HRS Chapter 84, and agreed to pay an administrative penalty of \$25,000.00.

The resolution found that Respondent had not previously been the subject of an ethics investigation and had cooperated fully with the Ethics Commission in its investigation.

RICO asserts that as acting as both a real estate salesperson for Operators A and B, while also under a legal obligation as an inspector to inspect and verify their compliance with state law, Respondent was unable to execute his fiduciary obligations of good faith and loyalty to Operators A and possibly Operator B.

## Violations:

HRS § 436B-19(12), HRS § 467-14(13), HAR § 16-99-3(b) and HRS § 467-14(20).

## Representations by Respondent:

Respondent represents that on or about September 5, 2020, he entered into a payment plan with the Hawaii State Ethics Commission to make monthly payments of \$500.00 toward the \$25,000.00 administrative penalty.

## Sanctions:

Fine of \$1,000.00

(cont. page 8)

# 8 Administrative Actions (cont. from page 7)

## February 2021

**MARVIN Q.H. LAM**

RS 80696

Case No. REC-2020-225-L

Dated 2/26/21

**RICO Allegations:**

At all times relevant herein, Respondent was associated with INET Realty, a real state brokerage firm, and was subject to the management and supervision of its principal broker, Carlton D. Choy.

In connection with his association with INET Realty, Respondent was required to maintain an active, current, and valid real estate salesperson's license, in good standing.

Between January 1, 2019, and February 16, 2020, however, Respondent performed and earned commissions and/or other income from real estate transactions and related activities without an active, current, and valid real estate salesperson's license, in good standing.

After becoming aware of his license status, Respondent restored his license status to active, current, valid, and in good standing, on or about February 17, 2020.

Respondent has fully cooperated with RICO's investigation into this matter, apologized for his actions, and stated his intent to comply with his licensing requirements.

Respondent's principal broker will be subject to a separate proceeding or Settlement Agreement, as appropriate, with respect to the foregoing matters.

**Violations:**

HRS § 467-7

**Representations by Respondent:**

Respondent mistakenly thought that all requirements to renew his real estate salesperson's license had already been satisfied prior to its expiration date of December 31, 2018, and promptly undertook to restore his license to good standing after becoming aware of his error.

**Sanctions:**

Fine of \$1,500.00

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**STEPHIE SILL**

RS 73600

Case No. REC-2020-368-L

Dated 2/26/21

**Uncontested Facts:**

On or about July 27, 2015, Respondent was convicted in the State of Hawaii of the crime of Operating a Vehicle Under the Influence of an Intoxicant or what is commonly referred to as "Driving Under the Influence" or "DUI" (the "Conviction"). The Respondent fulfilled all Court-imposed terms and conditions of the Conviction.

On or about November 4, 2016, Respondent submitted a real estate salesperson license renewal application to the Commission. Despite the Conviction, Respondent answered "No" to the question on the 2016 application that 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(17) and HRS § 467-20.

**Sanctions:**

Fine of \$1,000.00



**MAKENZIE P. NITTA**

RS 76723

Case No. REC-2020-335-L

Dated 2/26/21

**RICO Allegations:**

On or about May 14, 2012, in the District Court of the Third Circuit, Kona Division, State of Hawaii, Respondent pleaded guilty to and was convicted of the criminal petty misdemeanor offense of Operating a Vehicle Under the Influence of an Intoxicant, or what is commonly referred to as driving under the influence or "DUI" (the "Conviction").

Respondent fulfilled all court-imposed terms and conditions of her Conviction, but, when applying for her real estate salesperson's license in November 2014, she did not disclose the Conviction on her written application.

Respondent self-reported the Conviction, in writing, in or about June 2020, after realizing her error.

Respondent has fully cooperated with RICO's investigation into this matter, apologized for her error, and expressed her desire to live up to the high standards required and expected from her as a licensed real estate salesperson in the State of Hawaii.

**Violations:**

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

**Representations by Respondent:**

Respondent did not disclose the Conviction on her November 2014 real estate salesperson's license application as she mistakenly thought that the underlying violation was a noncriminal traffic infraction, rather than a criminal offense. Respondent self-reported the Conviction, in writing, after realizing her mistake. Respondent apologizes for her mistake and aspires to live up to the high standards required and expected from her as a licensed real estate salesperson in the State of Hawaii.

**Sanctions:**

Fine of \$1,000.00

**CARLTON D. CHOY**

RB 17560

Case No. REC-2020-229-L

Dated 2/26/21

**RICO Allegations:**

Respondent is, and at all times relevant herein was, the principal broker for INET Realty, a real estate brokerage firm in the City and County of Honolulu, State of Hawaii.

At all times relevant herein, Marvin Q. H. Lam was a real estate salesperson associated with Respondent's real estate brokerage firm, and subject to Respondent's management and supervision.

Between January 1, 2019, and February 16, 2020, Mr. Lam performed and earned commissions and/or other income from real estate transactions and related activities without an active, current, and valid real estate salesperson's license, in good standing.

Respondent's real estate brokerage firm became aware of Mr. Lam's license status and notified Mr. Lam, who restored his license status to active, current, valid, and in good standing, on or about February 17, 2020.

Mr. Lam will be subject to a separate proceeding or Settlement Agreement, as appropriate, with respect to the foregoing matters.

In December 2019, the Internal Revenue Service recorded a Notice Federal Tax Lien against Re-

spondent for assessed and unpaid federal income tax liabilities arising on income that Respondent earned in 2014 and 2015 from real estate related activities and his real estate broker's license.

Respondent has fully cooperated with RICO's investigation, acknowledged his responsibilities as a licensed real estate broker and principal broker, provided RICO with a letter from the Internal Revenue Service confirming Respondent's payment plan to satisfy his outstanding tax liabilities, and made arrangements and taken further actions to address the matters referenced herein.

**Violations:**

HRS §§ 467-1.6(a) and HRS § 467-1.6(b)(7), 467-20.

**Representations by Respondent:**

Respondent has reviewed his real estate brokerage firm's internal controls, implemented new measures to promote compliance with real estate licensing requirements, and entered into a monthly payment plan with the Internal Revenue Service to resolve Respondent's outstanding federal income tax liabilities referenced herein above.

**Sanctions:**

Fine of \$2,500.00

# 10 Administrative Actions (cont. from page 9)

## February 2021

**LAUREN AWANA LEWIS**  
RB 20169

Case No. REC-2020-152-L

Dated 2/26/21

### **RICO Allegations:**

Respondent is the principal broker for Evans & Associates LLC, which does business in the City and County of Honolulu, State of Hawaii, as Century 21 Island Homes.

At all times relevant herein, Diego O. Carrillo, also known as Diego Oscar Carrillo, was a real estate salesperson associated with Evans & Associates LLC.

Mr. Carrillo's real estate salesperson's license was placed on inactive status for more than thirteen months, from January 1, 2019, through February 5, 2020, after Mr. Carrillo inadvertently failed to complete continuing education requirements in a timely manner. During that time, Mr. Carrillo engaged in and earned commissions from multiple real estate transactions.

Respondent and Mr. Carrillo eventually became aware of the issue regarding the status of Mr. Carrillo's license status on or about January 24, 2020, at which point they halted Mr. Carrillo's real estate activities, and reassigned his listings to an actively-licensed agent to manage in his stead. Mr. Carrillo was then able to address and complete his outstanding continuing education requirements, and restore his real estate salesperson's license to active status effective February 6, 2020.

Mr. Carrillo will be the subject of a separate proceeding or Settlement Agreement.

Respondent promptly answered RICO's inquiries, and fully cooperated with RICO's investigation into these matters.

### **Violations:**

HRS §§ 467-1.6(a) and HRS § 467-1.6(b)(7).

### **Sanctions:**

Fine of \$1,500.00

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**JOHN C. PINCHIAROLI**  
RB 21759

Case No. REC-2020-330-L

Dated 2/26/21

### **RICO Allegations:**

On or about June 5, 2020, Respondent copied the signature of an out-of-state licensing agency official with the State of Missouri onto Respondent's Verification of License for Continuing Education Equivalency ("VOLCEE") form dated "6/5/20" without first obtaining permission from the out-of-state licensing agency official to do so.

On or about the following day, June 6, 2020, Respondent submitted the VOLCEE form dated "6/5/20" to the Professional and Vocational Licensing Division, Real Estate Branch, with the intent that the copied signature be taken as genuine, even though Respondent knew that the out-of-state licensing agency official had neither personally signed the VOLCEE, nor authorized Respondent to copy her signature onto the VOLCEE on her behalf.

### **Violations:**

HRS § 436B-19(2), HRS § 436B-19(5), HRS § 467-14(8), HRS § 467-14(20) and HRS § 467-20.

### **Representations by Respondent:**

Respondent represents that his intent in copying the licensing agency official's signature onto his VOLCEE and submitting it to the Professional and Vocational Licensing Division, Real Estate Branch, was not nefarious, because he had previously obtained a genuinely signed licensing certification from the same out-of-state licensing agency official, and submitted that certification to the Professional and Vocational Licensing Division, Real Estate Branch, just days before, in prior correspondence.

### **Sanctions:**

Fine of \$1,500.00

**RAYMOND N. OISHI**  
RB 15841

Case No. REC-2020-319-L

Dated 2/26/21

**RICO Allegations:**

Respondent is and, at all times relevant herein, was the principal broker for Oishi's Property Management Corporation, a licensed real estate broker in the State of Hawaii.

On December 23, 2015, Respondent entered a Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order in RICO case number REC 2015-276-L, resolving allegations that Oishi's Property Management Corporation "failed to timely report approximately nineteen small claims court judgments related to security deposits." The Commission approved that Settlement Agreement by Final Order dated January 29, 2016.

On December 4, 2019, the Small Claims Division of the District Court of the First Circuit, State of Hawaii, entered a civil judgment against Oishi's Property Management Corporation, regarding a tenant's security deposit. Oishi's Property Management Corporation did not, however, provide the Commission with written notice of that judgment until more than 70 days later, by letter dated February 18, 2020.

Oishi's Property Management Corporation will be the subject of a separate proceeding or Settlement Agreement, as appropriate.

**Violations:**

HRS § 436B-16

**Sanctions:**

Fine of \$250.00

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**OISHI'S PROPERTY  
MANAGEMENT  
CORPORATION**  
RB 9350

Case No. REC-2020-319-L

Dated 2/26/21

**RICO Allegations:**

On December 23, 2015, Respondent entered a Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order in RICO case number REC 2015-276-L, resolving allegations that "Respondent failed to timely report approximately nineteen small claims court judgments related to security deposits." The Commission approved that Settlement Agreement by Final Order dated January 29, 2016.

On December 4, 2019, the Small Claims Division of the District Court of the First Circuit, State of Hawaii, entered a civil judgment against, regarding a tenant's security deposit. Respondent did not, however, provide the Commission with written notice of that judgment until more than 70 days later, by letter dated February 18, 2020.

Respondent's principal broker will be the subject of a separate proceeding or Settlement Agreement, as appropriate.

**Violations:**

HRS § 436B-16

**Sanctions:**

Fine of \$375.00

# Administrative Actions (cont. from page 11)

## March 2021

**GAVIN P.S. SHIMIZU**

RS 81489

Case No. REC-2020-397-L

Dated 3/25/21

### **RICO Allegations:**

On January 10, 2020, in a complaint filed with the District Court of the Second Circuit, the State of Hawaii charged Respondent with the criminal petty misdemeanor offense of Operating a Vehicle under the Influence of an Intoxicant.

At his arraignment on February 11, 2020, Respondent received a copy of the criminal complaint, waived reading of the charge, entered a plea of no contest, and was judged guilty; convicted, and sentenced to pay fines, undergo substance abuse assessment, and complete a fourteen-hour substance abuse rehabilitation program.

Respondent satisfied and complied with all court-imposed terms of the judgment of conviction in his criminal case. Respondent was unaware, however, that he was required to report the judgment to the Commission within thirty days, and consequently failed to do so.

Respondent self-reported the judgment of conviction in his criminal case to the Commission roughly eight months later, by letter dated October 22, 2020.

Respondent has fully cooperated with RICO's investigation into these matters, and is sorry for his conduct and lapse of judgment that led to the events in this case.

### **Violations:**

HRS § 436B-16(a), HRS § 436B-19(12), HRS § 436B-19(14) and HRS § 436B-19(17).

### **Sanctions:**

Fine of \$750.00

## Statutory/Rule Violations

**Settlement Agreement (Allegations/Sanction):** A Settlement Agreement may or may not include an admission that the Respondent violated licensing laws and/or rules on a case-by-case basis.

**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	Notice of judgments, penalties
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 mani-fest incapacity in the practice of the licensed profession or vocation.

## Statutory/Rule Violations (cont. from page 12)

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(b)(7)	For ensuring that the licenses of all associated real estate licensees are current and active.
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)(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(8)	Conduct constituting fraudulent or dishonest dealings.
HRS §467-14(13)	Violating this chapter, chapters 484, 514A, 514B, 514E, or 515, or section 5§16-71, or the rules adopted pursuant 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(f)	The licensee, for the protection of all parties with whom the licensee deals, shall see that financial obligations and commitments regarding real estate transactions, including real property rental management agreements, are in writing, express the exact agreements of the parties, and set forth essential terms and conditions, and that copies of those agreements, at the time they are executed, are placed in the hands of all parties involved. When working with a seller in a "For Sale By Owner" or a "Courtesy to Broker" situation, the licensee shall disclose who, if anyone, the licensee represents and who will pay a commission, if any.

## New Commissioner



P. Denise La Costa was appointed as an interim commissioner for the Hawaii Real Estate Commission on January 11, 2021 by Governor Ige.

La Costa, originally from Washington, resides on Maui, and is a real estate broker since 2001. She is the Principal Broker of La Costa Realty Hawaii, LLC, since 2014.

## Remote Proctoring Statistics

	<b>Remote</b>	<b>% Pass</b>	<b>Test Site</b>	<b>% Pass</b>
<b>Broker National</b>	<b>6</b>	<b>50%</b>	<b>18</b>	<b>44%</b>
<b>Broker State</b>	<b>24</b>	<b>38%</b>	<b>30</b>	<b>43%</b>
<b>Salesperson National</b>	<b>157</b>	<b>42%</b>	<b>290</b>	<b>33%</b>
<b>Salesperson State</b>	<b>164</b>	<b>31%</b>	<b>312</b>	<b>35%</b>

Remote proctoring by PSI, the test vendor for the Hawaii Real Estate Commission was approved and implemented in March 2021. It was initially viewed as a positive step forward to accommodate PSI testing especially if the Neighbor Island test sites were unable to open and operate on their pre-Covid-19 schedules.

As with anything new, there were numerous hiccups once the remote proctoring commenced. Technology issues, whether attributed to the tester's available technology, or "acts of god", or PSI-related-issues did occur. Some candidates experienced frustrating halts in the testing, re-tests, and rescheduling of tests.

The Commission will receive monthly reports from PSI regarding the remote testing. Based on the first report received, it appears that the remote proctoring process does not afford undue advantages to testers.

Preliminary Schools should report complaints from their students regarding the remote proctoring to the Real Estate Branch.

# Prelicensure Schools

Abe Lee Seminars	808-942-4472
American Dream Real Estate School, LLC	844-223-7326
American School of Real Estate Express LLC	866-739-7277
Carol Ball School of Real Estate	808-280-0470
The CE Shop, LLC	888-827-0777
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
Mayfield Real Estate, Inc., dba Global Real Estate School	573-756-0077
Mbition Learn 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	International Association of Certified Home Inspectors (InterNACHI)	720-735-7125
At Your Pace Online, LLC	877-724-6150	Kauai Board of Realtors	808-245-4049
The Berman Education Company, LLC	808-572-0853	Mbition Learn Real Estate	800-532-7649
Building Industry Association of Hawaii	808-629-7505	McKissock, LLC	800-328-2008
Carol Ball School of Real Estate	808-280-0470	Preferred Systems, Inc.	888-455-7437
The CE Shop, LLC.	888-827-0777	Ralph Foulger’s School of Real Estate	808-239-8881
CMPS Institute, LLC	888-608-9800	Real Estate School Hawaii	808-551-6961
Continuing Ed Express, LLC	866-415-8521	Realtors’ Association of Maui, Inc.	808-873-8585
Dexterity CE, LLC	512-893-6679	REMI School of Real Estate	808-230-8200
Eddie Flores Real Estate Continuing Education	808-223-6301	Residential Real Estate Council	800-462-8841, ext. 4440
ExceedCE	415-885-0307	Scott Alan Bly School of Real Estate, LLC dba Bly School of Real Estate	808-738-8818
Finance of America Reverse	330-807-8948	Servpro Industries, LLC	615-451-0200
Hawaii Association of Realtors	808-733-7060	Shari Motooka-Higa	808-492-7820
Hawaii Business Training	808-250-2384	Systems Effect LLC, dba Training Cove	480-517-1000
Hawaii CCIM Chapter	808-528-2246	WebCE Inc.	877-488-9308
Hawaii First Realty, LLC	808-282-8051	West Hawaii Association of Realtors	808-329-4874
Hawaii Island Realtors	808-935-0827		
Honolulu Board of Realtors	808-732-3000		

State of Hawaii  
Real Estate Commission  
King Kalakaua Building  
335 Merchant Street, Room 333  
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## 2021 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**

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

**Friday, May 28, 2021**

**Friday, June 25, 2021**

**Friday, July 23, 2021**

**Friday, August 27, 2021**

**Friday, September 24, 2021**

**Friday, October 22, 2021**

**Friday, November 19, 2021**

**Friday, December 17, 2021**

\* Pursuant to ongoing COVID-19 complications, committee meetings for the foreseeable future are canceled. Any issues needing Commission approval will be reviewed at the regularly scheduled Commission meeting. Thank you for your understanding.

Meeting dates and times are subject to change without notice. Please visit the Commission's website at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) or call the Real Estate Commission Office at (808) 586-2643 to confirm the dates and times 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.