



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

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

In the Matter of the )  
Real Estate Salesperson's )  
License of )  
SEAN K.H. NAKAMOTO, )  
Respondent. )  
\_\_\_\_\_ )

REC-2005-26-L  
COMMISSION'S FINAL ORDER

COMMISSION'S FINAL ORDER

On March 13, 2006, the duly appointed Hearings Officer submitted her proposed Findings of Fact, Conclusions of Law and Recommended Order in the above-entitled matter to the parties. The parties were given an opportunity to file written exceptions, however no exceptions were filed.


Upon review of the entire record of this proceeding, the Real Estate Commission ("Commission") adopts the Hearings Officer's proposed decision as the Commission's Final Order and finds and concludes that Respondent violated HRS §§ 467-14(8), 467-14(13), 467-14(20), 436B-19(2), 436B-19(12) and 436B-19(14).


For the violations found, the Commission orders that Respondent's real estate salesperson's license be revoked and that Respondent 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.

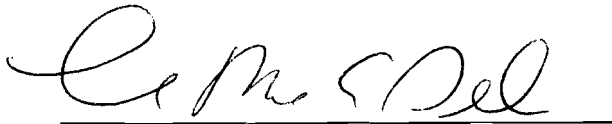
Respondent is ordered to return all indicia of licensure to the Executive Officer of the Commission. Indicia of licensure include wall certificates and pocket identification cards issued to Respondent indicating licensure.

DATED: Honolulu, Hawaii: April 28, 2006

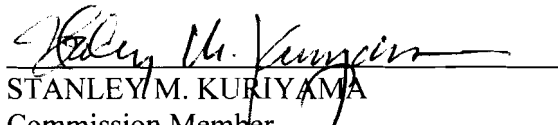
  
TRUDY I. MISHIHARA  
Chairperson

  
IRIS R. OKAWA  
Vice Chairperson

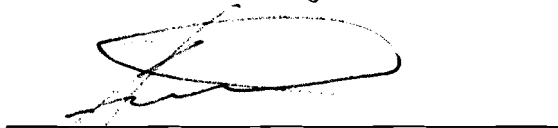
  
LOUIS E. ABRAMS  
Commission Member

  
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



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HEARINGS OFFICE

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

In the Matter of the	)	REC-2005-26-L
Real Estate Salesperson's	)	
License of	)	HEARINGS OFFICER'S FINDINGS OF
	)	FACT, CONCLUSIONS OF LAW AND
SEAN K.H. NAKAMOTO,	)	RECOMMENDED ORDER
	)	
Respondent.	)	
_____	)	

HEARINGS OFFICER'S FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND RECOMMENDED ORDER

I. INTRODUCTION

On September 21, 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 salesperson's license of Sean K.H. Nakamoto ("Respondent"). 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 received the Petition and Notice through his attorney William C.H. Jarrett, Esq. on October 13, 2005 by certified mail.

On January 11, 2006, the hearing was convened by the undersigned Hearings Officer. Esther L. Ervin, Esq. represented Petitioner. Respondent or his attorney failed to enter an appearance at the hearing. 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 was licensed as a real estate salesperson by the Real Estate Commission on January 25, 1994, license no. RS 53732. Respondent's license expires on December 31, 2006.

2. By a letter dated December 19, 2003 from Respondent's attorney William C.H. Jarrett, Esq., Respondent provided the Commission with all public information regarding Respondent's conviction in the First Circuit Court, State of Hawaii. On November 26, 2003, a Final Judgment and Sentence of the Court was filed, where Respondent pleaded no contest and was convicted of theft in the first degree, (a class B felony) forgery in the second degree (a class C felony) and money laundering (a class C felony). Respondent was sentenced to five years probation. The special conditions of probation included serving a term of imprisonment of twelve consecutive weekends, perform 200 hours of community service, work full time or attend educational/vocational training, and pay restitution in the amount of \$531,173.00 less any restitution already paid and pay \$5,000.00 to the crime victim compensation fund.

3. On Respondent's renewal application dated November 30, 2004, Respondent answered "Yes" to the question "In the past 2 years have you been convicted of a crime in which the conviction has not been annulled or expunged?"

4. In a letter dated December 28, 2004 Respondent provided a short description of the events underlying the convictions. Respondent explained that for about five years, he had embezzled funds from an accounting client related to bookkeeping and tax preparation services he was performing as a part time business venture while employed in the real estate development field by MW Group, Ltd./Wood Development. Respondent further went on to state that in 2002 he admitted to his wrongdoing, pleaded guilty, and paid a total of \$149,000.00 to his former client.

5. In a letter dated February 25, 2005 to Petitioner's investigator, Respondent stated that he has served his court imposed sentence, paid \$161,373.00 in

restitution and completed the required 200 hours of community service. Respondent stated that he was working with Jade Properties, Inc. and had completed 10 transactions since 2002, all in the commercial development field. Respondent also stated that he is a partner in a small development firm and was currently developing and managing four commercial properties. He requested that his license not be revoked or suspended as he had been “ethical, honest, fair and integrity (sic) in all of [his] real estate transactions, and if needed, [he] can provide multiple letters of character reference from brokers, owners, contractors and vendors pertaining to his real estate performance.”

### III. CONCLUSIONS OF LAW

Petitioner has charged Respondent with violating HRS §§ 467-14(8), 467-14(13), 467-14(20), 436B-19(2), 436B-19(12) and 436B-19(14).

Based on the evidence presented, the Hearings Officer concludes that Respondent’s conduct constituted fraudulent and dishonest dealings, in violation of HRS § 467-8, a failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity and fair dealing, in violation of HRS § 467-14(20), and making untruthful or improbable statements in violation of HRS § 436B-19(2). The Hearings Officer also concludes that Respondent’s conduct constituted a failure to comply, observe or adhere to any law in a manner such that the licensing authority would deem the licensee to be an unfit or improper person to hold a license in violation of HRS § 436B-19(12). Lastly, the Hearings Officer finds that Respondent’s conviction was a criminal conviction of a penal crime directly related to the qualifications, functions or duties of the real estate profession, in violation of HRS § 436B-19(14).


For the violations found, the Hearings Officer concludes that Respondent violated HRS §§ 467-14(13).

### IV. RECOMMENDED ORDER

Based on the above, the Hearings Officer recommends that the Commission find and conclude that Respondent violated HRS §§ 467-14(8), 467-14(13), 467-14(20), 436B-19(2), 436B-19(12) and 436B-19(14).

For the violations found, the Hearings Officer recommends that Respondent's real estate salesperson's license be revoked and that he 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.

DATED: Honolulu, Hawaii, MAR 13 2006.

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