

DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2006 SEP 22 P 3: 23

HEARINGS OFFICE

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

In the Matter of the	)	REC-2006-33-L
Real Estate Salesperson's License of	)	
	)	COMMISSION'S FINAL
CHRISTINE AQUINO,	)	ORDER
	)	
Respondent.	)	
_____	)	

COMMISSION'S FINAL ORDER

On July 14, 2006, the duly appointed Hearings Officer submitted his Findings of Fact, Conclusions of Law and Recommended Order Granting Petitioner's Motion for Summary Judgment in the above-captioned matter to the Real Estate Commission ("Commission"). A copy of the Hearings Officer's recommended decision was sent to Respondent Christine Aquino ("Respondent") at her last known address, but was returned by the postal service as unclaimed. No exceptions were filed.

Upon review of the entire record of this proceeding, the Commission adopts the Hearings Officer's recommended decision as the Commission's Final Order. Accordingly, the Commission finds and concludes that there are no genuine issues of material fact and that Petitioner Regulated Industries Complaints Office is entitled, as a matter of law, to an order concluding that Respondent violated Hawaii Revised Statutes ("HRS") §§467-7, 467-14(3), (8), and (20), 467-20, and 436B-19(5), and, as such, grants Petitioner's motion for summary judgment. The Commission further orders that the charge based upon HRS §436B-19(8) be dismissed.

For the violations found, Respondent's real estate salesperson's license is revoked and Respondent shall immediately submit all indicia of licensure as real estate

salesperson in the State of Hawaii to the Executive Officer of the Commission. The Commission further orders that Respondent pay a fine of \$1,000.00 within sixty (60) days of the Commission's Final Order by sending a certified check or money order made payable to the DCCA Compliance Resolution Fund to the Regulated Industries Complaints Office, 235 South Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813 within the specified time. Payment of the fine shall be a condition for relicensure.

DATED: Honolulu, Hawaii: [ September 22, 2006 ]

/s/ TRUDY I. NISHIHARA

TRUDY I. NISHIHARA  
Chairperson

/s/ STANLEY M. KURIYAMA

STANLEY M. KURIYAMA  
Vice Chairperson

LOUIS E. ABRAMS  
Commission Member

/s/ CAROL MAE A. BALL

CAROL MAE A. BALL  
Commission Member

/s/ ANNETTE AIONA

ANNETTE AIONA  
Commission Member

/s/ MICHELE SUNAHARA LOUDERMILK

MICHELE SUNAHARA LOUDERMILK  
Commission Member

/s/ FRANCES GENDRANO

FRANCES T. GENDRANO  
Commission Member

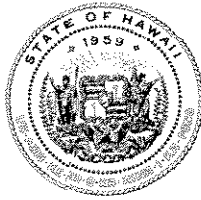
/s/ WILLIAM S. CHEE

WILLIAM S. CHEE  
Commission Member

/s/ MARK SUIISO

MARK SUIISO  
Commission Member

Commission's Final Order; *In re Christine Aquino*; REC-2006-33-L.



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2006 JUL 14 P 2:40

HEARINGS OFFICE

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

In the Matter of the	)	REC 2006-33-L
Real Estate Salesperson's License of	)	
	)	
CHRISTINE AQUINO,	)	HEARINGS OFFICER'S
	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent.	)	AND RECOMMENDED
	)	ORDER GRANTING
	)	PETITIONER'S MOTION
	)	FOR SUMMARY
	)	JUDGMENT
	)	

HEARINGS OFFICER'S FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND RECOMMENDED ORDER  
GRANTING PETITIONER'S MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

On February 23, 2006, 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 Christine Aquino ("Respondent"). The matter was duly set for hearing, and the notice of hearing and pre-hearing conference was transmitted to the parties.

On June 9, 2006, Petitioner filed a motion for summary judgment. No response to the motion was filed by Respondent.

On June 22, 2006, the motion came on for hearing before the undersigned Hearings Officer; Patrick K. Kelly, Esq. appeared for Petitioner. Respondent failed to appear either in person or by representation.

Having reviewed and considered the motion, memorandum, declaration and exhibits attached thereto, together with the entire record of this proceeding, the Hearings Officer hereby renders the following findings of fact, conclusions of law and recommended order granting Petitioner's motion.

II. FINDINGS OF FACT

1. Respondent was originally licensed as a real estate salesperson in 1998 by the Real Estate Commission ("Commission"). Respondent's real estate salesperson's license, License No. RS 57127, is currently set to expire on December 31, 2006.

2. On or about August 30, 1996, in the Circuit Court of the Fifth Circuit, State of Hawaii, Respondent was convicted of two felony counts of forgery, two felony counts of theft and one misdemeanor count of theft. No order has been entered by the court annulling or expunging the convictions.

3. On or about July 24, 1998, Respondent applied for a real estate salesperson's license in the State of Hawaii. On the application, Respondent falsely answered "No" to the question, "During the past 20 years have you ever been convicted of a crime where there has not been an order annulling or expunging the conviction?" Respondent did not disclose any of her five prior criminal convictions.

4. On or about October 15, 1998, in the District Court of the District of Kauai, State of Hawaii, Respondent was convicted of a petty misdemeanor charge of driving under the influence.

5. On or about December 13, 1998, Respondent submitted a renewal application for her real estate salesperson's license. On said application, Respondent falsely answered "No" to the question, "In the past 2 years have you been convicted of a crime?" Respondent did not disclose her conviction for driving under the influence.

6. On or about December 3, 2004, in the Circuit Court of the Fifth Circuit, State of Hawaii, Respondent was convicted on a guilty plea of one felony count of terroristic threatening, one misdemeanor count of reckless endangerment and one petty misdemeanor count of operating a vehicle while intoxicated. The convictions have not been annulled or expunged.

7. On or about March 7, 2005, Respondent submitted a renewal application for her real estate salesperson's license. On the application, Respondent falsely answered "No" 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?" Respondent did not disclose her three convictions of December 2004.

8. On or about January 7, 2005, Respondent's Principal Broker released Respondent as a salesperson for his office and submitted a change form to inactivate Respondent's license.

9. On or about April 4, 2005, Respondent and her Principal Broker submitted a change form to reactivate her license. On the same day, while Respondent's license was still inactive, Respondent conducted real estate activity without a valid license.

### III. CONCLUSIONS OF LAW

Petitioner has charged Respondent with violating the following provisions of the Hawaii Revised Statutes ("HRS"):

§467-7 Licenses required to act as real estate broker and salesperson. No person within the purview of this chapter shall act as real estate broker or real estate salesperson, or shall advertise, or assume to act as real estate broker or real estate salesperson without a license previously obtained under and in compliance with this chapter and the rules and regulations of the real estate commission.

§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:

\* \* \* \*

(3) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;

\* \* \* \*

(8) Any other conduct constituting fraudulent or dishonest dealings; disseminating the information to future takers of the examination for the benefit or gain of the licensee;

\* \* \* \*

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

§467-20 False statement. It shall be unlawful for any person or the person's agent to testify before or file with the commission, or the testing service agency designated by the commission, any notice, statement, or other document required under this chapter, that is false or untrue or contains any material misstatement of fact, or contains forgery. In addition to any sanctions or remedies as provided in this chapter, any violation of this section shall constitute a misdemeanor punishable pursuant to section 706-640 or 706-663, or both, and not pursuant to section 467-26.

§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:

\* \* \* \*

(5) Procuring a license through fraud, misrepresentation, or deceit;

\* \* \* \*

(8) Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity;

The uncontroverted evidence was sufficient to establish the following violations against Respondent: HRS §§467-7, 467-14(3), (8), and (20), 467-20, and 436B-19(5). Petitioner also charged Respondent with a violation of HRS §436B-19(8). HRS §436B-3, however, provides that the “provisions of this chapter shall apply whenever the

provisions of . . . the licensing laws for the respective profession or vocation are silent.” Because this violation is already addressed in HRS §467-14(20), HRS §436B-19(8) is inapplicable in this case.

IV. RECOMMENDED ORDER

Based on the foregoing findings and conclusions, the Hearings Officer recommends that the Commission find and conclude that there are no genuine issues of material fact, that Petitioner is entitled, as a matter of law, to an order concluding that Respondent violated HRS §§467-7, 467-14(3), (8), and (20), 467-20, and 436B-19(5), and, as such, grant Petitioner’s motion for summary judgement. The Hearings Officer further recommends that the charge based upon HRS §436B-19(8) be dismissed.

For the violations found, the Hearings Officer recommends that Respondent’s real estate salesperson’s license be revoked and that Respondent be required to immediately submit all indicia of licensure as real estate salesperson in the State of Hawaii to the Executive Officer of the Commission. The Hearings Officer also recommends that Respondent be ordered to pay a fine of \$1,000.00 within sixty (60) days of the Commission’s Final Order by sending a certified check or money order made payable to the DCCA Compliance Resolution Fund to the Regulated Industries Complaints Office, 235 South Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813 within the specified time. The Hearings Officer recommends further that payment of the fine be made a condition for relicensure.

DATED at Honolulu, Hawaii: [ July 14, 2006 ]

**/s/ CRAIG H. UYEHARA**  
\_\_\_\_\_  
CRAIG H. UYEHARA  
Administrative Hearings Officer  
Department of Commerce  
and Consumer Affairs