



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2005 OCT 21 P 2:38

HEARINGS OFFICE

REAL ESTATE COMMISSION  
OFFICE OF ADMINISTRATIVE HEARINGS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the	)	REC-2003-320-L
Real Estate Broker's and Salesperson's	)	
Licenses of	)	COMMISSION'S FINAL ORDER
	)	AS TO DEANNA K. HOUGH
ASSET PROPERTY	)	
MANAGEMENT, INC., DEANNA K.	)	
HOUGH and JAMES STEPHEN	)	
MORGAN,	)	
	)	
Respondents.	)	
	)	

COMMISSION'S FINAL ORDER AS TO DEANNA K. HOUGH

On August 23, 2005, the duly appointed Hearings Officer submitted her Findings of Fact, Conclusions of Law and Recommended Order in the above-entitled matter to the Real Estate Commission ("Commission"). The parties were given an opportunity to file written exceptions, however, no exceptions were filed. A copy of the Hearings Officer's recommended decision was sent to Deanna K. Hough ("Respondent") at her last known addresses, but was returned marked "Refused" and "Unclaimed".


Upon review of the entire record of this proceeding, the Commission adopts the Hearings Officer's proposed decision as the Commission's Final Order and finds and concludes that Respondent Hough violated HRS §§ 436B-19(7) and 467-14(8) and HAR § 16-99-3(b).

For the violations found, the Commission orders that Respondent Hough's real estate salesperson's license be revoked and that she be required to pay a fine in the amount of


\$1,000.00 within sixty (60) days of the Commission's Final Order. Payment of the fine is a condition of relicensure.

Respondent is also ordered to return all indicia of licensure to the Commission's Executive Officer. Indicia of licensure include wall certificates or pocket identification cards issued to Respondent indicating licensure.

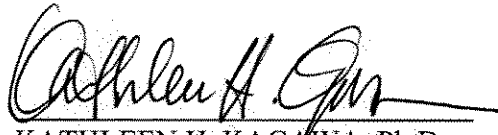
DATED: Honolulu, Hawaii: October 21, 2005


  
TRUDY I. NISHIHARA  
Chairperson

\_\_\_\_\_  
IRIS R. OKAWA  
Vice Chairperson

  
LOUIS E. ABRAMS  
Commission Member

\_\_\_\_\_  
CAROL MAE A. BALL  
Commission Member

  
KATHLEEN H. KAGAWA, Ph.D.  
Commission Member

  
STANLEY M. KURIYAMA  
Commission Member

  
MICHELE SUNAHARA LOUDERMILK  
Commission Member

\_\_\_\_\_  
VERN M. YAMANAKA  
Commission Member

\_\_\_\_\_  
Vacant



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2005 AUG 23 A 11: 54

HEARINGS OFFICE

REAL ESTATE COMMISSION  
OFFICE OF ADMINISTRATIVE HEARINGS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAI'I

In the Matter of the	)	REC-2003-320-L
Real Estate Broker's and Salesperson's	)	
Licenses of	)	HEARINGS OFFICER'S FINDINGS OF
	)	FACT, CONCLUSIONS OF LAW AND
ASSET PROPERTY MANAGEMENT,	)	RECOMMENDED ORDER AS TO
INC., DEANNA K. HOUGH and JAMES	)	DEANNA K. HOUGH, APPENDICES
STEPHEN MORGAN,	)	"A" AND "B"
	)	
Respondents.	)	
	)	

HEARINGS OFFICER'S FINDINGS OF  
FACT, CONCLUSIONS OF LAW AND  
RECOMMENDED ORDER AS TO DEANNA K. HOUGH

I. INTRODUCTION

On January 24, 2005, the Department of Commerce and Consumer Affairs, through its Regulated Industries Complaints Office ("Petitioner") filed a petition for disciplinary action against the real estate broker's licenses of Asset Property Management, Inc. ("Respondent Asset Property") and James Stephen Morgan ("Respondent Morgan"), and the real estate salesperson's license of Deanna K. Hough ("Respondent Hough"). The matter was set for hearing pursuant to Hawaii Revised Statutes ("HRS") Chapters 91, 92 and 467, and the Petition and Notice of Hearing and Prehearing Conference ("Notice") was transmitted to the parties. Respondent Hough received the Petition and Notice on March 17, 2005.

The hearing was initially scheduled for April 14, 2005 in Honolulu, but Petitioner and Respondents Asset Property and Morgan's counsel James W. Geiger, Esq.

agreed to reschedule the hearing to June 7, 2005 and to change the location of the hearing to Mr. Geiger's office on Maui. Respondent Hough received the Notice on April 19, 2005.

On May 12, 2005, Petitioner notified the Hearings Officer that a settlement had been reached with Respondents Asset Property and Morgan, and requested that the location of the hearing be changed to Honolulu. The Hearings Officer granted Petitioner's request and a Notice of Relocation of Hearing was transmitted to the parties.

On June 7, 2005, Petitioner filed a Settlement Agreement After Petition. This Settlement Agreement only pertains to Respondents Asset Property and Morgan, and was approved by the Real Estate Commission ("Commission") on July 29, 2005.

On June 7, 2005, the hearing was convened in Honolulu by the undersigned Hearings Officer as to Respondent Hough only. Diane R. Corn, Esq. represented Petitioner. Respondent Hough failed to enter an appearance at the hearing. Because it was not certain whether Respondent Hough received the Notice of Relocation of Hearing, a call was placed to Mr. Geiger, who informed the Hearings Officer that Respondent Hough had not made an appearance at his office.<sup>1</sup> Notice having properly been given, the hearing proceeded as scheduled.

Having reviewed and considered the evidence and arguments presented at the hearing, together with the entire record of this proceeding, the Hearings Officer hereby renders the following findings of fact, conclusions of law and recommended order.

## II. FINDINGS OF FACT

1. Respondent Hough was licensed as a real estate salesperson by the Commission on October 23, 1997, license no. RS 56571. Respondent Hough's license expired on December 31, 2004. Respondent Hough was employed by Respondent Asset Property and Respondent Morgan was the principal broker of Respondent Asset Property.

2. On August 22, 2002, Respondent Hough, on behalf of Respondent Asset Property, and Diamond Resort Hawaii for Katsuyuki Ishikawa and Chikako Ito Ishikawa entered into a rental agreement for unit 201 at the Kihei Resort. The rental agreement began on November 1, 2002 and ended on October 31, 2003. Monthly rent in the

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<sup>1</sup> The Notice of Relocation of Hearing, sent to Respondent Hough on May 17, 2005 by certified mail, was returned to the Office of Administrative Hearings on June 21, 2005 marked "Unclaimed".

amount of \$1,300.00 was to be paid to Respondent Asset Property, and a security deposit of \$1,300.00 was to be paid in advance.

3. On October 1, 2003, Respondent Hough and tenant Chikako Ito walked through the unit to complete the inspection report. The Inspection Report dated October 1, 2003, and signed by both parties indicated that there was no damage to the unit. Ms. Ito was given the original report, and this copy of the inspection report is attached hereto and incorporated herein as Appendix "A".

4. On October 21, 2003, Kyoko Kimura, manager of Diamond Resort Hawaii received a check in the amount of \$958.33, with a report that Respondent Hough deducted \$341.67 from the \$1,300.00 security deposit. The inspection report sent to Ms. Kimura noted that the floor/carpet was dirty and that there were broken tiles on the kitchen floor and one broken tile on the countertop. A copy of this inspection report is attached hereto and incorporated herein by reference as Appendix "B".

5. By a letter dated October 21, 2003, Ms. Kimura informed Respondent Hough that she believed that the original inspection report was altered and added and that they were entitled to a full refund of the security deposit.

6. Ms. Kimura also informed Respondent Hough that it appeared that the post mark of her office stamp was changed to October 14, 2003, but that the post office post mark proved that the check was mailed on October 17, 2003. Ms. Kimura also requested compensation for the late return of the security deposit.

### III. CONCLUSIONS OF LAW

Petitioner has charged all Respondents with violating HRS §§ 467-14(8), 467-1.6(b)(2), 436B-19(7) and Hawaii Administrative Rules ("HAR") §§ 16-99-3(b) and 16-99-4(b). However, HRS § 467-1.6(b)(2) only applies to principal brokers and HAR § 16-99-4(b) only applies to real estate brokerages. Since Respondent Hough is a real estate salesperson, she can only be charged with violating HRS §§ 467-14(8) and 436B-19(7) and HAR § 16-99-3(b) which provide:

**§ 436B-19 Grounds for refusal to renew, reinstate or restore and for revocation, suspension, denial, or condition of licenses.** In addition to any other acts or conditions provided by law, the licensing authority may refuse to renew, reinstate or restore, or may deny,

revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

. . .

(7) Professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of the licensed profession or vocation[.]

. . .

**§ 467-14 Revocation, suspension and fine.** In addition to any other actions authorized by law, the commission may revoke any license issued under this chapter, suspend the right of the licensee to use the license, fine any person holding a license, registration, or certificate issued under this chapter, or terminate any registration or certificate issued under this chapter, for any cause authorized by law, including but not limited to the following:

. . .

(8) Any other conduct constituting fraudulent or dishonest dealings[.]

**§ 16-99-3 Conduct.**

. . .

(b) The licensee shall protect the public against fraud, misrepresentation, or unethical practices in the real estate field. The licensee shall endeavor to eliminate any practices in the community which could be damaging to the public or to the dignity and integrity of the real estate profession. The licensee shall assist the commission in its efforts to regulate the practices of brokers and salespersons in this State.

Based on the evidence presented, the Hearings Officer concludes that Respondent Hough's conduct constituted professional misconduct in violation of HRS § 436B-19(7) and fraudulent or dishonest dealings in violation of HRS § 467-14(8). The

Hearings Officer also concludes that Petitioner failed to conduct business in accordance with HAR § 16-99-3(b).

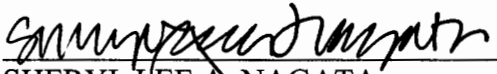
IV. RECOMMENDED ORDER

Based on the above, the Hearings Officer recommends that the Commission find and conclude that Respondent Hough violated HRS §§ 436B-19(7) and 467-14(8) and HAR § 16-99-3(b).

For the violations found, the Hearings Officer recommends that Respondent Hough's real estate salesperson's license be revoked and that she be required to return all indicia of licensure to the Executive Officer of the Commission. The Hearings Officer also recommends that Respondent pay a fine in the amount of \$1,000.00 within sixty (60) days of the Commission's Final Order, and that payment of the fine be made a condition of relicensure. Restitution was not requested.<sup>2</sup>

AUG 23 2005

DATED: Honolulu, Hawaii, \_\_\_\_\_.

  
\_\_\_\_\_  
SHERYL LEE A. NAGATA  
Administrative Hearings Officer  
Department of Commerce  
and Consumer Affairs

<sup>2</sup> The Settlement Agreement approved on July 29, 2005 requires that Respondents Asset Property and Morgan pay \$1,300.00 in restitution to Diamond Resort Hawaii Owners Association, Inc.



RENTCHECK

INSPECTION REPORT

K. Asuruki and Chikako Ishikawa

PROPERTY ADDRESS

777 S. Kihai Rd Kihai Hi

RESIDENT

APT. NO. 201

INSTRUCTIONS: INSPECT EACH ITEM LISTED BELOW AND MARK CONDITION USING THE LETTER CODE OR CODES AS REQUIRED. WHERE NECESSARY THE LOCATION SHOULD BE NOTED. IF FURTHER DESCRIPTION IS NEEDED MARK SB FOR SEE BELOW AND USE THE COMMENT SECTION.

ENTRY table with columns: ENTRY, LOC. CODE, CONDITION CODE

LIVING ROOM table with columns: LIVING ROOM, LOC. CODE, CONDITION CODE

DINING ROOM table with columns: DINING ROOM, LOC. CODE, CONDITION CODE

KITCHEN table with columns: KITCHEN, LOC. CODE, CONDITION CODE

FIRST BEDROOM table with columns: FIRST BEDROOM, LOC. CODE, CONDITION CODE

SECOND BEDROOM table with columns: SECOND BEDROOM, LOC. CODE, CONDITION CODE

THIRD BEDROOM table with columns: THIRD BEDROOM, LOC. CODE, CONDITION CODE

LANAI table with columns: LANAI, LOC. CODE, CONDITION CODE

FIRST BATHROOM table with columns: FIRST BATHROOM, LOC. CODE, CONDITION CODE

SECOND BATHROOM table with columns: SECOND BATHROOM, LOC. CODE, CONDITION CODE

MISCELLANEOUS table with columns: MISCELLANEOUS, LOC. CODE, CONDITION CODE

COMMENTS (NUMBER EACH ITEM MARKED "SEE BELOW" AND EXPLAIN IN THIS AREA AFTER CORRESPONDING NUMBER)

I HAVE READ THE ABOVE INSPECTION REPORT, HAVE EXAMINED AND CHECKED ALL SAID ITEMS AND FIND THEM TO BE AS REPRESENTED AND IN THE CONDITION INDICATED. I UNDERSTAND I SHOULD KEEP THIS FORM AND THAT I SHOULD ARRANGE FOR A "CHECK-OUT INSPECTION" AT THE TIME I VACATE.

CHECK-IN DATE 10-1-03, CHECK-OUT RESIDENT [Signature]

EXHIBIT #2

AGENT Deanna Kough

CONDITION CODES: Bulb Out, Broken, Burn, CR Cracked, CU Cut, DE Denied, HO Hole, LE Leak, LO Loose, NW Not Working, RU Rust, SP Spot, TO Torn

LOCATION CODES: T Top, B Bottom, L Left, M Middle, E Edge, FR Front, RA Rear

APPENDIX "A"





RENTCHECK

INSPECTION REPORT

Chikako Ishikawa  
777 S. Kihai Rd Kihai Hi APT. NO. 201

PROPERTY ADDRESS

INSTRUCTIONS: INSPECT EACH ITEM LISTED BELOW AND MARK CONDITION USING THE LETTER CODE OR CODES AS REQUIRED. WHERE NECESSARY THE LOCATION SHOULD BE NOTED. IF FURTHER DESCRIPTION IS NEEDED MARK SB FOR SEE BELOW AND USE THE COMMENT SECTION.

ENTRY table with columns: ENTRY, LOC. CODE, CONDITION CODE. Items: Door/Screen, Light Fixtures/Switch.

LIVING ROOM table with columns: LIVING ROOM, LOC. CODE, CONDITION CODE. Items: Floor/Carpet (Dirty), Baseboards, Walls/Ceiling, Window Glass/Screens, Curtain Rods/Drapes, Light Fixtures/Switches, Electric Outlets.

DINING ROOM table with columns: DINING ROOM, LOC. CODE, CONDITION CODE. Items: Floor/Carpet, Baseboard, Walls/Ceiling, Window Glass/Screens, Curtain Rods/Drapes, Light Fixtures/Switches, Electric Outlets. (Crossed out)

KITCHEN table with columns: KITCHEN, LOC. CODE, CONDITION CODE. Items: Floor/Baseboard (3 broken tiles), Walls/Ceiling, Window Glass/Screens, Curtain Rods/Drapes, Light Fixtures/Switches, Electric Outlets, Counter Tops (1 broken tile), Sink/Fixtures, Dish Washer, Disposal, Oven/Broiler Pan, Range, Ventilating Fan, Refrigerator, Ice Trays, Cupboards.

FIRST BEDROOM table with columns: FIRST BEDROOM, LOC. CODE, CONDITION CODE. Items: Door, Floor/Carpet (Dirty), Baseboard, Walls/Ceiling, Window Glass/Screen, Curtain Rods/Drapes, Light Fixtures/Switches, Electric Outlets, Closet and Doors. (Upstairs)

SECOND BEDROOM table with columns: SECOND BEDROOM, LOC. CODE, CONDITION CODE. Items: Door, Floor/Carpet (Dirty), Baseboards, Walls/Ceiling, Window Glass/Screens, Curtain Rods/Drapes, Light Fixtures/Switches, Electric Outlets, Closets and Doors. (Upstairs)

THIRD BEDROOM table with columns: THIRD BEDROOM, LOC. CODE, CONDITION CODE. Items: Door, Floor/Carpet, Baseboards, Walls/Ceiling, Window Glass/Screens, Curtain Rods/Drapery, Light Fixtures/Switches, Electric Outlets, Closets and Doors. (Crossed out)

LANAI table with columns: LANAI, LOC. CODE, CONDITION CODE. Items: Floor/Carpet, Baseboards, Walls/Ceiling, Light Fixtures/Switches, Electric Switches.

FIRST BATHROOM table with columns: FIRST BATHROOM, LOC. CODE, CONDITION CODE. Items: Door, Floor/Carpet, Walls/Ceiling, Window Glass/Screens, Tub and Fixtures, Shower and Tile, Shower Rod/Door, Sink/Faucets, Counter Top, Cabinets, Mirror, Toilet Bowl/Seat/Flush Tank, Light Fixtures/Switches, Electric Outlets, Towel Racks/Coat Hooks. (Upper)

SECOND BATHROOM table with columns: SECOND BATHROOM, LOC. CODE, CONDITION CODE. Items: Door, Floor/Carpet, Walls/Ceiling, Window Glass/Screens, Tub and Fixtures, Shower and Tile, Shower Rod/Door, Sink/Faucets, Counter Top, Cabinets, Mirror, Toilet Bowl/Seat/Flush Tank, Light Fixtures/Switches, Electric Outlets, Towel Racks/Coat Hooks.

MISCELLANEOUS table with columns: MISCELLANEOUS, LOC. CODE, CONDITION CODE. Items: Water Heater, Door Bell, Mail Box, Outside Light Fixtures, Parking Stall(s), Storage Locker, TV Cable, Linen Closet, Appliance Hooks, Washer, Dryer.

COMMENTS (NUMBER EACH ITEM MARKED "SEE BELOW" AND EXPLAIN IN THIS AREA AFTER CORRESPONDING NUMBER)  
3 Broken floor tile, between sink and stove. One tile broken to the left of stovetop

I HAVE READ THE ABOVE INSPECTION REPORT, HAVE EXAMINED AND CHECKED ALL SAID ITEMS AND FIND THEM TO BE AS REPRESENTED AND IN THE CONDITION INDICATED. I UNDERSTAND I SHOULD KEEP THIS FORM AND THAT I SHOULD ARRANGE FOR A "CHECK-OUT INSPECTION" AT THE TIME I VACATE.

CHECK-IN DATE 10-1-03  
CHECK-OUT RESIDENT [Signature]

EXHIBIT # 3

AGENT Deanna Haupt

- CONDITION CODES: O Bulb Out, R Broken, U Burn, O Corroded, CR Cracked, CU Cut, DE Denied, DI Corroded, HO Hole, LE Leak, LO Loose, NE New, NW Not Working, RU Rust, SC Scratched, SO Soiled, SP Spot, TO Torn, WO Worn

- LOCATION CODES: T Top, B Bottom, L Left, R Right, M Middle, E Edge, FR Front, BA Back

APPENDIX "B"