

Real Estate Commission Bulletin



COVID-19 and The Real Estate Branch

As of this publication, the COVID-19 pandemic continues its hold on life as we once knew it and is creating a myriad of responses and opportunities for those willing to face a new world. Life at the Real Estate Branch, DCCA, continues on its Covid-19 path: employees teleworking from home, rotating into and out of the office, vaccination verifications required for all who enter the building, social distancing, and mask-wearing. Meetings and hearings are continuing virtually via Zoom and/or Microsoft Teams. Paperwork is being processed, in some instances, on a delayed basis, but for the most part, in a timely manner.

The Real Estate Commission continues to meet once a month, usually on the last Friday of the month, but virtually via Zoom. The Commission's three standing committees are not meeting separately at this time, but their agenda items are integrated into the Commission meeting agenda.

Be advised: All visitors seeking to enter state facilities must show identification and proof of full vaccination against COVID-19, or for those who are partially vaccinated or unvaccinated, must show proof of a negative test result taken within the last 72 hours. If visitors cannot show proof of either, they may not enter the premises.

Due to COVID-19 and for the health and safety of both consumers and staff, limited staff will be available for walk-in services at the Department of Commerce and Consumer Affairs offices during the hours between 7:45 a.m. to 4:30 p.m., Monday through Friday. Please observe proper safety protocols (e.g., face covering and social distancing) when visiting.

The new Ho'ala licensing and education systems continue to be tweaked on their slow journey to providing the necessary information and services for licensees, staff, prelicense schools, continuing education providers, etc. Mahalo for your continued patience while these bugs are addressed.

A Note from RICO On Trust Account Compliance

Aloha real estate licensees! My name is Esther Brown and I am RICO's Complaints and Enforcement Officer. RICO is the agency within the DCCA that can investigate complaints and pursue formal discipline against licensees for unprofessionalism and misconduct. Each year RICO receives complaints from owners whose properties are managed by a real estate licensee. Some owners come to RICO after having lost substantial dollars due to the licensee's neglected property management practice. Most of the complaints could have been avoided if trust funds, such as rents and security deposits, had been safeguarded properly to begin with.

To assist real estate licensees with trust account compliance, which better serves the clients and customers, RICO will be sending educational letters about this subject to random sets of brokers in the State. Most licensees know about and take care to follow the standards, but it can't hurt to be reminded too. In addition, through compliance checks RICO will be periodically reviewing whether handfuls of randomly-selected brokers are indeed complying with the trust account standards. It is hoped that in educating and monitoring random licensees, the industry will experience a decline in these complaints in the years to come.

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TEAMS - WASSUP?!

Does your brokerage permit the use of “teams”? Are you a “team” member? What’s your “team” name? Where’s the “team” office space?

Teams continue to proliferate in the real estate industry. They must abide by all CURRENT laws and rules but there are no specific laws and rules that oversee “teams” and what they can and cannot do. Thus far, the Hawaii Real Estate Commission has issued just one bit of guidance. At its February 27, 2015 meeting, the Commission approved a non-binding interpretation request that “. . . as long as the ‘team name’ is advertised in addition to and not as a replacement of the brokerage firm’s name, the requirements of HAR §16-99-11(a) will be met. (see §16-99-11(a)).

HAR S 16-99-11(a): All advertising and promotional materials that refer to the individual licensee’s name, including but not limited to business cards, shall:

- (1) Include the licensee’s legal name, name as licensed by the commission, or sole proprietor’s trade name as licensed by the commission;
- (2) Identify the licensee with the licensee’s associating or employing brokerage firm; and
- (3) Specify that the licensee is a broker (B), or salesperson (S) or if a current member of the Hawaii Association of Realtors, Realtor (R) or Realtor-Associate (RA)."

COMMENT: An advertisement that includes a team name, “Team Aloha”, as an example, must, at a minimum, include the name of the brokerage in the same advertisement. Names of real estate licensee team members must be the names of these individuals as registered with the Commission. Each individual licensee must specify if they are a broker or salesperson.

“Team” names are NOT real estate entities. They may not be a real estate corporation, partnership, LLC, or LLP. A “Team” name may not be a trade name of a licensee associated with a brokerage. If you’re an individual real estate licensee and have registered with the DCCA’s Business Registration Division (“BREG”) a trade name, or entity name, and you use this registered name in real estate advertising of any kind, you will gain the attention of the Regulated Industries Complaints Office (“RICO”). There are individual real estate licensees, associated with a brokerage, that have registered, for example, an LLC with BREG. And, these licensees have illegally used this LLC in real estate advertising. This is a huge NO-NO. This licensee may face allegations of misrepresentation, misleading advertising, acting as a broker.

“Teams” must conduct business according to the current real estate licensing laws and rules. So in the matter of place of business, the teams list their place of business as their associated brokerage or branch office, as the case may be. A “team” may NOT operate out of a licensee’s home-occupation office. Why? An associated licensee is tied to the brokerage’s place of business. An associated licensee may not establish a “home occupation” office. Only a real estate broker as either a sole proprietor, or the principal broker of a brokerage may designate a home occupation office. County to county, the home occupation requirements vary. Most counties do NOT permit UNRELATED individuals to operate out of a home occupation office. The home occupation office must be registered with the Commission. Branch office as a home occupation office? NO. Why? A PB may register a branch office for the brokerage. A PB of a brokerage may opt for a home occupation office, but the home occupation office will be the principal place of business. It’s highly unlikely that the PB will open a branch office in his/her second home. Again, a home occupation office may not have unrelated individuals operating out of the home occupation office.

NOTE: See the article on home occupation offices in the August 2020 Real Estate Commission Bulletin.

Did You Know?

If you are a real estate salesperson who would like to be a real estate broker, you may request your principal broker or broker-in-charge to complete the Experience Certification Statement (“ECS”) and you may hold the ECS until such time you submit the Broker Experience Certificate application. This may protect the salesperson from a situation where the principal broker is unable to complete an ECS due to unexpected circumstances. There is no specified time stated in the real estate licensing laws and rules as to the age of the ECS upon submission.

The Chair's Message

Aloha Real Estate Licensees:

As I am writing this, there are hundreds of new daily COVID infections and intensive care beds are full of COVID patients, 90%+ from unmasked, unvaccinated people! The reasons I hear for not being vaccinated are usually personal/individualistic in nature. However, the Governor and Mayor hit the nail on the head when they said this is a community issue. From all the medical information I've seen or heard, COVID vaccinations are safe, prevent infections and saves lives. It has become apparent that COVID and its evolving variants will be with us for a long time and, according to medical advice, the best weapons in the battle against it are vaccinations and masks. Please get vaccinated and wear masks; do it for those around you, your clients and our community.

REGULATED INDUSTRIES COMPLAINTS OFFICE ("RICO")

Although the Hawaii Real Estate Commission ("HIREC") has statutory authority to sanction licensee misconduct, it does not administer complaints, prosecute them or proactively police the industry. These roles are capably handled by RICO, which investigates complaints and pursues discipline against licensees for misconduct and unprofessionalism.

PROPERTY MANAGEMENT AND TRUST ACCOUNT COMPLIANCE

Every year, a large number of complaints received by RICO are from owners whose properties have been mis-managed by real estate licensees. Often money is lost due to licensee neglect, poor property management practice or purposeful misconduct. It is likely that most of these complaints would be avoided if the brokerage's property management practices were compliant, including the handling of its trust funds and accounts, for rents and security deposits.

To facilitate better practice and compliance in this area, RICO has formulated a program to protect the interests of the public. On a regular basis, RICO will:

1. Sending educational letters to randomly-selected principal brokers throughout Hawaii reminding them about compliant property management and trust account handling.
2. Proactively engage brokers through survey audits and physical inspections if needed to ensure their property management and trust account practices are in compliance with the law and proper standards.

RICO started this program in August when it sent out the first round of educational letters. If your property management and trust account administration is in compliance, you have nothing to worry about. If you aren't sure, please make the effort to check and comply. If you are not in compliance and get selected by RICO for an audit, the chances are that RICO will discover it and institute disciplinary action(s) against at least the principal broker.

NATIONAL AWARD FROM ARELLO

On August 26, 2021, the Education Certification Committee of ARELLO (Association of Real Estate License Law Officials) selected the HIREC as recipient of its Education Award (Consumer Program / Course) for its "Hawaii Condo Living Guide" video series (announced in the May 2021 Bulletin). This is the second year in a row HIREC has won this national award (2020 was for its Condorama outreach events).

As mentioned in May, these videos were created by the HIREC to provide another form of outreach of basic information to the public on nuances of condo living. The short-segment videos are available at <https://cca.hawaii.gov/reb/hawaii-condo-living-guide/> and on YouTube. A big Mahalo goes to Lorie Sides, HIREC Condo Specialist, and Carole Richelieu, HIREC Senior Condo Specialist, who organized and coordinated this award-winning project.

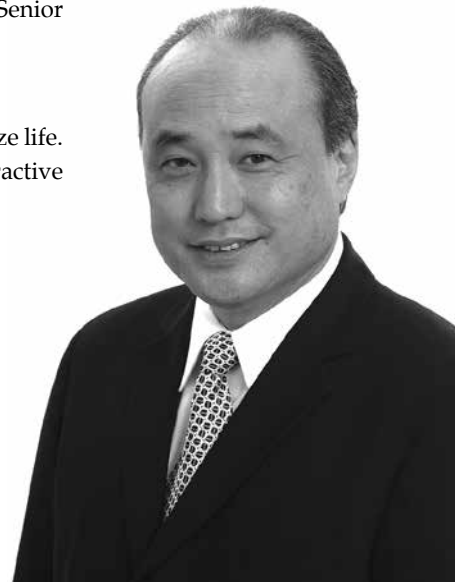
HAPPY HOLIDAYS!

Like 2020, 2021 has been another challenging year due to COVID, its effects and the struggle to normalize life. In my observation, the real estate industry has risen to the challenge and admirably handled a hyperactive market in spite of all the COVID difficulties. *My best wishes for a Happy and Safe Holiday Season!*

Mahalo,



Michael Pang, Chair
Hawaii Real Estate Commission



Broker Experience Certificate

FILLING OUT THE EXPERIENCE CERTIFICATION STATEMENT

If you are a real estate salesperson and are aspiring to become a real estate broker, one of the requirements to sit for the broker's license exam is to qualify for and complete the Broker Experience Certificate ("BE"). To qualify for the BE, a salesperson licensee must "... have experience in this State as a full-time Hawaii-licensed real estate salesperson, associated as an employee or independent contractor with an active Hawaii-licensed brokerage firm, for **at least three years within the five-year period immediately prior to the application** for experience certificate." (emphasis added)

"Full-time" means averaging at least forty hours a week devoted to real estate salesperson activity. No pro rata credit shall be given to part-time real estate salesperson activity."

Out-of-state applicants shall also have experience as a full-time licensed real estate salesperson for at least three years within the five-year period immediately prior to the application for experience certificate, or possess a current, unencumbered out-of-state real estate broker's license.

The BE application includes a certification statement regarding the NUMBER OF WEEKS the applicant has accumulated within the stated time period. You will be amazed, amused, and maybe, appalled, at the information used to fill in this blank.

Here is the section of the Experience Certification Statement ("ECS") required to be completed by the Principal Broker or Broker-in-Charge:

PART I. PRINCIPAL BROKER OR BROKER IN CHARGE COMPLETING THIS STATEMENT:

Name: _____ License No.: RB - _____
 Current Brokerage Firm: _____ License No.: RB- _____
 Address of Brokerage Firm: _____ Telephone No.: _____

PART II. PERIOD COVERED BY THIS STATEMENT. The applicant was associated with the brokerage firm indicated below for the stated period. I was the principal broker or broker in charge of the brokerage firm during the period, or I am the current principal broker or broker in charge of the brokerage firm and have records to verify the information provided below.

Period Covered: From* (month/day/year): _____ To (month/day/year): _____
 **From" date must be within the last 5 years

Name of Brokerage Firm: _____ License No.: RB- _____

NUMBER OF WEEKS the applicant devoted **40 hours per week** to real estate salesperson license activity, whether in or out of the office (do not count time spent on clerical or other non-real estate duties.)

**TOTAL NUMBER OF WEEKS WITHIN
 THE LAST 5 YEARS ONLY**

Certification: I certify that the information provided in this Experience Certification Statement is true and correct. I understand that falsification of information, any material misstatement of fact, or forgery is grounds for disciplinary action against me.

 Signature of Principal Broker or Broker in Charge Date

 Signature of Applicant Date

NOTE: BOTH the PB or BIC and the applicant sign the Experience Certification Statement and are certifying that the information is TRUE and CORRECT.

From time to time, the Real Estate Branch will receive inquiries from a licensee whose principal broker has suddenly become incapacitated, or has passed away. If there is a BIC in the brokerage, the BIC may complete the ECS. HOWEVER, if there is no BIC, the licensee may be in a very tough spot, as they will not be able to obtain the ECS to complete the BE. A licensee may obtain a completed ECS from his/her PB or BIC and hold on to the completed ECS until such time he/she is ready to submit the BE application.

Broker Experience Certificate (cont. from page 4)

The BE application includes a certification statement regarding the NUMBER OF WEEKS the applicant has accumulated within the stated time period. You will be amazed, amused, and maybe, appalled, at the information used to fill in this blank.

Take a look at actual responses received by the Commission.

NUMBER OF WEEKS 40 the applicant devoted 40 hours per week to real estate salesperson license activity

NUMBER OF WEEKS full time the applicant devoted 40 hours per week to real estate salesperson license activity

NUMBER OF WEEKS many the applicant devoted 40 hours per week to real estate salesperson license activity

NUMBER OF WEEKS all the applicant devoted 40 hours per week to real estate salesperson license activity

NUMBER OF WEEKS the applicant devoted 40 hours per week to real estate salesperson license activity (Left BLANK!)

NUMBER OF WEEKS 520 the applicant devoted 40 hours per week to real estate salesperson license activity

(Note: There are 52 weeks in a year. Only the previous FIVE (5) years are considered when applying for the Broker Experience Certificate. What is 52×5 ? It equals a total of 260 weeks. Has the applicant worked a solid five years with NO TIME OFF? No vacation? Hmmmmm. The total of 520 weeks equals 10 years! Come on!)

If incorrect answers are found, this will delay the processing of the application. This is a certification statement signed by the applicant and the PB or BIC. The signatures attest to the accuracy of the information provided. Read carefully and answer correctly.

BE CERTIFICATE MUST BE PRESENTED AT THE PSI TEST SITE

There have been numerous instances where a real estate broker candidate FAILS to timely file for and receive the Broker Experience Certificate ("BE") prior to sitting for the Hawaii broker licensing exam. Sometimes they take the entire Hawaii real estate broker licensing exam WITHOUT the BE, or they may sit for the National portion of the exam without the BE, but apply for and receive the BE prior to sitting for the Hawaii State portion of the broker licensing exam.

There are several Hawaii Administrative Rules ("HAR") that directly impact these instances, with the resulting voiding of the applicant's test score(s) and rejection of the license application.

HAR §16-99-19 states, "License applications. (a) All applications for a real estate salesperson or broker license shall be accompanied by: . . . (2) Supporting documents to satisfy the applicable education and experience requirements: Applications not accompanied by supporting documents shall be rejected. In the event an applicant has not satisfied the applicable education and experience requirements, the applicant's examination score shall be declared void and the license application rejected."

HAR §16-99-19.2(f), states, "If the applicant has satisfied the three-year full-time experience requirement, the commission shall issue to the applicant an experience certificate that shall be valid for two years from the date of issuance. The experience certificate shall be produced at the applicant's examination appointment and submitted with the applicant's application for individual broker license."

HAR §16-99-29(g) states, "At the location for examination, all candidates for salesperson or broker examination shall present a current real estate school completion certificate or current education equivalency certificate. Candidates for broker examination also shall present a current experience certificate at the examination location."

Prelicense instructors should clearly emphasize that broker candidates apply for and receive the BE **prior to sitting for the broker licensing exam**. This will save time, money, and frustration on the candidates' side, and will diminish the emotional responses by candidates when dealing with the REB staff who is the bearer of bad news.

Hawaii Condo Living Guide

The Hawaii Real Estate Commission is excited to announce its new video series, “Hawaii Condo Living Guide”, which delivers valuable information to current and prospective condominium owners and boards in an easy to digest format.

The video series recently won the 2021 ARELLO (Association of Real Estate License Law Officials) award in the category Consumer Education Program/Course.

These short, engaging, professionally produced educational videos cover the following condo-related topics:

- | | |
|-----------------------------------------------------|----------------------------------------------|
| #1 Important Things to Know When Purchasing a Condo | #9 Association Records |
| #2 New Condominium Owner | #10 Budgeting and Reserve Funding |
| #3 Owner’s Rights and Responsibilities | #11 Maintenance Fees and Special Assessments |
| #4 Board of Directors | #12 Insurance |
| #5 Common Governance Issues | #13 Leaks and Water Damage |
| #6 Dispute Resolution | #14 Agents of the Association |
| #7 Governing Documents | #15 Condominium Resources |
| #8 Meetings | |

The videos can be viewed online at the Real Estate Branch’s website <https://cca.hawaii.gov/reb/hawaii-condo-living-guide/> or on the Branch’s YouTube channel https://www.youtube.com/playlist?list=PLpZqXX1YgrzA0CE0nzqF_ndjH5-8HGkjE

Administrative Actions

July 2021

**MELISSA N. KALAULI
and MELISSA KALAULI
REALTY, LLC**
RB 18236

Case No. REC 2019-683-L

Dated 7/23/21

Uncontested Facts:

At all relevant times, Respondent MELISSA N. KALAULI served as the principal broker of Respondent MELISSA KALAULI REALTY, LLC.

Respondent MELISSA KALAULI REALTY, LLC, is a domestic limited liability company, registered in the State of Hawaii.

RICO Allegations:

RICO alleges that Respondents aided and abetted an unlicensed contractor to perform activities requiring a license. In 2019, Respondents contracted with an unlicensed contractor to perform various home repairs and improvement for the rental

properties which Respondents were managing as the property managers. Multiple projects performed by the unlicensed contractor did not qualify for an exemption to the contractor’s license requirement as provided under the HRS §444-2.

Violations:

HRS § 436B-19(6)

Sanctions:

Fine of \$1,500.00

JENNIFER A. DAVIS
RS 75340

Case No. REC 2021-59-L

Dated 7/23/21

RICO Allegations:

By Judgment and Notice of Entry of Judgment filed in the District Court of the Third Circuit, State of Hawaii, dated December 3, 2019, Respondent accepted a “No Contest” plea for Driving Under the Influence in Case No. 3DTA-19-01714.

Respondent did not provide written notice to the Commission within thirty days of the December 3, 2019 conviction. Respondent, however, reported the conviction in her renewal application for her real estate salesperson’s license dated December 14, 2020.

Violations:

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

Respondent Representations:

Respondent represents that she has complied with and completed the terms set forth in the Judgment and Notice of Entry of Judgment dated December 3, 2019.

Sanctions:

Fine of \$750.00

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Administrative Actions (cont. from page 6)

July 2021

HAWAIIANA MANAGEMENT CO., LTD.
RB 13476

Case No. REC 2020-121-L

Dated 7/23/21

Uncontested Facts:

On January 27, 2020, RICO received a complaint alleging that Respondent failed to comply with the laws governing professional conduct of real estate brokers in the management of a property.

RICO alleges that, at all times relevant, Respondent was the property manager of the Town House, 1415 Victoria Street, Honolulu, Hawaii 96822.

RICO alleges that a resident of the Town House, Matthew Jepsen ("Complainant"), made a records request for eight categories of documents on November 29, 2019 in accordance with HRS Chapter 514B. This request is the subject of the above-referenced RICO case.

RICO alleges that the Respondent failed to deliver documents that Respondent is required to provide under the applicable statutes within thirty days of Complainant's November 29, 2019 request.

RICO alleges that Respondent failed to provide written authorization or written refusal with an explanation for other documents not required under applicable statutes within thirty days of Complainant's November 29, 2019 request.

RICO alleges that Respondent failed to disclose the ongoing RICO investigation on its renewal applications for the licensing periods covering January 2019 to December 2020 and January 2021 to December 2022.

Violations:

HRS § 467-14(13), HRS §§ 514B-154.5 (a)(10); (12); and (14), and HRS § 514B-154.5 (c).

Representations by Respondent and RICO:

Respondent is represented by an attorney in this matter.

Respondent shall undertake to review, update, and implement current procedures, protocols, and training to address the allegations.

Sanctions:

Fine of \$500.00

HAWAIIANA MANAGEMENT CO., LTD.
RB 13476

Case No. REC 2020-298-L

Dated 7/23/21

Uncontested Facts:

On January 27, 2020, RICO received a complaint, REC 2020-121-L, alleging that Respondent failed to comply with the laws governing professional conduct of real estate brokers in the management of a property regarding a failure to provide documents in accordance with HRS Chapter 514 B.

On August 11, 2020, RICO received a second complaint in the above-captioned case alleging that Respondent failed to comply with the laws governing professional conduct of real estate brokers in the management of a property.

RICO alleges that, at all times relevant in the above-captioned case, Respondent was the property manager of the Hawaii Kai Peninsula ("Peninsula"), 520 Lunalilo Home Road, Honolulu, Hawaii 96825.

RICO alleges that a resident of the Peninsula, Denise M. Santilena ("Complainant"), made a records request for thirteen categories of documents on June 16, 2020 in accordance with HRS Chapter 514B. This request is the subject of the above-referenced RICO case.

RICO alleges that the Respondent failed to deliver documents that Respondent is required to provide under the applicable statutes within thirty days of Complainant's June 16, 2020 request.

RICO alleges that Respondent failed to provide written authorization or written refusal with an explanation for other documents not required under applicable statutes within thirty days of Complainant's June 16, 2020 request.

RICO alleges that Respondent failed to disclose the ongoing RICO investigation on its renewal applications for the licensing periods covering January 2019 to December 2020 and January 2021 to December 2022.

Violations:

HRS § 467-14(13) and specifically, Respondent failed to adhere to HRS §§ 514B-154.5 (a)(10); (12); and (14), and HRS § 514B-154.5 (c).

Representations by Respondent and RICO:

Respondent is represented by an attorney in this matter.

Respondent shall undertake to review, update, and implement current procedures, protocols, and training to address the allegations.

Sanctions:

Fine of \$2,000.00

(cont. page 8)

Administrative Actions (cont. from page 7)

July 2021

**HAWAIIANA MANAGEMENT
CO., LTD.**

RB 13476

Case No. REC 2020-359-L

Dated 7/23/21

Uncontested Facts:

On January 27, 2020, RICO received a complaint, REC 2020-121-L, alleging that Respondent failed to comply with the laws governing professional conduct of real estate brokers in the management of a property regarding a failure to provide documents in accordance with HRS Chapter 514B.

On August 11, 2020, RICO received a second complaint, REC 2020-298-L, alleging that Respondent failed to comply with the laws governing professional conduct of real estate brokers in the management of a property regarding a failure to provide documents in accordance with HRS Chapter 514B.

On September 30, 2020, RICO received a third complaint in the above-captioned case alleging that Respondent failed to comply with the laws governing professional conduct of real estate brokers in the management of a property.

RICO alleges that, at all times relevant in the above-captioned case, Respondent was the property manager of the Maalaea Banyans (“Banyans”), 190 Hauoli Street, Wailuku, Hawaii 96793.

RICO alleges that a resident of the Banyans, Francis Michael Lydon (“Complainant”), made a records request for five categories of documents on September 24, 2020 in accordance with HRS Chapter 514B. This request is the subject of the above-referenced RICO case.

RICO alleges that the Respondent failed to deliver documents that Respondent is required to provide under the applicable statutes within thirty days of Complainant’s September 24, 2020 request.

RICO alleges that Respondent failed to provide written authorization or written refusal with an explanation for other documents not required under applicable statutes within thirty days of Complainant’s September 24, 2020 request.

RICO alleges that Respondent required Complainant to pay for association meeting minutes

for months January 1, 2020 to June 30, 2020 as a prerequisite to in-person examination of the requested documents in violation of the applicable statutes.

RICO alleges that Respondent required Complainant to pay for administrative costs related to providing the requested documents as a prerequisite to receiving the requested documents after failing to notify Complainant at least ten days prior to incurring the costs in violation of the applicable statutes.

RICO alleges that Respondent failed to disclose the ongoing RICO investigation on its renewal applications for the licensing periods covering January 2019 to December 2020 and January 2021 to December 2022.

Violations:

HRS § 467-14(13) and specifically, Respondent failed to adhere to HRS §§ 514B-154.5 (a)(9), (10), (12); and (14), and HRS § 514B-154.5 (b) and (c).

Representations by Respondent and RICO:

Respondent is represented by an attorney in this matter.

Respondent shall undertake to review, update, and implement current procedures, protocols, and training to address the allegations.

Sanctions:

Fine of \$3,000.00

Administrative Actions (cont. from page 8)

July 2021

**HAWAIIANA MANAGEMENT
CO., LTD.**
RB 13476

Case No. REC 2020-384-L

Dated 7/23/21

Uncontested Facts:

On January 27, 2020, RICO received a complaint, REC 2020-121-L, alleging that Respondent failed to comply with the laws governing professional conduct of real estate brokers in the management of a property regarding a failure to provide documents in accordance with HRS Chapter 514B.

On August 11, 2020, RICO received a second complaint, REC 2020-298-L, alleging that Respondent failed to comply with the laws governing professional conduct of real estate brokers in the management of a property regarding a failure to provide documents in accordance with HRS Chapter 514B.

On September 30, 2020, RICO received a third complaint, REC 2020-359-L, alleging that Respondent failed to comply with the laws governing professional conduct of real estate brokers in the management of a property.

RICO received a complaint in the above-captioned case alleging that Respondent failed to comply with the laws governing professional conduct of real estate brokers in the management of a property.

RICO alleges that, at all times relevant in the above-captioned case, Respondent was the property manager of the Palehua Hale ("Palehua"), 92-1002 Makakilo Drive, Kapolei, Hawaii 96707.

RICO alleges that a resident of the Palehua, Fiona M. Beckley ("Complainant"), made a records request for thirteen categories of documents on September 15, 2020 in accordance with HRS Chapter 514B. This request is the subject of the above-referenced RICO case.

RICO alleges that the Respondent failed to deliver documents that Respondent is required to provide under the applicable statutes within thirty days of Complainant's September 15, 2020 request.

RICO alleges that Respondent failed to provide written authorization or written refusal with an explanation for other documents not required under applicable statutes within thirty days of Complainant's September 15, 2020 request.

RICO alleges that Respondent failed to disclose the ongoing RICO investigation on its renewal applications for the licensing periods covering January 2019 to December 2020 and January 2021 to December 2022.

Violations:

HRS § 467-14(13) and specifically, Respondent failed to adhere to HRS §§ 514B-154.5 (a)(10); (12); and (14), and HRS § 514B-154.5 (c).

Representations by Respondent and RICO:

Respondent is represented by an attorney in this matter.

Respondent shall undertake to review, update, and implement current procedures, protocols, and training to address the allegations.

Sanctions:

Fine of \$4,500.00

Administrative Actions (cont. from page 9)

July 2021

MELE HERESA

RB 21752

Case No. REC 2020-121-L; REC 2020-298-L; REC 2020-359-L; REC 2020-384-L

Dated 7/23/21

Uncontested Facts:

From June 8, 2018 to present, and, at all relevant times herein, Respondent was the Principal Broker of Hawaiiiana.

On January 27, 2020, RICO received a complaint, REC 2020-121-L, alleging that Respondent failed to properly manage and supervise Hawaiiiana and its licensees when Hawaiiiana failed to comply with the laws governing professional conduct of real estate brokers in the management of a property regarding a failure to provide documents in accordance with HRS Chapter 514B.

On August 11, 2020, RICO received a second complaint, REC 2020-298-L, alleging that Respondent failed to properly manage and supervise Hawaiiiana and its licensees when Hawaiiiana failed to comply with the laws governing professional conduct of real estate brokers in the management of a property regarding a failure to provide documents in accordance with HRS Chapter 514B.

On September 30, 2020, RICO received a third complaint, REC 2020-359-L, alleging that Respondent failed to properly manage and supervise Hawaiiiana and its licensees when Hawaiiiana failed to comply with the laws governing professional conduct of real estate brokers in the management of a property regarding a failure to provide documents in accordance with HRS Chapter 514B.

On October 28, 2020, RICO received a fourth complaint in REC 2020-384-L alleging that Respondent failed to properly manage and supervise Hawaiiiana and its licensees when Hawaiiiana failed to comply with the laws governing professional conduct of real estate brokers in the management of a property regarding a failure to provide documents in accordance with HRS Chapter 514B.

RICO alleges that while under the supervision and management of the Respondent, Hawaiiiana failed to deliver documents that Respondent is required to provide under the applicable statutes within thirty days of Complainants' requests in REC 2020-121-L; REC 2020-298-L; REC 2020-359-L; and REC 2020-384-L ("RICO Cases").

RICO alleges that while under the supervision and management of the Respondent, Hawaiiiana

failed to provide written authorization or written refusal with an explanation for other documents not required under applicable statutes within thirty days of Complainants' requests in the RICO Cases.

RICO alleges that while under the supervision and management of the Respondent, Hawaiiiana required Complainant to pay for association meeting minutes for months January 1, 2020 to June 30, 2020 as a prerequisite to in-person examination of the requested documents in violation of the applicable statutes.

RICO alleges that while under the supervision and management of the Respondent, Hawaiiiana required Complainant to pay for administrative costs related to providing the requested documents as a prerequisite to receiving the requested documents after failing to notify Complainant at least ten days prior to incurring the costs in violation of the applicable statutes.

RICO alleges that Respondent failed to develop policies and procedures regarding document requests made pursuant to HRS Chapter 514B.

RICO alleges that Respondent failed to disclose the ongoing RICO investigation on its renewal applications for the licensing periods covering January 2019 to December 2020 and January 2021 to December 2022.

Violations:

HRS § 467-14(13), HRS § 467-1.6, and HRS § 467-20. Regarding HRS § 467-14(13), Respondent failed to adhere to HRS §§ 514B-154.5 (a)(9), (10); (12) and (14), and HRS §§ 514B-154.5 (b) and (c).

Representations by Respondent and RICO:

Respondent is represented by an attorney in this matter.

Respondent shall undertake to review, update, and implement current procedures, protocols, and training to address the allegations.

Sanctions:

Fine of \$4,500.00

(cont. page 11)

Administrative Actions (cont. from page 10)

August 2021

**CBIP, INC., dba at COLDWELL
BANKER ISLAND PROPER-
TIES**
RB 16822

Case No. REC 2019-593-L

Dated 8/27/21

RICO Allegations:

In or about November 2018, Respondent entered a no-admission Consent Agreement with the United States Environmental Protection Agency to resolve allegations that, during 2015, Respondent failed to comply with federal requirements relating to lead-based paint disclosures in connection with sales contracts for three real properties on Maui.

Respondent did not report its Consent Agreement with the United States Environmental Protection Agency to the Commission, in writing, within thirty days.

Violations:

HRS § 436B-16(a)

The licensing claims against Respondent's principal broker and broker-in-charge from the relevant period(s) will be handled through separate means.

Sanctions:

Fine of \$500.00

**JOHN M. KEVAN and MAUI
PARADISE PROPERTIES LLC**
RB 22307
RB 21051

Case No. REC 2021-141-L

Dated 8/27/21

RICO Allegations:

RICO alleges that Respondents failed to immediately transfer all funds held in trust for its clients to a new property management company following termination of Respondents' rental property management contract on March 1, 2021. Although Respondents transferred a significant portion of trust funds to the new property management company following termination, Respondents inappropriately withheld a portion of trust funds as future sales commissions payable to Respondents under its contract through March 1, 2022.

Violations:

HRS § 467-14(7), and HAR § 16-99-4(a).

Sanctions:

Fine of \$3,500.00

September 2021

**ALOHA ISLAND RENTALS
LLC, dba I GO MAUI VACA-
TION RENTALS & REALTY**
RB 22156

Case No. REC 2020-391-L

Dated 9/24/21

RICO Allegations:

From in or about January 2020, to about November 2020, inclusive, Respondent maintained an internet commerce website, <https://www.suite-paradise.com>, and entered into contracts with consumers and other members of the public that did not anywhere include or display Respondent's legal name, but instead used and displayed a trade name containing the name, part of the name, or nickname of a then-unlicensed person or entity, namely, "Suite Paradise," that, although registered with the Business Registration Division of the State of Hawaii Department of Commerce and Consumer Affairs, had not been separately registered with or approved for such use by the Hawaii Real Estate Commission.

Violations:

HRS § 467-9(b), HRS § 467-14(13), and HAR § 16-99-11(a).

Any licensing claims involving Respondent's principal broker will be addressed separately, through other means, as appropriate.

Sanctions:

Fine of \$1,500.00

Administrative Actions (cont. from page 11)

September 2021

ROBERT P. KEANE

RB 18640

Case No. REC 2020-391-L

Dated 9/24/21

RICO Allegations:

Respondent is, and at all times relevant herein was, the principal broker for Aloha Island Rentals LLC, a real estate brokerage firm in Koloa, County of Kauai, State of Hawaii, that, at all times relevant herein, did business under license number RB-22156.

From in or about January 2020, to about November 2020, inclusive, Aloha Island Rentals LLC maintained an internet commerce website, <https://www.suite-paradise.com>, and entered into contracts with consumers and other members of the public that did not anywhere include or display Aloha Island Rentals LLC's legal name, but instead used and displayed a trade name containing the name, part of the name, or nickname of a then-unlicensed person or entity, namely, "Suite Paradise," that, although registered with the Business Registration Division of the State of Hawaii Department of Commerce and Consumer Affairs, had not been separately registered with or approved for such use by the Hawaii Real Estate Commission.

Violations:

HRS § 467-1.6(a), and HRS § 467-1.6(b)(1).

Any licensing claims involving Respondent's principal broker will be addressed separately, through other means, as appropriate.

Sanctions:

Fine of \$750.00

BREANNA H. AKI formerly
known as BREANNA H.
GADDIS

RS 80461

Case No. REC 2020-304-L

Dated 9/24/21

RICO Allegations:

On or about April 23, 2019, the Respondent was convicted in Hawaii of the crime of Driving Under the Influence ("DUI"). The Respondent fulfilled all Court-imposed terms and conditions of the conviction and disclosed the conviction on her Renewal Application dated November 19, 2018.

Violations:

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

Sanctions:

Fine of \$250.00

**CYNTHIA MANABE and
REALTY LAUA LLC**

RB 19568

Case No. REC 2021-192-L

Dated 9/24/21

RICO Allegations:

RICO alleges that Respondents failed to timely renew their real estate broker licenses prior to expiration on December 31, 2020. As a result, Respondents' licenses were forfeited and any broker activities after January 1, 2021 were unlicensed. After learning of the failure to renew their licenses, Respondents submitted documents to update their mailing address and restore their brokerage licenses. Respondents' licenses were reinstated effective March 8, 2021. Respondents admitted they collected rental property maintenance fees for condominium units at Hokulani Square from January 1, 2021 through March 7, 2021 while unlicensed.

Violations:

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

Sanctions:

Fine of \$1,000.00

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(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(6) Aiding and abetting an unlicensed person to directly or indirectly perform activities requiring a license.
- 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)(1) The principal broker shall be responsible for: The client trust accounts, disbursements from those accounts, and the brokerage firm's accounting practices;
- 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 §467-9(b) Unless approved by the commission, no real estate broker's license shall be issued under or changed to any trade name, corporate name, or partnership name which contains the name, part of the name, initials, or nickname of (1) An unlicensed person; (2) A real estate salesperson; or (3) A real estate broker whose real estate license is not associated with or employed by the subject real estate broker applicant. A real estate broker's license name includes any trade name approved by the commission.
- 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(13) Violating this chapter, chapters 484, 514A, 514B, 514E, or 515, or section 5§16-71, or the rules adopted pursuant thereto.
- HRS §467-20 False statement.
- HRS §514B-154.5(a)(9) Meeting minutes of the board available upon request.

Statutory/Rule Violations (cont. from page 13)

- HRS §514B-154.5(a)(10) Notwithstanding any other provision in the declaration, bylaws, or house rules, if any, the following documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be made available to any unit owner and the owner's authorized agents by the managing agent, resident manager, board through a board member, or the association's representative: 10) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the association . . .
- HRS §514B-154.5(a)(12) Notwithstanding any other provision in the declaration, bylaws, or house rules, if any, the following documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be made available to any unit owner and the owner's authorized agents by the managing agent, resident manager, board through a board member, or the association's representative: (12) Copies of an association's documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B 152, 514B-153, or 514B-154;
- HRS §514B-154.5(a)(14) Notwithstanding any other provision in the declaration, bylaws, or house rules, if any, the following documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be made available to any unit owner and the owner's authorized agents by the managing agent, resident manager, board through a board member, or the association's representative: (14) Other documents requested by a unit owner or owner's authorized agent in writing; provided that the board shall give written authorization or written refusal with an explanation of the refusal within thirty calendar days of receipt of a request for documents pursuant to this paragraph;
- HRS §514B-154.5(b) Subject to section 514B-105(d), copies of the items in subsection (a) shall be provided to any unit owner or owner's authorized agent upon the owner's or owner's authorized agent's request; provided that the owner or owner's authorized agent pays a reasonable fee for duplication, postage, stationery, and other administrative costs associated with handling the request.
- HRS §514B-154.5(c) Notwithstanding any provision in the declaration, bylaws, or house rules providing for another period of time, all documents, records, and information listed under subsection (a), whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be provided no later than thirty days after receipt of a unit owner's or owner's authorized agent's written request.
- HAR §16-99-4(a) Every brokerage firm that does not immediately place all funds entrusted to the brokerage firm in a neutral escrow depository, shall maintain a trust fund account in this State with some bank or recognized depository, which is federally insured, and place all entrusted funds therein. The trust fund account shall designate the principal broker as trustee and all trust fund accounts, including interest bearing accounts, shall provide for payment of the funds upon demand.
- HAR §16-99-11(a) All real estate advertising and promotional materials shall include the legal name of the brokerage firm or a trade name previously registered by the brokerage firm with the business registration division and with the commission.

Correction

Audrey Abe, public commissioner, is currently associated with Abe Realty & Consulting LLC, and no longer associated with Harry Z. Kiyabu Realty LLC as noted in the August 2021 REC Bulletin.

Prelicense 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
Coldwell Banker Pacific Properties Real Estate School	808-597-5515
Continuing Ed Express, LLC	866-415-8521
Diamond Resorts Real Estate Academy – Hawaii, LLC	480-628-9053
Excellence in Education dba Maui Real Estate School	808-212-4861
Hawaii Institute of Real Estate	808-342-4061
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



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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	Hawaii Island Realtors	808-935-0827
American Dream Real Estate School, LLC	844-223-7326	Honolulu Board of Realtors	808-732-3000
At Your Pace Online, LLC	877-724-6150	International Association of Certified Home Inspectors (InterNACHI)	720-735-7125
The Berman Education Company, LLC	808-572-0853	Kauai Board of Realtors	808-245-4049
Building Industry Association of Hawaii	808-629-7505	Mbition Learn Real Estate	800-532-7649
Carol Ball School of Real Estate	808-280-0470	McKissock, LLC	800-328-2008
The CE Shop, LLC.	888-827-0777	Preferred Systems, Inc.	814-456-0406
CMPS Institute, LLC	888-608-9800	Ralph Foulger’s School of Real Estate	808-239-8881
Coldwell Banker Pacific Properties Real Estate School	808-597-5515	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
Franklin Energy Services, LLC	866-735-1432	Shari Motooka-Higa	808-492-7820
Hawaii Association of Realtors	808-733-7060	Systems Effect LLC, dba Training Cove	480-517-1000
Hawaii Business Training	808-250-2384	WebCE Inc.	877-488-9308
Hawaii CCIM Chapter	808-528-2246	West Hawaii Association of Realtors	808-329-4874
Hawaii First Realty, LLC	808-282-8051		

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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 Condo-
minium Review Committee Meeting**

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Real Estate Commission – 9:00 a.m.

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 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.