

State of Hawaii Real Estate Commission Bulletin

February 2012



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Advertising a Listing That Is Not Yours

HEY!!! What's my listing doing on THIS website??? Sound familiar? Probably. Unfortunately.

Hawaii Administrative Rules (HAR) section 16-99-3(i) states, "The brokerage firm shall not submit or advertise property without **written authorization**, and in any offering the price quoted shall not be other than that agreed upon with the owner as the offering price." (emphasis added)

HAR section 16-99-3(l) states, "A licensee shall not place any sign or advertisement indicating a property is for sale, rent, lease, or exchange without the **written authorization of the owner or seller** and approval of the principal broker or broker in charge." (emphasis added)

Hawaii Revised Statutes (HRS), section 467-14(3) states that the commission may discipline a real estate license



for "Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise; . . ."

And, there's another possible violation involved in advertising someone else's listing without the required authorization: HRS section 467-14(20), "Failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing; . . ."

If a listing is discovered on a website that is NOT that of the listing broker/brokerage, and there is no written authorization by the seller/owner to advertise the property, this should be reported to the Regulated Industries Complaints Office (RICO), along with documentary evidence to support the finding. For example, copies of the website advertising, evidence that the listing is not the advertiser's, and proof that there is no written authorization provided may be submitted to RICO.

20 Hours of CE Required by November 30, 2012

The implementation of the increase of required continuing education (CE) for Hawaii real estate licensees was effective January 1, 2011. For the 2011-2012 licensing biennium, all real estate licensees renewing their license on active status for the 2013-2014 biennium must complete the required 20 CE hours which include 5 hours of the Commission's mandatory core course, and 15 hours of elective CE.

For those licensees reactivating their license during the current biennium, the requirement for 2011-2012 will still be completion of the previous biennium's 10 hours of CE. Not until the 2013-2014 biennium will these reactivations require completion of 20 hours of CE.

Don't procrastinate! The Commission's mandatory core course, 2011-2012, will be available by March 2012.

The renewal deadline for all licensee's who are renewing their license on active status for 2013-2014 is November 30th.

The scheduled offerings of all available CE courses are downloadable from the Commission's website at www.hawaii.gov/hirec, click on Online Real Estate Continuing Education.

Remember to review MY CE HISTORY to see which CE courses you have completed in the past. Whatever courses show in MY CE HISTORY are the courses that cannot be repeated for CE credit. If the course has the exact same title as the course listed in your history, do not waste time registering for it. You will not receive CE credit for taking the same-titled course.

2011-2012 Mandatory Core Course

The Commission's 2011-2012 mandatory core course will be released by late February or early March 2012. The mandatory core course is currently being developed by Pacific Real Estate Institute. The format of the mandatory core course will be in two 2.5 hour parts that may be offered by qualified continuing education providers either together in one 5-hour course, or in two 2.5 hour sections that may be presented the same day or on different days. Both sections must be completed to earn the 5 hours credit. Additionally, all licensees must complete 15 hours of elective continuing education courses, if they plan on renewing their real estate license on active status for the 2013-2014 biennium. There will be an online version of the core course available shortly after the live classroom version becomes available. Check the Commission's website at www.hawaii.gov/hirec, click on Online Real Estate Continuing Education, click on Course Schedule to view the core course offerings by different CE providers.

The mandatory core course for 2011-2012 will include the 2011 Hawaii legislative update and the topic of "property management". The 5-hour format will allow an in-depth coverage and review of the property management topic. The downturn in the national economy has affected all professions and vocations including real estate. Here, in Hawaii, the downturn has not been as steep as in other parts of the country. Currently, at least in Hawaii, it even appears that the real estate market is inching back up again. Many licensees have turned to property management in this time of decline, so the focus of the mandatory core course on property management is timely and relevant.

The 2012 Hawaii legislative update will be developed and presented in an issue of the Real Estate Commission Bulletin after the 2012 legislative session is completed. The legislative update is targeted for completion by the end of July and will appear in the Bulletin issued after the legislative update completion.

Change of Address Means A Change Form

Hawaii Administrative Rules (HAR) section 16-99-5 Notification and filing of names, addresses, and changes. (a) Each individual licensee shall file with the commission and shall notify the commission of any change in writing, within ten days of the change, on a form provided by the commission: (1) The licensee's legal name, residence address, and mailing address; . . . " To ensure that all notifications regarding real estate licensing and education are forwarded to the correct address, your current address must be on file with the Commission. This is especially important this year as this is the renewal year for real estate licensees, prelicense schools, prelicense instructors, continuing education providers. All licenses, registrations, and continuing education courses must be renewed by November 30, 2012.

ATTENTION: As of February 6, 2012, a REVISED Change Form (CF) is now available on the Commission's website, www.hawaii.gov/hirec, click on Forms. The CF is now easier to negotiate with directions with each item, instead of on the back of the CF. Please take the time to review the new CF!

New Secretary For Real Estate Branch



Lesley Matsumoto joined the Real Estate Branch (REB) on February 1, 2012 as its new secretary. She will be working with REB's Supervising Executive Officer, Neil Fujitani. Ms. Matsumoto was previously the secretary for other boards and commissions under the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs (DCCA). She joined the DCCA in 2002.

Welcome!

The Chair's Message



Aloha!

May the Year of the Dragon bring much prosperity and good luck your way!

Education is the key to becoming a successful real estate salesperson or broker. Here are some ideas to ponder.

**ONLINE REAL ESTATE PRELICENSING EDUCATION
AN EFFECTIVE ALTERNATIVE**

Until the last decade most of us who are real estate licensees fulfilled our prelicense education in a classroom where there was a live lecture and an opportunity to ask questions of the instructor. Today a growing segment of the population desiring a real estate license is turning to online real estate prelicensing courses as a means of fulfilling the required education.

Since most real estate prelicensing candidates are already in the working world and have families and lives other than being a student, it is not surprising that the convenience of a course delivered through stored material on the Internet could become popular. The online model allows a course to be taken any time a student wishes, for as long as the student wants to remain online and from anywhere the student has computer access. Advances in technology allow innovative course developers to include RSS feeds, audio, video, satellite broadcasting, and forums in their offerings.

Typically an online real estate course has text material to be read, Internet links to supplementary material, hyperlinks to vocabulary words, quizzes and remediation exercises interspersed throughout the course. Usually student participants must answer all of the questions correctly in the quizzes before they can continue with the next section of the course. This assures controlled navigation of the course content by the provider and intermittent review and reinforcement of studied material by the student. Students pose questions to the instructor by email and the instructor must answer back in a timely manner.

We recently asked PSI, the Commission's test administrator, to provide us with the Hawaii real estate examination statistics, separating the classroom and online results. In the testing period from July 1, 2009 (when PSI started as the Hawaii test administrator) to November 29, 2011 a summary reported the passing rate for first time test takers desiring real estate licenses in Hawaii. Separate statistics for the each of the tests were provided.

HI R E Broker first time-National	Tested	Passed	%Passed
Classroom	273	210	77%
Online	88	70	80%

HI R E Broker first time-State	Tested	Passed	%Passed
Classroom	452	160	35%
Online	123	27	22%

HI R E Salesperson first time-National	Tested	Passed	%Passed
Classroom	1687	1115	66%
Online	599	452	75%

HI R E Salesperson first time-State	Tested	Passed	%Passed
Classroom	1919	731	38%
Online	642	318	50%

The results were a surprise to many. They showed that there was a larger proportion of first time passers who had taken the online course than passers who took the traditional, live class method in all of the tests except the state portion of the brokers test. Although we cannot say from these results that one form is better than the other this is evidence of the respectability of the online course delivery as an alternative to traditional classroom courses.

Distance education has come a long way since correspondence courses by mail were introduced in 1930. Although myths and misconceptions about the effectiveness of distance education still exist, there is continuing growth and improvement in the use of DE. Today regulatory agencies in 80% of the states in the nation allow distance courses to fulfill their real estate pre-license education requirements. Distance education for Continuing Education is already allowed in all of the states and the District of Columbia.

There are five schools offering online courses out of fifteen registered prelicensing schools in Hawaii today. By offering online education we are furthering the dissemination of education programs to licensees and those wishing to become licensed, and by using technology we are enhancing the distribution of education to persons and areas where live classes may be non existent or difficult to arrange. We are fortunate that Hawaii is among the states that allow real estate license candidates to access tools to their professional entry and growth through this exciting medium.

(s) Carol Ball, Chair

Administrative Actions

October 2011

Marie Browne-Hartwell
Salesperson – RS 66784
Case No: REC 2010-128-L
Dated 10/28/11

Factual Findings: On 5/12/08, Complainants entered into an agreement to rent property located at 95-1022 Liho Street in Mililani, Hawaii (“Mililani Rental”) for a period of 3 years commencing on June 1, 2008. Respondent was the property manager for the Mililani Rental. Based on the records presented, the Hearings Officer found that the Respondent did not provide Complainants with the property condition form and photo disc of the property as required by the rental agreement.

Order: Pay a \$1,000.00 fine

Violations: HRS §436B-19(9)

Carlton P. Yim
Broker – RB 17990
Case No: REC 2009-302-L
Dated 10/28/11

Factual Findings: On or about 4/22/09, an indictment was filed against Respondent and others in the United States District Court for the District of Hawaii, CR09-00179SOM, alleging, among other things, conspiracy to commit mail fraud, wire fraud, and false statements on loan applications. On or about 7/10/09, Respondent entered into a Memorandum of Plea Agreement in which Respondent agreed to plead guilty to Count 1 of the indictment. Count 1 of the indictment charged Respondent and others with conspiracy to commit mail fraud, wire fraud, and false statements on loan applications, all in violation of 18 U.S.C. §371. In the Memorandum of Plea Agreement, Respondent admitted he participated in the charged conspiracy to submit materially false documents to lending institutions by drafting the real estate contracts (“DROA”) used to initiate the sales of property from a homeowner to a straw purchaser identified as “H.E.” who intended to buy a property located on Hoala Street in Honolulu, Hawaii. Respondent also admitted that, for a fee ranging from \$50 to \$150, Respondent prepared false verification of rent (“VOR”) forms that materially misrepresented to lending institutions that Respondent was the property manager for the loan applicant and that the loan applicant occupied a particular residence, for a particular amount of time, and paid a specified monthly amount of rent. As a result of the conspiracy, lending institutions approved fraudulent loan applications and funded the loans, including two loans in connection with the Hoala Street property totaling approximately \$620,053.

Order: License revocation and pay a \$5,000.00 fine.

Violations: HRS §§467-14(1), (3), (8), (20); HRS §§436B-19(2), (7), (11), (12)

Administrative Actions (cont. from page 4)

October 2011

Lin Poling

Broker – RB 15527

Case No: REC 2008-44-L

Dated 10/28/11

Factual Findings: June 2006, Complainant entered into an agreement with Respondent for the rental of a Waikiki apartment unit. The rental agreement acknowledged Respondent's receipt of a security deposit of \$1,900.00 from Complainant. Complainant vacated the premises and terminated the rental agreement on 8/7/07. Respondent did not notify Complainant of any proposal to retain some or all of the security deposit and did not return the security deposit within 14 days from the termination of the rental agreement. When Respondent failed to return the security deposit, Complainant made attempts to contact Respondent but was unsuccessful. On 1/24/08, Complainant filed a lawsuit against Respondent, seeking the return of her security deposit. The case was filed in the Small Claims Division of the District Court of the First Circuit, Honolulu Division, State of Hawaii. On 3/18/08 Respondent filed a counterclaim against Complainant alleging that Complainant owed Respondent \$1,555.00 for "unpaid rent and property damages to rental unit." On 3/20/08, a Judgment was

entered in favor of Complainant on all claims, including Respondent's counterclaim. The Judgment for \$1,945.21 included the security deposit together with costs and fees incurred by Complainant in pursuing the lawsuit against Respondent. March 2008, Respondent satisfied the Judgment and a Satisfaction of Judgment was filed with the court on 4/24/08. Respondent failed to notify or otherwise report the Judgment to the Commission in writing within 30 days.

Order: License revocation and pay a \$5,000.00 fine.

Violations: HRS §§467-14(7), (13), (16), (20); HRS §436B-16(a), §436B-19(12); HAR §16-99-3(b)

Powell W. Berger

Broker – RB 19708 and Two

Wahines on the Beach, LLC

Broker – RB 18298

Case No: REC 2010-87-L

Dated 10/28/11

Allegations: Respondent Two Wahines on the Beach, LLC was formed on or about 1/26/04 with Respondent Berger and Susan B. Osborne listed on the Articles of Organization. Ms. Osborne was the principal broker of Respondent Two Wahines on the Beach, LLC until 11/9/07 when Respondent Berger became the principal broker. On or about 3/30/07, the Real Estate Commission approved a Settlement Agreement Prior to Filing of Petition for Disciplinary Action in RICO Case No. REC 2006-115-L in which Respondents were Two Wahines on the Beach, LLC and Ms. Osborne. The case alleged Respondents managed and advertised property for transient vacation use on residential zoned property without a nonconforming use certificate. 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. On or about 10/28/10, the Real Estate Commission approved a Settlement Agreement Prior to Filing of Petition for Disciplinary Action in RICO Case No. REC-2010-217-L in which Respondent was Ms. Osborne. The case alleged, inter alia, that despite the settlement in RICO Case No. REC 2006-115-L, Ms. Osborne continued to offer and/or advertise property for transient vacation use on residential zoned property without nonconforming use certificates for said properties. As part of the settlement agreement, the real estate broker's license of Ms. Osborne was revoked. Despite the settlement in RICO Case No. REC

2006-115-L, Respondents Powell W. Berger and Two Wahines on the Beach, LLC continued to offer, advertise and rent property for transient vacation use on residential zoned property without nonconforming use certificates for said properties.

Sanction: Pay a \$5,000.00 fine.

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

Administrative Actions (cont. from page 5)

October 2011

Sean S. Ginoza

Broker – RB 20689

Case No. REC 2010-302-L

Dated 10/28/11

Allegations: On or about 2/28/08, a no contest plea judgment (“conviction”) was entered against Respondent in the District Court of the Third Circuit, State of Hawaii, for the crime of driving under the influence. Although the Respondent did not disclose the conviction in his 2008 license renewal application due to a misunderstanding on his part, it was nevertheless self-reported to the Commission on 9/22/10. On that date Respondent sent a written statement to the Commission about the 2008 conviction, and, he attached court documents regarding the same. The Respondent also disclosed the conviction as part of his 12/21/10 broker license application.

Sanction: Pay a \$500.00 fine.

Violations: HRS §§436B-19(12), (14), (17)

November 2011

Richard M. Ogasawara dba

Kens Hawaii Associates

Broker – RB 7380

Case No: REC 2011-58-L

Dated 11/23/11

Allegations: On or about 5/21/09, a no contest plea judgment (“conviction”) was entered against the Respondent, in the District Court of the First Circuit, State of Hawaii, for the crime of driving under the influence. The Respondent disclosed the conviction in writing to the Commission via the Respondent’s 11/30/10 license renewal application. The Respondent fulfilled all Court-imposed terms and conditions of the conviction.

Sanction: Pay a \$500.00 fine.

Violations: HRS §§436B-19(12), (14), (17)

Douglas Belt

Broker – RB 17287

Big Island Realty, Inc.

Broker - RB 17626

Case No: REC 2008-253-L

Dated 11/23/11

Factual Findings: Complainant entered into a property management agreement with Respondents. Complainant alleged that Respondents failed to account for funds, failed to supply receipts for the property, failed to respond to emails and phone calls, failed to timely deliver rent proceeds and failed to return funds upon the termination of the management contract. Complainant also alleged that Respondents backdated postage meters and checks, inappropriately refunded security deposits, inappropriately credited tenants for repairs, and made false statements regarding occupancy of the property and rental proceeds. On 12/14/09, a judgment in the amount of \$2,188.13 was entered against Respondent Belt in Civil No. ISC09-1-142 based on Respondent’s failure to return a deposit to client. The judgment was not reported to the Real Estate Commission.

Order: Revocation of licenses.

Violations: HRS §436B-16; HAR §16-99-3(b)

Administrative Actions (cont. from page 6)

November 2011

Waianae Coast Realty, Inc.

Broker – RB 14866

Richard C. Cayer

Broker – RB 9598

Case No: REC 2009-363-L

Dated 11/23/11

Factual Findings: Respondents inadvertently failed to timely renew their licenses by the expiration date of 12/31/08. Respondents restored their licenses effective 10/27/09 as soon as they became aware of the lapse.

Order: Respondents each pay a \$3,000.00 fine.

Violations: HRS §§467-1.6(b)(7) and HRS §467-7

December 2011

Steve Wright

Broker – RB 19936

All Professional Hawaii

Realty

Broker – RB 18660

Case No: REC 2008-302-L

Dated 12/16/11

Factual Findings: On 7/24/07, a judgment was entered against Respondent All Professional in the District Court of the First Circuit, case number 1SC07-1-1067 in the amount of \$690.00. This matter related to failure to return a security deposit. This judgment was not reported to the Commission. On 10/20/08, a judgment was entered against Respondent All Professional in the District Court of the First Circuit, case number 1SC08-1-1782 in the amount of \$2,040.00. This matter related to failure to return a security deposit. This judgment was not reported to the Commission. Respondents did not satisfy the judgment and the plaintiff garnished Respondent All Professional's account. On 10/20/08, a judgment was entered against Respondent All Professional in the District Court of the First Circuit, case number 1SC08-1-1783 in the amount of \$716.67. This matter related to the failure to return rental payment. Respondents did not satisfy the judgment and the plaintiff garnished Respondent All Professional's account. Respondents issued a check for \$2,756.67, the total amount of the monies due to one of the plaintiffs in the lawsuits described in aforementioned case numbers 1SC08-1-1782 and 1SC08-1-1783. However, Plaintiff refused to sign a release characterized the release as a "receipt" prepared by Respondents so Respondents never gave Plaintiff the check. Respondents filed a lawsuit against the plaintiffs which was dismissed when the Court determined that the issues had been addressed in the prior actions. Respondents did not appear at court on the day of the trial. Respondents' reason for not appearing is that the client instructed them not to pursue it.

Order: Pay a \$5,000.00 fine

Violations: HRS §467-1.6(b)(3), HRS §§467-14(7), (20), HRS §§436B-19(7), (11), (12), and HRS §436B-16

Administrative Actions (cont. from page 7)

December 2011

Jeff Von Schmauder

Salesperson – RS 67547

Case No: REC 2007-429-L

Dated 12/16/11

Factual Findings: On 2/3/06, the Professional Vocational Licensing Division received Respondent's application for license as a real estate salesperson. It was dated 1/28/06 and Respondent answered "no" to the question: "Are there any pending lawsuits, unpaid judgments, outstanding tax obligations, or any other type of involuntary liens against you?" By signing the application, Respondent certified that "the statements and answers on this application and accompanying documents are true and correct. I understand that any false or untrue statement or material misstatement of fact shall constitute grounds for refusal or subsequent revocation of license and is a misdemeanor under Hawaii law (§§467-20 and 710-1017 HRS). The Respondent failed to report the following judgments: 12/19/03 - \$791,441.73
12/31/03 - \$239,448.40
12/31/03 - \$425,327.62
06/25/09 – real estate license suspension in the State of Washington and \$2500 fine. On 7/18/06, Respondent was granted a discharge under 11 U.S.C. §727 by the United States Bankruptcy Court in the Western District

of Washington. Respondent did not notify the Commission of the disciplinary action taken against him in Washington within thirty (30) days of its issuance.

Order: License revocation and pay a \$5,000.00 fine.

Violations: HRS §§436B-19(1), (2), (5), (8), (13), (15), HRS §§467-8(a)(3), 467-14(13), 467-20

Curtis M. Miyahara

Salesperson – RS 48573

Case No: REC 2008-288-L and

REC 2009-75-L

Dated 12/16/11

Factual Findings: Respondent's license was suspended on 9/8/09 due to non-compliance with an order from the Child Support Enforcement Agency. December 2005, Respondent represented Complainants in the sale of their home. Respondent encouraged Complainants to invest the proceeds from the sale of their home in real estate and represented to Complainants that he was an investor who had helped others invest money. Respondent suggested that Complainants invest in two properties with a down payment of \$50,000.00 each. Respondent said he would obtain the loan and he would have himself put on title to the two investment properties. Respondent said he would take care of the monthly payments and maintenance fees in the two investment properties. Respondent informed Complainants that they could refinance the two investment properties once their credit was "cleaned out". Respondent told Complainants that they could sell the investment properties in one year and make money from the sale. Complainants gave Respondent two checks in the amount of \$50,000.00 each. Respondent had no written agreement with the Complainants regarding the investment. Respondent added Complainants to the title to two properties owned by Respondent. Complainants received notice that the mortgage on one of the properties was in default. Respondent ripped up the notice and told Complainants not to worry, that he had already refi-

nanced the property. Complainants asked Respondent to sell the properties and return their \$100,000.00. Respondent refused to take or return telephone calls from Complainants and failed to return any of their money. Respondent did not respond to Petitioner's request for information regarding his activities. On 9/21/07, a judgment in the amount of \$8,555.59 was entered against Respondent. On 5/6/08, a Judgment and Order of Restitution was entered against Respondent, ordering restitution in the amount of \$20,171.00 to the State of Hawaii, Department of Taxation based on four counts of willful failure to file tax returns.

Order: License revocation

Violations: HRS §§467-14(1), (2), (3), (7), (8), (16), (20), HRS §§436B-19(1), (2), (7), (11), HAR §§16-99-3(f), (g)

Administrative Actions (cont. from page 8)

December 2011

Klem Unciano

Broker – RB 16775

**Hawaii Properties and
Development, Inc.**

Broker – RB 16832

Case No's: REC 2008-304-L

& REC 2008-305-L

(Consolidated)

Factual Findings: In or about November 1995, Respondent Unciano filled in, signed and submitted to the Commission an application ("1995 Application") for a real estate broker's license. Question 3 of Section C of the 1995 Application asked: "Are there any pending lawsuits, unpaid judgments, outstanding tax liens, or any other type of involuntary liens against you?" Respondent Unciano marked the "NO" box in answer to the question. Respondent Unciano also signed the Affidavit of Applicant which represented that, "I hereby certify that the statements and answers on this application and accompanying document(s) are true and correct. I understand that any statement false or untrue, or any material misstatement of fact shall constitute grounds for refusal or subsequent revocation and misdemeanor charges." In reliance on the representations in the 1995 Application, the Commission issued Respondent Unciano's real estate broker's license on 11/2/1995. Respondent falsified his 1995 broker's license application and 1996 entity application for Hawaii Properties by failing to disclose

- Pending lawsuit filed in 1993
- Outstanding \$6,389.48 judgment
- Pending liens - \$17,400.00 Note; \$9,280.00

Note

In addition to the aforementioned lawsuits and liens, Respondent failed to disclose three 1996 lawsuits.

Order: License revocation and each pay a \$1,000.00 fine.

Violations: HRS §§467-8(a)(3), HRS 467-14(13), (20); HRS §§436B-19(1), (2), and (5)

Administrative Actions (cont. from page 9)

December 2011

Jeremy Hillstrom

Salesperson – RS 68020

Case No: REC 2010-147-L

Dated 12/16/11

Allegations: Sometime in or around 2009 through the present day, Respondent alone, and/or through and/or with the assistance of Paradise Vacation Rentals, Inc. (“PVR”) has advertised Kauai vacation homes for lease via PVR’s website. Respondent is or has been the registered agent for PVR. PVR is not licensed by the Commission to engage in real estate activity in this state. Karen Hillstrom, who is believed to be the Respondent’s mother, is or has been an officer of PVR. Karen Hillstrom is not licensed by the Commission to engage in real estate activity in this state. Respondent by his actions have acted through, with, for and/or has assisted PVR and/or Karen Hillstrom and their rental activity on Kauai. Consumer contacted PVR in 2009 and began corresponding with the Respondent and/or PVR and/or Karen Hillstrom about the possibility of renting on of the three Kauai properties advertised by PVR. The Consumer did not know that PVR, Karen Hillstrom, or Respondent were not licensed brokers in Hawaii. Consumer did not know that the Respondent had an “inactive” license as a real estate salesperson in Hawaii. The Consumer decided to, reserved and paid for the “Beach Cottage” that was on PVR’s website for approximately ten (10) days in March of 2010. The Consumer and her mother and sister arrived on Kauai to check in at the Beach Cottage on or about 3/17/10. Upon arriving at the Beach Cottage the Consumer found that the home was not as it had been represented to her, or as advertised, nor was it secure. The Consumer did not stay at the Beach Cottage but found other accommodations for the duration of their stay. The Consumer requested a full refund from the Respondent, PVR and/or Karen Hillstrom due to the condition of the Beach Cottage but the request was denied to the detriment of the Consumer. The Beach Cottage and the other two homes that were or are advertised on PVR’s website are not owned by PVR, Karen Hillstrom or the Respondent. None of the communications received by the Consumer or viewed by the Consumer on the internet said that the Respondent was a real estate salesperson whose license was on inactive status.

Sanction: Pay a \$2,000.00 fine and full restitution totaling \$1,870.00.

Violations: HRS §§436B-19(2), (6); HRS §467-7 and HAR §16-99-11(c)

Administrative Actions (cont. from page 10)

December 2011

Jonathan C. Hudson

Broker – RB 7928

Central Oahu Real Estate, Inc.

Broker – RB 17962

Case No's:

REC 2007-122-L

REC 2007-146-L

REC 2007-147-L

REC 2007-214-L

Dated 12/16/11

Factual Findings: REC 2007-122-L – Between 1996 and 2006, Respondent Central Oahu Real Estate, Inc. ("CORE") managed a rental home at 92-747 Palailai Street, Kapolei, Hawaii ("Kapolei Rental"), for its owner, pursuant to a rental property management agreement. Pursuant to the property management agreement and up to the beginning of the summer of 2006, Respondent CORE provided Owner with monthly statements as well as the owner's share of the rental proceeds less Respondent CORE's 10% commission and other fees and expenses it had incurred for the Kapolei Rental. The last two statements and rental proceeds that Owner received from Respondent CORE were for the months of June and August 2006. On 8/11/06, Owner emailed Respondent CORE and informed it that he had not received the July rental proceeds and the statement for the rental of the Kapolei Rental. When he received no response, Owner emailed Respondent CORE repeatedly but received no response. Owner's emails were addressed to Jo Anne Walters who he understood was Respondent CORE's principal broker. Owner was never informed by Respondent CORE who its principal broker was or that Walter's real estate broker's license had been revoked in 2003. Owner attempted to contact Respondent CORE by telephone and correspondence with no success. In September 2006, Owner hired another firm to manage his Kapolei Rental. The new firm, however, was unable to contact Respondent CORE to retrieve the July rent and was unable to collect the September rent because Respondent CORE had already picked up the rent directly from the tenant. Owner never received the July and September rents from Respondent CORE for the Kapolei Rental. During the period when Respondent Hudson was Respondent CORE's principal broker, Respondent Hudson was not named as the trustee of Respondent CORE's client trust account. During the period when Respondent Hudson was Respondent CORE's principal broker, Respondent Hudson was unaware of Respondent CORE's records pertaining to its client trust funds accounts, how the trust funds were being handled and accounted for by Respondent CORE, and the existence of any document delegating the handling of Respondent CORE's client trust account/property from himself as the principal broker to another employee or licensee of Respondent CORE. Prior to May 2006 and while Respondent Hudson was Respondent CORE's principal broker, another individual, Rebecca J. Pretz, was permitted to and did handle all of the client trust account activity for

Respondent CORE. Pretz, however, was not a licensed real estate broker. From approximately May 2006 to 8/16/06, Walters, illegally operated Respondent CORE, including handling the client trust accounts, trust funds, and trust checks. Respondent CORE did not have a principal broker after Respondent Hudson terminated his association with Respondent CORE on 8/16/06. REC 2007-146-L – Beginning in or about 2003 to 2006, Respondent CORE managed a rental home at 59-145 Ke Nui Road, Haleiwa ("Haleiwa Rental"), for Owner 2 pursuant to a rental property management agreement. Pursuant to the property management agreement and up to the beginning of the summer of 2006, Respondent CORE provided Owner 2 with a monthly statement as well as the owner's share of the rental proceeds less Respondent CORE's 10% commission and other fees and expenses it had incurred for the Haleiwa Rental. The tenants also paid Respondent CORE \$2,100.00 as the security deposit required by the terms of the rental agreement. Owner 2 did not receive the monthly statement or rental proceeds for the months of September and October of 2006 from Respondent CORE. In September 2006, Owner 2 telephoned, wrote letters, and emailed Respondent CORE to inquire about the statements and rent checks. At about the same time, the tenants attempted to contact Respondent CORE to renew their rental agreement. Respondent CORE did not respond to either Owner 2 or the tenants. Owner 2 eventually contacted the tenants who confirmed that they had paid Respondent CORE the rent for September and October of 2006. On or about 10/14/06, Owner 2 sent a letter to Respondent CORE to terminate the property management agreement. The letter was addressed to Jo Anne Walters who Owner 2 had worked with and whom Owner 2 believed was Respondent CORE's principal broker. The letter was returned to Owner 2 unopened. Owner 2 was never informed by Respondent CORE who its principal broker was or that Walters' real estate broker's

Administrative Actions (cont. from page 11)

December 2011

Jonathan C. Hudson

Broker – RB 7928

Central Oahu Real Estate, Inc.

Broker – RB 17962

Case No's:

REC 2007-122-L

REC 2007-146-L

REC 2007-147-L

REC 2007-214-L

Dated 12/16/11

license had been revoked in 2003. In October 2006, Owner 2 retained another firm to manage the Haleiwa Rental. Since Respondent CORE never provided Owner 2 with the tenants' security deposit, Owner 2 paid \$2,100.00 to the new firm to replace the tenants' security deposit. REC 2007-147-L – From about 2003 to 2006, Respondent CORE managed a rental home at 94-149 Kuahelani Avenue, #154, Mililani ("Mililani Rental"), for Owner e3 pursuant to a rental property management agreement. Pursuant to the property management agreement and up to the beginning to the summer of 2006, Respondent CORE provided Owner 3 with a monthly statement as well as the owner's share of the rental proceeds less Respondent CORE's 10% commission and other fees and expenses it had incurred for the Mililani Rental. When Owner 3 did not receive any rental proceeds for the Mililani Rental for August 2006, he began calling Respondent CORE; however his calls were not returned. On 9/24/06, Owner 3 emailed Respondent CORE and Jo Anne Walters who he believed was Respondent CORE's principal broker. Owner 3 received a response via email from Respondent CORE and Walters. Walters wrote, "There is a letter in the mail to you about the fact that we are going to discontinue property management services. I will resend the check but you will have to watch that you do not receive two for the same period." In response to Respondent CORE's email, Owner 3 wrote back and asked Respondent CORE if he needed to obtain a new management company for the Mililani Rental. Respondent CORE did not respond to this and subsequent emails from Owner 3. The tenants informed Owner 3 that their September 2006 rent for the Mililani Rental had been automatically deducted from their checking account by Respondent CORE. Owner 3 eventually hired another firm to manage his Mililani Rental. However, Owner 3 never received from Respondent CORE the rental proceeds for August and September 2006 for the Mililani Rental. Because Respondent CORE did not provide Owner 3 with the tenants' security deposit, Owner 3 paid \$1,900.00 to the new firm for the tenants' security deposit. REC 2007-214-L – On or about 7/12/05, Owners 4 entered into a rental agreement with Respondent CORE for unit A-1004 of 95-227 Waikalani Drive, Mililani, Hawaii 96789. The term of the rental agreement ran from 7/12/05 through 7/31/06. The tenants wrote a check to Respondent CORE for \$2,000.00 for their pro-rated first month's rent and \$1,250.00 security deposit. The tenants vacated the premises on 7/10/06

after having completed the check-out process with an agent from Respondent CORE. The tenants, however, did not receive their \$1,250.00 security deposit back from Respondent CORE. The tenants attempted to call Respondent CORE numerous times beginning in July 2006 in an effort to recover their security deposit with no success.

Order: License revocation and each pay a \$1,000.00 fine.

Violations: Respondent CORE in each of the cases: HRS §§467-14(7), (8), (13), (16) and (20); HRS §436B-19(7) and (12); HAR §§16-99-3(m) and (v). Respondent Hudson in each of the cases except REC 2007-146-L: HRS §§467-1.6(a) and (b)(1); HRS §467-14(7); HRS §§436B-19(7), (12), and (16); HAR §§16-99-4(a), (i) and (j).

Statutory/Rule Violations

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

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

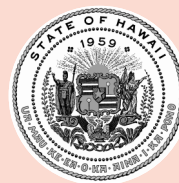
HRS §436B-16	Notice of judgments, penalties
HRS §436B-16(a)	Each licensee shall provide written notice within thirty days to the licensing authority of any judgment, award, disciplinary sanction, order, or other determination, which adjudges or finds that the licensee is civilly, criminally, or otherwise liable for any personal injury, property damage, or loss caused by the licensee's conduct in the practice of the licensee's profession or vocation. A licensee shall also give notice of such determinations made in other jurisdictions.
HRS §436B-19(1)	Failure to meet or maintain the conditions and requirements necessary to qualify for the granting of a license.
HRS §436B-19(2)	Engaging in false, fraudulent, or deceptive advertising, or making untruthful or improbable statements.
HRS §436B-19(5)	Procuring a license through fraud, misrepresentation, or deceit.
HRS §436B-19(6)	Aiding and abetting an unlicensed person to directly or indirectly perform activities requiring a license.
HRS §436B-19(7)	Professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of the licensed profession or vocation.
HRS §436B-19(8)	Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity.
HRS §436B-19(9)	Conduct or practice contrary to recognized standards of ethics for the licensed profession or vocation.
HRS §436B-19(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.
HRS §436B-19(13)	Revocation, suspension, or other disciplinary action by another state or federal agency against a licensee or applicant for any reason provided by the licensing laws or this section.
HRS §436B-19 (14)	Criminal conviction.
HRS §436B-19(15)	Failure to report disciplinary action within thirty days of the disciplinary decision.
HRS §436B-19 (17)	Violations of Chapter 467, HRS, or any other 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)(3)	The principal broker shall be responsible for all real estate contracts of the brokerage firm and its handling by the associated real estate salesperson.

Statutory/Rule Violations (cont. from page 13)

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	Licenses required to act as a real estate broker or salesperson.
HRS §467-8(a)(3)	No license, registration, or certificate under this chapter shall be issued to any person who does not possess a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.
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(13)	Violating this chapter, chapters 484, 514A, 514B, 514E, or 515, or section 516-71, or the rules adopted pursuant thereto.
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.
HRS §467-20	False statement.
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(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(m)	There shall be a principal broker or one or more brokers in charge, or both, at the principal place of business, and one or more brokers in charge at a branch office who shall be immediately responsible for the real estate operations conducted at that place of business.
HAR §16-99-3(v)	The licensee shall not convert other people's money to the licensee's own use.
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 §16-99-4(i)	A salesperson, broker-salesperson, or employee shall not handle trust properties in any way without the express written authorization of the person's principal broker or broker in charge.
HAR §16-99-4(j)	A salesperson, broker-salesperson, or employee shall not handle trust properties in any way without the express written authorization of the person's principal broker or broker in charge.
HAR §16-99-11(c)	Disclosure of licensee's status (active/inactive) in all advertising and promotional material.

Prelicense Schools

Abe Lee Seminars	808-942-4472
Akahi Real Estate Network LLC	808-331-2008
All Islands Real Estate School	808-564-5170
Carol Ball School of Real Estate	808-871-8807
Dower School of Real Estate	808-735-8838
Fahrni School of Real Estate	808-486-4166
Hawaii Institute of Real Estate (HIRE)	808-536-1211
ProSchools, Inc.	800-452-4879
Ralph Foulger's School of Real Estate	808-239-8881
REMI School of Real Estate	808-230-8200
Seiler School of Real Estate	808-874-3100
University of Hawaii at Manoa Outreach College	808-984-3231
University of Hawaii Maui College – OCET	808-956-2037
Vitousek Real Estate Schools, Inc.	808-946-0505



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.

Continuing Education Providers

360training.com	512-539-2869	Levin & Hu, LLP	808-270-1096
Abe Lee Seminars	942-4472	Lorman Education Services	715-833-3940
Akahi Real Estate Network LLC	808-331-2008	Lynn W. Carlson	
All Islands Real Estate School	564-5170	McKissock, LP	800-328-2008
Career Webschool Cengage Learning, Inc.	800-532-7649	Pacific Real Estate Institute	524-1505
Carol Ball School of Real Estate	808-871-8807	ProSchools, Inc.	800-299-2207
Continuing Ed Express LLC	866-415-8521	Ralph Foulger's School of Real Estate	239-8881
Dearborn Financial Publishing, Inc.		Realtors Association of Maui Inc.	808-873-8585
Distressed Properties Institute, LLC	800-482-0335	REMI School of Real Estate	230-8200
Dower School of Real Estate	735-8838	Richard Daggett School of Real Estate	923-0122
Eddie Flores Real Estate Continuing Education	951-9888	Russ Goode Seminars	597-1111
ERA School of Real Estate a Division of SRH Inc.	808-981-0711	Seiler School of Real Estate	808-874-3100
Great Lakes Institute of Real Estate	248-559-7555	Servpro Industries, Inc.	615-451-0200
Hawaii Association of Realtors	733-7060	Shari S. Motooka-Higa	457-0156
Hawaii CCIM Chapter	528-2246	The CE Shop, Inc.	888-827-0777
Hawaii Institute of Real Estate (HIRE)	561-7653	The Seminar Group	206-463-4400
Hawaii Island Board of Realtors	808-935-0827	UH Maui College – OCET	808-984-3231
Hogan School of Real Estate	800-794-1390	University of Hawaii at Manoa Outreach College	956-8244
Honolulu Board of Realtors	732-3000	Vitousek Real Estate Schools, Inc.	946-0505
Kauai Board of Realtors	808-245-4049	West Hawaii Association of Realtors	808-329-4874

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2012 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

Real Estate Commission – 9:00 a.m.

Wednesday, February 8, 2012

Wednesday, March 7, 2012

Wednesday, April 11, 2012

Wednesday, May 9, 2012

Wednesday, June 13, 2012

Wednesday, July 11, 2012

Wednesday, August 8, 2012

Wednesday, September 12, 2012

Wednesday, October 10, 2012

Wednesday, November 7, 2012

Wednesday, December 12, 2012

Friday, February 24, 2012

Friday, March 23, 2012

Friday, April 27, 2012

Friday, May 25, 2012

Friday, June 29, 2012

Friday, July 27, 2012

Friday, August 24, 2012

Friday, September 28, 2012

Friday, October 26, 2012

Wednesday, November 21, 2012

Friday, December 21, 2012

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.