BUSINESS REGISTRATION DIVISION
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAI'I

In the Matter of the	)	CN 2009-4
	)	
Corporate Name	)	DIRECTOR'S ORDER OF
	)	ABATEMENT
"PARADISE WEDDINGS, INC."	)	
	)	
	)	
	)	

DIRECTOR'S ORDER OF ABATEMENT

On May 19, 2010, the duly appointed Hearings Officer submitted her Findings of Fact, Conclusions of Law and Recommended order in the above-captioned matter to the Director of the Department of Commerce and Consumer Affairs ("Director"). Copies of the Hearings Officer's recommended decision were also transmitted to the parties. No exceptions were filed, but the copy sent to Robert Anderson ("Respondent") was returned marked "Unclaimed".

Upon review of the entire record of this proceeding, the Director adopts the Hearings Officer's recommended decision as the Director's Order of Abatement. Accordingly, the Director finds and concludes that Petitioner has established by a preponderance of the evidence that Petitioner has common law rights of ownership to the trade name "Paradise Weddings Hawaii" and that Respondent's use of "Paradise Weddings, Inc." is confusingly similar to Petitioner's trade name and constitutes an infringement of Petitioner's name.

Accordingly, the Director orders that within 60 days of the issuance of this Order of Abatement, Respondent shall (1) change its registered name; (2) register the new name with the Director; and (3) transact business in this State under its new name. If Respondent fails to comply with this Order within the 60-day period, the Respondent may be involuntarily dissolved or terminated Respondent, or cancelled upon the filing of an affidavit from

Petitioner attesting (1) to Respondent's noncompliance with the Director's Order of Abatement, (2) that the time for appeal has lapsed; and (3) that no appeal has been timely filed by Respondent. In that event, notice of the involuntary dissolution, termination, or cancellation shall be mailed to Respondent at its last known mailing address and Respondent shall wind up its affairs in accordance with Hawai'i Revised Statutes Chapters 482, 414, 414D, 415A, 425, 425E or 428, as applicable.

DATED: Honolulu, Hawaii, 10 JUN 10.

RONALD BOYER
Director
Dept. of Commerce
and Consumer Affairs

BUSINESS REGISTRATION DIVISION
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAI'I

In the Matter of the Corporate Name "PARADISE WEDDINGS, INC."	)	CN 2009-4 HEARINGS OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER

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

I. INTRODUCTION

On December 10, 2009, Deborah M. Cravatta ("Petitioner") filed a petition requesting an administrative order of abatement against Paradise Weddings, Inc. ("Respondent"). The Notice of Hearing and Pre-Hearing Conference ("Notice") was transmitted to the parties. Respondent was served with the Notice on January 7, 2010.

On April 7, 2010, a hearing was conducted by the undersigned Hearings Officer. Petitioner was present but Respondent failed to enter an appearance. Notice having properly been given, 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. Petitioner has been continuously doing business as "Paradise Weddings Hawai'i", a wedding planning business, since February 1990. Petitioner's general excise tax

license was issued on February 24, 1990 and Petitioner has continuously advertised and been featured in articles in newspapers and magazines since that time to the present.

2. On March 7, 2006, Respondent was incorporated as a domestic profit corporation with the Department of Commerce and Consumer Affairs, File Number 214948 D1. The purpose of the business is "wedding coordinating and event planner."

3. Robert Anderson is the President and CEO of Respondent and also operates RC Anderson Photography. The Better Business Bureau reports that RC Anderson Photography, with Principal Robert Anderson, has an "F" rating because of the length of time the business has been operating and because of its failure to respond to six complaints filed against the business. The Better Business Bureau also reports that RC Anderson Photography has additional DBA's and one is "Paradise Weddings, Inc."

III. CONCLUSIONS OF LAW

Petitioner has requested an order of abatement for the infringement of its trade name "Paradise Weddings Hawai'i" pursuant to Hawai'i Revised Statutes ("HRS") § 482-8.5 which provides:

> **§ 482-8.5 Administrative order of abatement for infringement of trade name.** (a) Any person claiming to be the owner of a trade name or mark who believes that the name of any entity registered or authorized to transact business under the laws of this State is confusingly similar to it trade name or mark may file a petition with the director for an administrative order of abatement to address the infringement of its trade name or mark. The petition shall set forth the facts and authority supporting the claim that the petitioner has common law rights of ownership of the trade name or mark, that these rights are being infringed upon by a registered or authorized entity whose name is confusingly similar to the petitioner's trade name or mark, and that further use of the entity name should be abated.

In order to prevail, Petitioner must prove by a preponderance of the evidence that she has common law rights of ownership of the trade name "Paradise Weddings Hawaii" and that it is confusingly similar to "Paradise Weddings, Inc."

There is no dispute that beginning in 1990, 16 years before Respondent's formation and use of the name, Petitioner has actively and continuously operated under the trade name

"Paradise Weddings Hawai'i". Based on the preponderance of the evidence, the Hearings Officer concludes that Petitioner has common law rights of ownership to the trade name "Paradise Weddings Hawai'i" and that Respondent's use of the name "Paradise Weddings, Inc." is confusingly similar to Petitioner's trade name and as such, constitutes an infringement of Petitioner's name.

IV. RECOMMENDED ORDER

For the reasons set forth above, the Hearings Officer recommends that the Director find and conclude that Petitioner has established by a preponderance of the evidence that Petitioner has common law rights of ownership to the trade name "Paradise Weddings Hawaii" and that Respondent's use of "Paradise Weddings, Inc." is confusingly similar to Petitioner's trade name and constitutes an infringement of Petitioner's name.

Accordingly, the Hearings Officer recommends that the Director issue an Order of Abatement requiring that within 60 days of its issuance, Respondent shall (1) change its registered name; (2) register the new name with the Director; and (3) transact business in this State under its new name. The Hearings Officer also recommends that the Director's Order of Abatement provide that if Respondent fails to comply with the Order within the 60-day period, the Director may involuntarily dissolve or terminate Respondent, or cancel or revoke Respondent's registration or certificate of authority upon the filing of an affidavit from Petitioner attesting (1) to Respondent's noncompliance with the Director's Order of Abatement, (2) that the time for appeal has lapsed; and (3) that no appeal has been timely filed by Respondent. In that event, notice of the involuntary dissolution, termination, or cancellation shall be mailed to Respondent at its last known mailing address and Respondent shall wind up its affairs in accordance with Hawai'i Revised Statutes Chapters 482, 414, 414D, 415A, 425, 425E or 428, as applicable.

DATED: Honolulu, Hawaii, MAY 19 2010.

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