



STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE
CONSUMER RESOURCE CENTER
OAHU OFFICE
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cca.hawaii.gov/rico

FREQUENTLY ASKED QUESTIONS

What is the best tool for deterring unlicensed persons and unlicensed work?

A prepared consumer. When a consumer,

- uses the DCCA and/or RICO website to research a service provider including whether the service provider has a professional or vocational license,
- checks the service provider's online reviews,
- asks the provider for references and then follows up on the information,
- obtains more than 1 opinion or quote for a job,
- receives written, detailed information about a project, and
- maintains good communication with the service provider;

the consumer will never unknowingly hire an unlicensed person or support unlicensed activity.

What should a consumer know before filing a complaint with RICO?

Several things, such as:

- Money is not required to pursue a RICO complaint. There is no fee or charge to file a complaint or report unlicensed activity.
- An attorney or representative is not necessary to pursue a RICO complaint, but one can file a complaint on a person's behalf.
- Immediacy is encouraged but not required. Consumers can try to resolve the issue or dispute through "Self-Help."
- Organization helps. Gather, organize, and photocopy relevant paperwork such as contracts, emails, photographs, invoices, records of payment, etc., and then include the copies with the complaint.

- A signature is needed. Review carefully and then date and sign the complaint form.
- Include the records authorization for health matters. Sign and include the authorization to release health records form when filing complaints against licensed healthcare providers.
- Confidential & non-confidential information. The information and records provided to support or defend a RICO complaint are not made public unless disclosure is required by law or will aid in RICO's enforcement. The complainant's identity, and the allegations and claims they make, are disclosed to the respondent.
- Even if a complaint is filed with RICO, there is no guarantee that it will result in a prosecution or other formal action by RICO so please consider pursuing other forms of relief too.
- RICO does not represent any party to a licensing dispute, including individual consumers who often want to recover money or damages.

How does RICO process complaints?

RICO is comprised of three sections that participate in complaints processing daily: the Consumer Resource Center, the Field Investigations Section, and the Legal Section.

- Intake by the Consumer Resource Center. Complaints are screened for jurisdiction and appropriateness by an investigator in the Consumer Resource Center (Center) who is familiar with the licensing laws governing the regulated industries. If the complaint meets the jurisdictional threshold and is appropriate for RICO review, it will continue being processed by RICO.
- Field investigations. The majority of complaints that may involve licensing law violations are handled by the Field Section. The investigators review information and gather evidence and may refer matters for potential prosecution to the Legal Section for consideration.
- Legal review and enforcement. Attorneys in the legal section are the prosecutors who review complaints for suitability for enforcement action such as discipline in the case of licensees and a lawsuit in the case of unlicensed activity. Where appropriate they will pursue such formal enforcement action.

What happens when a report or tip of unlicensed activity is received by RICO?

The tip or report is reviewed by an intake investigator and can be referred to the unlicensed task force for review and possible action. The tips that contain detailed or specific information are more likely to result in follow up by the unlicensed task force.

Who are the parties to a RICO matter; what role do they play in the complaints review process?

There are often two parties to a RICO matter, a complainant and a respondent, but some complaints are also filed “anonymously.”

- **Complaining Witnesses.** The person filing a complaint is the complaining witness and they may be contacted by an investigator to acknowledge receipt of the complaint, to schedule an interview, or to get or clarify information. Complaining witnesses may also be called upon to testify if the Legal section prosecutes a licensee or unlicensed person based on the complaint.

Complaining witnesses do not determine the course or scope of the investigation, but they will receive status updates.

Complaining witnesses are not clients of RICO, so the RICO investigators and attorneys do not represent them. RICO represents the interests of the State of Hawaii as a whole by looking out for the health, safety and welfare of all consumers of services offered in a regulated industry.

- **Respondents.** The person against whom a complaint is filed is the responding party. Respondents are contacted by the RICO investigator and given an opportunity to respond in writing to the allegations that have been made and to produce information and documents in their defense.

Respondents do not determine the course or scope of a RICO investigation, but they will receive status updates.

- **Anonymous filers.** These are persons who file a complaint or report unlicensed activity but choose not to disclose their identity, or decline to be affiliated with a complaint. Anonymous reporting witnesses do not receive updates on the matter.

Is there an average time for processing a complaint?

No. Case processing can range from a few months to a year or even longer, depending on factors such as the seriousness of a matter, the complexity of the issues, the depth of investigation required, and whether the matter can be resolved informally through settlement. If a contested case proceeding or lawsuit is initiated, even more time and resources may be required to bring the matter to an end. Therefore, complainants should seek the advice of counsel and/or consult with an attorney immediately if they hope to recover monetary damages or compensation from a licensee or unlicensed person.

Do all complaints end with formal enforcement action?

No. Every year enforcement action is taken in hundreds of complaints based on credible and reliable evidence, but most complaints will not get that far. Many of them that concern a

licensee may not make it past the Consumer Resource Center investigators, for example, because they fall outside of RICO's subject matter jurisdiction such as labor, wages and other employer/employee relations, contractual disputes, billing disputes, and personality conflicts. Even matters more directly-connected to a licensee's services may not be pursued by RICO too. For example, if a homeowner files a RICO complaint because the plumber ran over their child's bicycle as the plumber backed out of the driveway after fixing the homeowner's sink, the Center will close the complaint even though the homeowner may have a legitimate dispute against the licensee involving the child's bicycle. Likewise, if a patient files a complaint against his doctor because he was forced to wait more than an hour after his scheduled appointment to be seen, or if a customer files a complaint against a massage therapist because the customer learned, after-the-fact, that their therapist charges \$50.00 more than others in the area, both complaints would be closed even though the patient and customer seem to have valid concerns.

Even when a complaint makes it past the intake investigator's screening, many will end without official enforcement action and for good reason too, such as lack of credible evidence to support a violation, the parties were finally able to resolve their dispute on their own or through alternative dispute resolution, the complainant chooses to withdraw a matter, the issue has been addressed in a civil lawsuit between the parties, an education contact or warning issued, enforcement action had been taken previously against the same party, or the complainant or another important witness is no longer cooperating.

Are there other options available if enforcement action is not taken on a complaint?

Yes. Because the majority of complaints that are processed by RICO do not result in formal enforcement action, consumers can and should pursue other options for resolving their dispute too such as self-help where the parties attempt to work out a resolution on their own. The advice of an attorney can be sought. Visiting the Hawaii State Bar Association website for low-cost or reduced legal services is another option. Alternative dispute resolution is a possibility too. Checking with another organization or agency may prove helpful, including the Judiciary which also has Small Claims Courts in every County for quick resolutions. Checking with the regulated industry's licensing board on whether they have a fund that consumers can claim against because of the ill practices of a licensee, may be helpful too. As of 2021, the Contractor's Licensing Board and the Real Estate Commission have such funds.

For other useful consumer tips and information, visit the RICO website at [**cca.hawaii.gov/rico**](https://cca.hawaii.gov/rico).

For questions about the complaint process or how to complete a RICO complaint form, call RICO's Consumer Resource Center at 1-844-808-3222.