



DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2009 APR 30 A 10: 53

HEARINGS OFFICE

BUSINESS REGISTRATION DIVISION
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the)	TN 2009-1
)	
Trade Name)	HEARINGS OFFICER'S FINDINGS
)	OF FACT, CONCLUSIONS OF
"HAWAII REALTY GROUP.")	LAW AND RECOMMENDED
)	ORDER
)	
)	

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

I. INTRODUCTION

On January 9, 2009, Brandon Price ("Petitioner") filed a petition requesting that the certificate of registration for the trade name "Hawai'i Realty Group", issued by the Department of Commerce and Consumer Affairs as certificate of registration no. 4030414 to Nancy Reagan ("Respondent") be revoked. The matter was set for hearing and the petition and Notice of Hearing and Pre-Hearing Conference ("Notice") was transmitted to the parties.

On April 9, 2009, a hearing was conducted by the undersigned Hearings Officer. Petitioner was present, but Respondent failed to enter an appearance. Since proper service was made, the hearing proceeded as scheduled.

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

II. FINDINGS OF FACT

1. On February 16, 2005, the Department of Commerce and Consumer Affairs issued Certificate of Registration No. 4030414 to Respondent for the trade name “Hawai'i Realty Group”. The purpose of Respondent’s business is “Real Estate”. The registration expires on February 15, 2010.

2. “Hawai'i Realty Group” is not listed in the white or yellow pages of the telephone directories.

3. According to Petitioner’s research, Respondent has never used the name “Hawai'i Realty Group”.

4. A general excise tax license has not been issued to Respondent under “Hawai'i Realty Group”.

5. Respondent is not the owner of the property listed on the Application for Registration of Trade Name, and in WhitePages.com, there is no listing for a “Nancy Reagan” in Hawai'i.

6. Petitioner has held the domain name Hawai'i Realty Group.com. for over three years.

III. CONCLUSIONS OF LAW


Petitioner seeks revocation of the trade name “Hawai'i Realty Group” on the basis of non-use under Hawaii Revised Statutes § 482-6. In order to show non-use, Petitioner must show by a preponderance of the evidence that Respondent did not use the trade name “Hawai'i Realty Group” for three hundred sixty-five (365) consecutive days immediately preceding the date of the filing of the petition, which was January 9, 2009.

The evidence presented established that Respondent was not issued a general excise tax license and did not list “Hawai'i Realty Group” in the telephone directories. Additionally, Petitioner could not find any evidence to show that Respondent had ever used the name “Hawai'i Realty Group”. Accordingly, the Hearings Officer concludes that Petitioner has proven by a preponderance of the evidence that Respondent has not used the trade name “Hawai'i Realty Group” for three hundred sixty-five days prior to the filing of the petition.

IV. RECOMMENDED ORDER

For the reasons set forth above, the Hearings Officer recommends that the Director order that Certificate of Registration No. 4030414 issued to Respondent on February 16, 2005 be revoked on the basis of non-use pursuant to HRS § 482-6.

DATED: Honolulu, Hawaii, APR 29 2009.


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