

Real Estate Commission Bulletin



Rule-Making to Go Forward in 2011

The last time Hawaii Administrative Rules (HAR), Chapter 99, “Real Estate Brokers and Salespersons”, was amended was in 2001 via then Lt. Governor Masie Hirono’s “Slice Waste and Tape” (SWAT) initiative. Ten years later, the Real Estate Commission is entering into rule-making, a generally long and drawn-out process.

What’s up for amendment, deletion, addition? The rough draft of proposed rule changes was presented to the Real Estate at its monthly meeting on Thursday, January 27, 2011. A complete copy of the approved rough draft of proposed rule changes will be available on the commission’s website at www.hawaii.gov/hirec. (Note: underscored material is a proposed addition to the rules. Material that is crossed through is proposed for deletion.)

Here is a sample of some proposed rule changes that may be of interest

HAR, Section 16-99-3 Conduct.
 (g) The licensee shall not acquire, rent, lease or exchange an interest in or buy, rent, lease or exchange for one’s self, any member of the licensee’s immediate family or brokerage firm, or any entity in which the licensee has any ownership interest, property listed with the licensee, licensee’s brokerage firm, or listed with any other brokerage firm or licensee without making the true position known in writing to the listing owner or property owner. When offering for sale, lease, exchange or rental, property which the licensee owns or has interest in, the licensee shall fully inform the principal broker of the licensee’s intention to sell, lease, exchange, or rent, and of the licensee’s interest in the property and shall conduct the real estate transaction through a brokerage firm. The licensee shall reveal the interest to the purchaser, lessee, or tenant in writing prior to accepting any offer.

(k) The brokerage firm shall not compensate a licensee of another brokerage firm in connection with a real estate transaction without paying directly or causing the payment to be made directly to the other brokerage firm. This requirement shall not apply in cases where the licensee whether inactive, forfeited or deceased is receiving compensation from a former brokerage firm for commission credit earned while affiliated with that former brokerage firm.

(x) 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.

HAR, Section 16-99-4 Client’s account; trust funds; properties other than funds.

(d) Every brokerage firm shall deposit or place trust funds received into a neutral escrow depository or in a trust fund account with some bank or recognized depository, which is federally insured, by the next business day following receipts. The neutral escrow depository shall be located in the same state where the property is located.

HAR, Section 16-99-5.1 Involuntary inactive license status.

(d) A brokerage firm’s license, whether a corporation, limited liability company or partnership, shall be placed on an involuntary inactive status upon the occurrence of one or more of the following:

- (1) The principal broker’s license is placed on an inactive, forfeited, suspended, revoked or terminated status;
- (2) The brokerage firm is no longer registered with the business registration division;
- (3) The principal broker is unable to act in the case of prolonged illness or death and no commission approved temporary principal broker has been designated;
- (4) The brokerage firm has no registered place of business; and
- (5) The principal broker is absent from the place of business for more than thirty days, or moves out-of-state, and no commission approved temporary principal broker or broker in charge has been designated pursuant to section 16-99-3(o).

HAR, Section 16-99-11 Advertisement.

(c) Current individual real estate licensees, ~~whether active or inactive~~ on inactive status, shall disclose the licensee’s inactive status [as a real estate licensee] in all advertising and promotional material.

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Rule-Making to Go Forward in 2011 (cont. from page 1)

(d) All advertising and promotional materials that refer to the individual licensee's name, including but not limited to business cards, shall:

(2) Identify the licensee with the licensee's associating or employing brokerage firm, where the font size of the name of the brokerage firm is at least the same sized font as the licensee's name; 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). Members of "All Realtor" local boards who hold a Hawaii real estate salesperson's license may specify their license as R(S), R (salesperson), Realtor (Salesperson), or Realtor (S).

HAR, Section 16-99-37 Education equivalency. (a) the commission may grant an equivalency to the respective education requirements for applicants for the salesperson ~~[and broker]~~ license examination for:

(1) those who hold a current license that was active within one year immediately prior to the date of application as a salesperson or broker in another state with similar or superior education requirements as determined by the commission;

(2) Graduates of an accredited United States law school;

(3) Bachelor of arts or bachelor of science degree graduates of accredited United States colleges and universities who have majored in real estate or business;

(b) The commission may grant an equivalency to the respective education requirements for applicants for the broker license examination for:

(1) Those who hold a current license that was active within one year immediately prior to the date of application as a broker in another state with similar or superior education requirements as determined by the commission;

(2) Graduates of an accredited United States law school.

HAR, Section 16-99-58 Faculty. . . .

(c) Each instructor shall initially take and pass an examination with a minimum passing score of 85% or as prescribed by the commission and shall:

~~[(g) Every instructor, every three years, as a condition of recertification for each course the instructor chooses to teach, shall take and pass an instructor's exam, demonstrating the instructor's current command of the prelicense course.]~~

HAR, Section 16-99-87 Definitions. As used in this subchapter: . .

"Course and course offering" means a continuing education module of instruction certified by the commission, consisting of a minimum of three clock hours and a maximum as determined by the commission.

HAR, Section 16-99-95 Duplicate continuing education hours. Except as provided by the commission or by this subchapter, a licensee shall not take a continuing education course ~~[that is substantially similar to a course]~~ for which the licensee has already received a certificate

~~within two consecutive biennia. [A continuing education provider shall not issue to a licensee a certificate for substantially the same course completed by the licensee. "Substantially similar" as used in this section means that at minimum, seventy five per cent of the course content of a course is repeated in another course offering].~~

HAR, Section 16-99-96 An instructor who is a licensee. In satisfying the continuing education hours of a license period, an instructor who is a real estate licensee, may use once in any two consecutive biennia, the clock hours for each course taught ~~except the core course which may be recognized for clock hours each biennium.~~ The one time use applies even when the instructor has taught the course more than once.

HAR, Section 16-99-101 Courses not acceptable for continuing education course certification. The commission may not certify a continuing education course, or any portion thereof, which:

(1) Does not directly relate to real estate law or real estate practice;

(2) Is related to passing a prelicense real estate salesperson or broker exam;

(3) Teaches general office ~~[and business]~~ skills, such as ~~[typing] word processing, basic internet skills, computer software or other technology, [speed reading, memory improvement, report writing,]~~ personal motivation, ~~[salesmanship, sales psychology,]~~ and time management;

(4) Includes sales or promotions of a product or service or other meetings held in conjunction with general real estate brokerage activity;

(5) ~~[Is devoted to meals or refreshments;]~~

(6) Is less than three clock hours in duration; and

(7) Does not meet the definition of continuing education as determined by the commission.

HAR, Section 16-99-104 Criteria for certification of a continuing education instructor. . . .

(d) The commission may require that each instructor complete an instructor's workshop as approved by the commission prior to teaching in each biennium ~~[or complete viewing a commission approved audio videotape of such workshop within the biennium].~~

HAR, Section 16-99-120 Instructor Evaluation. (a) Course providers shall implement a standardized student evaluation process as determined by the commission.

(b) Course providers shall ensure that student evaluations of instructors do not fall below the minimum rating standards as determined by the commission.

HAR, Section 16-99-121 Faculty.

(b) The administrator shall be responsible for:

(4) Administering and maintaining the student evaluations and minimum rating standards of instructors.

The Chair's Message



Happy New Year!

This new year brings new leadership for the Department of Commerce and Consumer Affairs (DCCA). Ms. Keali'i Lopez is the Interim Director of DCCA and the new Deputy Director is Everett Kaneshige, Esq. Welcome to both!!

In 2011, the Commission is proceeding with rule-making, the first rule-making since 2001. When rule-making is completed, there will be updated real estate licensing rules that will clarify or expand upon existing rules of conduct, and also update continuing education administration and procedures.

The real estate industry continues to undergo many changes as it reacts to the volatile economy, which has been on a downward trend for the past several years, but may be turning upwards finally. As far as the number of Hawaii real estate licensees goes, we have remained fairly steady at about 20,000 licensees, which includes brokerages. The recent fluctuation in terms of total licensees appears to be between a high of about 21,500 in 2008 to a low of 18,100 in 2009. However, the number of inactive licensees appears to be a bit up. While it appears that Hawaii real estate wasn't hit as hard as certain areas on the mainland, there has still been a temporary drop in sales activity. Mortgage fraud, short sales and foreclosures are still of great concern to the real estate industry. They continue to be red flags to real estate licensees to become more cognizant of these activities and to learn how to help their consumer clients avoid these types of situations. Real estate education is a primary means to increase awareness and encourage appropriate solutions.

The issue of Broker Price Opinions (BPOs) is being reviewed via H.B. 320, introduced by the Hawaii Association of REALTORS® this legislative session. The Real Estate Commission supports this bill in concept and also a sunrise study before any changes are made to the applicable laws and rules that regulate the rendering of BPOs.

All licensees must now complete 20 hours of continuing education (CE) which includes the Commission's 2011-2012 mandatory core

course, Core A and B, for 5 hours (instead of 4 hours), and 15 hours (instead of 6 hours) of elective CE courses. The Commission's mandatory core course 2009-2010, Part A and Part B are available on-line only, effective January 1st, and will only be available until May 31, 2011.

Starting in mid-June 2011, Part A of the 2011-2012 mandatory core course is expected to be available for live classroom instruction. During each year of the licensing biennium, licensees may take live classes for the 2.5 hour mandatory core course portion offered. Plan accordingly so you don't miss out on the opportunity for a live classroom offering of the core course.

The Commission believes that education is an important element in maintaining high standards within the industry and to reduce consumer complaints. The Commission's Education Review Committee, chaired by Carol Ball, Broker, Maui, and vice-chair Scott Sherley, Broker, Big Island, is committed to improving continuing education, both in quality and in the number of courses available. Through rule-making, the Commission hopes to broaden the scope of acceptable continuing education courses that will meet the needs of our licensees, and still promote good consumer protection on the part of licensees.

The Commission's Laws and Rules Review Committee is headed by chairperson, Frances Gendrano, Broker, and vice-chair Walter Harvey, Broker. The Condominium Review Committee is chaired by public member, Michele S. Loudermilk, with assistance from vice-chair, and public member, Mark Suiso. Stan Kuriyama, Broker, O'ahu, who serves as vice-chair of the Commission and Donna Apisa, Broker, Kauai, round out the Real Estate Commission.

For questions, comments, or concerns, please contact the Real Estate Branch at 808-586-2643, email at www.hawaii.gov/hirec, or direct mail to 335 Merchant Street, Room 333, Honolulu, HI 96813.

Mahalo,

Trudy I. Nishihara, Chair

Core Course 2011 - 2012

The topic for Part A, of the Real Estate Commission's 2011-2012 core course is "other statutes" that may impact the practice of real estate. The "other statutes" that will be included are Hawaii Revised Statutes (HRS) Chapter 436B, Professional and Vocational Licensing Act, Chapter 521, Residential Landlord-Tenant Code, Chapter 508D, Mandatory Seller Disclosures in Real Estate Transactions, and a brief refresher of the licensing laws and rules, Chapter 467, Real Estate Brokers and Salespersons and Hawaii Administrative Rules, Chapter 99. (Note: the exact content is subject to change.) Part A of the 2011 core course is scheduled to be completed and available for licensees by mid-June 2011. Part B, "policies and procedures manuals", will be available by mid-June 2012.

Each part of the 2011-2012 core course will be worth 2.5 continuing education (CE) credit hours, totaling 5 CE credit hours of the total of

20 CE credit hours required for all real estate licensees wishing to renew their license on active status for the 2013-2014 biennium.

The core course will again be offered in a live classroom and online format. Part A will be available ONLY in an online format effective January 1, 2012, so the live classroom version of Part A should be taken by December 31, 2011, if you do not prefer online education.

As a reminder, the 2009-2010 core course, both Part A and Part B are only available in an online format until May 31, 2011. Both Part A and Part B must be completed in order to receive credit for completing the 2009-2010 core course.

Broker Price Opinions (BPOs)

The rendering of a “broker price opinion” (BPO) is restricted by Hawaii Administrative Rules (HAR), Real Estate Appraisers, section 16-114-74, which does not apply to a real estate broker or salesperson “who, in the ordinary course of business, gives an opinion as to the recommended listing price of real estate or an opinion to a potential purchaser as to the recommended purchase price of real estate, provided:

1. The opinion shall not be referred to as an appraisal.
2. No compensation is charged for such opinion other than the normal brokerage fee rendered in connection with the sale of the property; or
3. No representation is made that the real estate broker or salesperson is a certified or licensed real estate appraiser.”

Based on the above, if additional fees are being charged for the BPOs, this would constitute an illegal practice, and the licensee may be disciplined for this possible violation.

As recently as November 30, 2010, a Recommended Order was given by a Hearings Officer, Department of Commerce and Consumer Affairs, regarding a Petition for Declaratory Relief filed by Financial Asset Services, Inc. (FAS) requesting a clarification of HAR section 16-114-74. The petitioner, FAS, requested clarification if Non-REO or Non-Purchase Money transactions are germane to the statute. FAS requested clarification “ . . . in regards to Non-REO transactions. Such as legitimate requests for BPO orders that are based on Non-REO Transactions such as Pass-Through Certificates (Refinance Mortgage transactions), Loan deliveries such as Flow, Mini-Bulk, and Bulk based on MBS-Mortgage Backed Securities (Refinances and Non-REO purchases) or any transaction whereas a Broker /Agent, would be asked to prepare a legitimate BPO on a transaction that in the end is not identified as [a] REO transaction.

... Given the other types of transactions available to the community, the definition and ability for BPO’s to be completed on financing transactions outside the scope of the statute, will assist companies to provide additional financial services and /or more cost efficient services if this statute defined what is omitted or clearly defines all transaction types.

... Petitioner’s representative. . . represented that the Petitioner is seeking a declaratory ruling on whether the exemption in HAR §16-114-74 applies, by omission, to transactions not meeting the criteria of HAR §16-114-74.

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Administrative Actions

October 2010

Susan B. Osborne

Broker – RB 18259

Case No:

REC 2010-217-L

Dated 10/28/10

Allegations: On or about 3/30/07, the Commission approved a Settlement Agreement in RICO Case No. REC 2006-115-L, in which Respondent agreed to immediately cease and desist in offering and/or advertising rental properties for transient vacation use on residential zoned property without nonconforming use certificates for said properties. RICO alleges that, despite the above-referenced settlement agreement, Respondent continued to offer and/or advertise property for transient vacation use on residential zone property without nonconforming use certificates for said properties. RICO alleges that Respondent conducted real estate activity under a trade name that was not registered with the Commission and failed to comply with the rules regarding trust accounts.

Sanction: Voluntary license revocation.

Violations: HRS §§467-14(1), (3), (8), (20); HAR §§16-99-3(e), (g); HRS §§436B-19(2), (7), (12)

Steve Demesa

Salesperson

RS 31119

Coldwell Banker

Commercial Pacific Properties, Ltd

Broker – RB 17128

Rondolph B. Teves

Broker – RB 15280

Case No. REC 2009-65-L

Dated 10/28/10

Allegations: Respondent Steve Demesa, while employed as a real estate salesperson by Coldwell Banker Commercial Pacific Properties, Ltd and Rondolph B. Teves, failed to renew licenses by the expiration date of 12/31/06, however continued to engage in activity requiring a license until the restoration of said license effective 11/14/08.

Sanction: Pay an administrative fine of \$1,000.00

Violation: HRS §467-1.6(b)(7)

Capital Research Group, Inc
 Broker – RB 16339
Frederick Overstreet
 Broker – RB 8033
Daniel Doyle
 Salesperson –
 RS 53985
 Richard Saul
 Salesperson –
 RS 65417
 Case Nos:
 REC 2007-455-L
 REC 2008-111-L
 REC 2008-155-L
 REC 2008-178-L
 REC 2008-186-L
 REC 2009-196-L
 Dated 10/28/10

Factual Findings: On 2/23/01, Judgment (Civil No 00-1-3250) was entered against Respondents Capital Research Group, Inc., Frederick Overstreet, and Daniel Doyle. Respondents did not report the above-referenced judgment to the Commission and have not satisfied the judgment. On or around 7/26/06, Respondent received a deposit in the amount of \$11,999.50 from George Suchand for the purchase of real property. Respondents informed Mr. Suchand that his deposit was fully refundable in the event he decided not to proceed with the real estate transaction. Mr. Suchand was unable to secure financing and requested the return of his deposit. To date and despite repeated demand, Respondents have not returned Mr. Suchand's deposit. On or around 8/23/07, Respondents received a deposit in the amount of \$12,000.00 from Arthur Alvarez for the purchase of real property. Respondents informed Mr. Alvarez that his deposit was fully refundable in the event he decided not to proceed with the real estate transaction. Mr. Alvarez was unable to secure financing and requested the return of his deposit. On or about 1/10/08, Respondent Doyle sent Mr. Alvarez two checks in the amount of \$6,000.00 each. Mr. Alvarez attempted to cash the checks, however, the checks were refused by Mr. Alvarez' bank. To date and despite repeated demand, Respondents have not returned Mr. Alvarez' deposit. On 6/8/09, a judgment was entered in favor of Mr. Alvarez and against Respondents in First Circuit Court, Civil No. 08-1-1530. Respondent did not report the above-referenced judgment to the Commission and have not satisfied the judgment. On 12/27/07, Judgment (Civil No. 1CC05-1-2103) was entered against Respondents. Respondents did not report the above-referenced judgment to the Commission and have not satisfied the judgment. On or around 5/24/07, Respondents received a deposit in the amount of \$7,000.00 from Glen and Marian Farmer for the purchase of real property. The Farmers were unable to secure financing and terminated the purchase contract. To date and despite repeated demand, Respondents have not returned the Farmer's deposit. On or around 11/10/07, Respondents received a deposit in the amount of \$12,500.00 from Jo Ann Berger for the purchase of real property. Ms. Berger terminated the contract and requested the return of her deposit. On or about 2/27/09, Respondents sent Ms. Berger a check in the amount of \$6,000.00 however the check was returned for insufficient funds. To date and despite repeated demand, Respondents have not returned Ms. Berger's deposit. On or around 2/8/08, Respondents received a deposit in the amount of \$12,500.00 from Son Nguyen for the purchase of real property. Respondent informed Mr. Nguyen that his deposit was fully refundable in the event he decided not to proceed with the real estate transaction. Mr. Nguyen decided not to proceed with the transaction and requested the return of his

deposit. Respondent Doyle sent Mr. Nguyen two checks in the amount of \$12,000.00 and \$5,000.00, however, the checks were dated 4/2/2004 and were not negotiable. To date and despite repeated demand, Respondents have not returned Mr. Nguyen's deposit. On 3/12/08, an exemplified foreign judgment was entered against Respondents in First Circuit Court, Special Proceeding No. 08-1-0084. Respondents did not report the above-referenced judgment to the commission and have not satisfied the judgment. On 9/22/09, Judgment was entered in favor of Mr. Nguyen and against Respondents in District Court of the First Circuit Civil No. 1RC09-1-3798. Respondents did not report the above-referenced judgment to the Commission and have not satisfied the judgment.

Order: Licenses are revoked and each must pay a fine of \$2,500.00

Violations: HRS §§467-14(1), (2), (3), (7), (8), (16), (20); HAR §16-99-3(b); HRS §§436B-19(2), (7), (8), (11), (12), and §436B-16.



State of Hawaii Real Estate Commission

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This material can be made available to individuals with special needs. Please call the Senior Real Estate Specialist at 586-2643 to submit your request.

Administrative Actions (cont. from page 5)

Brandon P. Price,
Broker, **Stephanie D. Price,**
Salesperson;
The Price Corporation, Broker
– Corp.; and **Kanohowailuku,**
Inc., Broker – Corp.
Case No. REC 2010-12/L

Dated: 10/28/10

Factual Findings: Respondent Brandon P. Price (“Respondent B. Price”) was licensed as a real estate broker by the Real Estate Commission (“Commission”) on 11/30/07. Respondent B. Price’s license is revoked.

Respondent Stephanie D. Price (“Respondent S. Price”) was licensed as a real estate salesperson by the Commission on 3/31/08. Respondent S. Price’s license expires on 12/31/10.

Respondent The Price Corporation (“Respondent Price Corporation”) was licensed by the Commission on 11/30/07. Respondent Price Corporation’s license is revoked.

Respondent Kanohowailuku, Inc. (“Respondent Kanohowailuku”) was licensed as a real estate broker by the Commission on 5/18/09. Respondent Kanohowailuku’s license expires on 12/31/10.

On 8/1/07, Articles of Incorporation were filed for Respondent Price Corporation with Respondent S. Price as the sole officer and director.

On 1/9/09, Articles of Incorporation were filed for Respondent Kanohowailuku with Respondent S. Price as the sole officer and director.

On 3/9/09, Respondents B. Price and S. Price filed an Officer/Director Change for Respondent Price Corporation, removing Respondent S. Price as the sole officer and director and substituting Respondent B. Price as the sole officer and director.

On 4/22/09, a judgment in the amount of \$2,315.85 was entered against Respondents B. Price and S. Price in civil no. ISC09-1-0547, *Cindy Morse, et al. v. Brandon Price, et al.* This judgment was not reported to the Commission

On 4/24/09, judgment for possession and writ of possession were entered against Respondent Price Corporation in civil no. IRC09-1I-2966, *Actus Lease LLC v. The Price Corporation.* The judgment was not reported to the Commission.

Respondent Kanohowailuku’s application for broker’s license listed Kenneth M. Takeuye (RB 15532) as the principal broker.

On 6/3/09, judgment in the amount of \$32,436.04 was entered against Respondent Price Corporation in civil no. IRC09-1-0821, *Proservice Hawai’i Business Development Corporation v. Brandon Price, et al.* This judgment was not reported to the Commission and has not been satisfied.

On 7/14/09, a bench warrant was filed and issued for the

arrest of Respondent B. Price in civil no. IRC09-1-2966.

On 10/16/09, a judgment and writ of possession were filed against Respondents B. Price and Price Corporation in civil no. IRC09-1-8981, *Koko Marina Holdings LLC v. Brandon Price, et al.* This judgment was not reported to the Commission.

On 10/19/09, Respondent B. Price filed a change form with the Commission, removing Kenneth Takeuye as the principal broker of Respondent Kanohowailuku.

On 11/10/09, Respondents B. Price and S. Price submitted a change form to the Business Registration Division of the DCCA, removing Respondent S. Price as the sole officer and director of Respondent Kanohowailuku and naming Respondent B. Price as the sole officer and director of Respondent Kanohowailuku.

On 12/22/09, judgment for possession and writ of possession were entered against Respondents B. Price and Price Corporation in civil no. IRC09-1-10752, *James Campbell Company LLC v. The Price Corporation et. al.* This judgment was not reported to the Commission.

On 12/30/09, a civil action was filed against Respondent B. Price in civil no. ISC09-1-2342, *Orangeroc, et al. v. B. Price.*

On 2/1/10, Heartland Payment Systems, Inc. filed a complaint against Respondents B. Price, S. Price and The Price Corporation in civil no. ICC10-1-0206 (GWBC). The complaint alleges, *inter alia*, fraud and conversion based upon Respondents B. Price and S. Price receiving \$65,318.00 in exchange for checks that were returned for insufficient funds.

Order: Respondents Kanohowailuku’s and S. Price’s real estate licenses be revoked. Pay a \$5,000.00 fine within 60 days of the Commission’s Final Order, and that payment of the fine be made a condition of relicensure. (Note: Respondent’s B. Price and Price Corporation’s licenses have already been revoked.)

Violation: HRS §467-14(20)

Settlement Agreement (Allegations/Sanction): The respondent does not admit to the allegations set forth by the Regulated Industries Complaints Office (RICO) and denies having violated any licensing law or rule. The Respondent enters in a Settlement Agreement as a compromise of the claims and to conserve on the expense of proceeding with a hearing on the matter.

Disciplinary Action (Factual Findings/Order): The respondent is found to have violated the specific laws and rules cited, and the Commission approves the recommended order of the Hearings Officer.

Statutory/Rule Violations

HRS §436B-19(2) - Engaging in false - fraudulent - or deceptive advertising - or making untruthful or improbable statements.

HRS §436B-19(7) - Professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of the licensed profession or vocation.

HRS §436B-19(8) - Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity.

HRS §436B-19(11) - Engaging in business under a past or present license issued pursuant to the licensing laws, in a manner causing injury to one or more members of the public.

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.

§436B-16(a) - Each licensee shall provide written notice within thirty days to the licensing authority of any judgement, 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 §467-1.6(b)(7) - Ensuring that the licenses of all associated real estate licensees and the brokerage form license are current and active.

HRS §467-14(1) - Making any misrepresentation concerning any real estate transaction.

HRS §467-14(2) - Making any false promises concerning any real estate transaction of a character likely to mislead another.

HRS §467-14(3) - Pursuing a continued and flagrant course of misrepresentation.

HRS §467-14(7) - Failing to account for moneys belonging to others.

HRS §467-14(8) - Conduct constituting fraudulent or dishonest dealings.

HRS §467-14(16) - Converting other people's moneys to the licensee's own use.

HRS §467-14(20) - Failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.

HAR §16-99-3(b) - Licensee shall protect the public against fraud, misrepresentation, or unethical practices in the real estate field.

HAR §16-99-3(e) - The broker shall keep in special bank accounts, separated from the broker's own funds, moneys coming into the broker's possession in trust for other persons, such as escrow funds, trust funds, clients' moneys, rent

HAR §16-99-3(f) - Licensee shall see that financial obligations and commitments are in writing.

HAR §16-99-3(g) - Licensee shall not acquire property without making the true position known in writing to the owner.

HAR §16-99-3(j) - Licensee shall transmit immediately all written offers to the listing broker.

Broker Price Opinions (BPOs) (cont. from page 4)

...The Real Estate Appraiser Program's [sic] ("REA Program") has consistently taken the position that HAR §16-114-74 provides certain criteria and that real estate brokers and real estate salespersons who are not licensed appraisers, may engage in transactions without an appraiser license if the transaction meets the criteria.

... The language of HAR §16-114-74 is clear and unambiguous. HAR §16-114-74 establishes a criteria for determining when real estate brokers or real estate salespersons are exempt from the requirements of HRS Chapter 466K, including licensure: ...

... The Hawai'i Supreme Court has ruled that if an administrative rule's language is unambiguous, its literal application is not inconsistent with the policies of the statute the rule implements and it does not produce absurd or unjust results, courts will enforce the rule's plain meaning ... "

The Hearings Officer recommended that the Director of the Department of Commerce and Consumer Affairs deny the Petitioner's request for a declaratory ruling that the exemption in HAR §16-114-74 applies, by omission to transactions not meeting the rule's criteria. Also, the Hearings Officer further recommended that the Director find and conclude that the exemption to Chapter 466K, pursuant to HAR §16-114-74, applies only to transactions meeting the criteria established in HAR §16-114-74.

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Real Estate Commission
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2011 Real Estate Commission Meeting Schedule

Laws & Rules Review Committee – 9:00 a.m.
Condominium Review Committee – Upon adjournment of
the Laws & Rules Review Committee Meeting
Education Review Committee – Upon adjournment of the
Condominium Review Committee Meeting

Wednesday, January 12, 2011

Wednesday, February 9, 2011

Wednesday, March 9, 2011

Wednesday, April 13, 2011

Wednesday, May 11, 2011

Wednesday, June 8, 2011

Wednesday, July 13, 2011

Wednesday, August 10, 2011

Wednesday, September 7, 2011

Wednesday, October 12, 2011

Wednesday, November 9, 2011

Wednesday, December 7, 2011

Real Estate Commission – 9:00 a.m.

Thursday, January 27, 2011

Friday, February 25, 2011

Thursday, March 24, 2011

Thursday, April 28, 2011

Friday, May 27, 2011

Thursday, June 23, 2011

Friday, July 29, 2011

Friday, August 26, 2011

Friday, September 23, 2011

Friday, October 28, 2011

Wednesday, November 23, 2011

Friday, December 16, 2011

Continuing Education Providers

360training.com	512-539-2869
Abe Lee Seminars	942-4472
Akahi Real Estate Network LLC	808-331-2008
All Islands Real Estate School	564-5170
Career Webschool Cengage Learning, Inc.	800-532-7649
Carol Ball School of Real Estate	808-871-8807
Continuing Ed Express LLC	866-415-8521
Dower School of Real Estate	735-8838
Eddie Flores Real Estate Continuing Education	951-9888
ERA School of Real Estate a Division of SRH Inc.	808-981-0711
Hawaii Association of Realtors	733-7060
Hawaii CCIM Chapter	528-2246
Hawaii Institute of Real Estate (HIRE)	561-7653
Hawaii Island Board of Realtors	808-935-0827
Hogan School of Real Estate	800-794-1390
Honolulu Board of Realtors	732-3000
Kauai Board of Realtors	808-245-4049
Levin & Hu, LLP	808-270-1096
Lynn W. Carlson	
McKissock, LP	800-328-2008
Pacific Real Estate Institute	524-1505
ProSchools, Inc.	800-299-2207
Ralph Foulger's School of Real Estate	239-8881
Realtors Association of Maui Inc.	808-873-8585
REMI School of Real Estate	230-8200
Richard Daggett School of Real Estate	923-0122
Russ Goode Seminars	597-1111
Seiler School of Real Estate	808-874-3100
Shari S. Motooka-Higa	457-0156
The CE Shop, Inc.	888-827-0777
The Seminar Group	206-463-4400
University of Hawaii at Manoa Outreach College	956-8244
Vitousek Real Estate Schools, Inc.	946-0505
West Hawaii Association of Realtors	808-329-4874

All meetings will be held in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor.

Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at www.hawaii.gov/hirec or call the Real Estate Commission Office at (808) 586-2643 to confirm the dates, times and locations of the meetings. This material can be made available to individuals with special needs. Please contact the Executive Officer at (808) 586-2643 to submit your request.