



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

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HEARINGS OFFICE

BOARD OF PRIVATE DETECTIVES AND GUARDS  
OFFICE OF ADMINISTRATIVE HEARINGS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the Guard License of

PDG-2016-16-L

MARGRET L. GULLICKSON, also known  
as LOUISE M. GULLIKSON,

BOARD'S FINAL ORDER

Respondent.

BOARD'S FINAL ORDER

On December 14, 2016, the duly appointed Hearings Officer submitted his 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. No written exceptions to the Hearings Officer's recommended decision were filed, and no requests for oral argument were made.

On December 29, 2016, the duly appointed Hearings Officer issued his Amended Findings of Fact, Conclusions of Law and Recommended Order in the above-entitled matter which corrected typographical errors in the original document.

Upon review of the entire record of this proceeding, the Board of Private Detectives and Guards adopts the Hearings Officer's amended recommended decision, submitted December 29, 2016, as the Board's Final Order and finds and concludes that Respondent Margret L. Gullickson, also known as Louise M. Gullikson, violated Hawaii Revised Statutes ("HRS") §§436B-17, 436B-19(2), 436(B)-19(5), and 436B-19(17), and Hawaii Administrative Rules ("HAR") §§16-97-46(12) and 16-97-46(21).

For the violations found, the Board orders that:

1. A fine in the amount of One Thousand and No/100 Dollars (\$1,000.00) is imposed upon the Respondent.

2. Respondent shall pay her fine within thirty (30) days of receipt of the Board's Final Order. Respondent shall send a certified check or money order for her fine, 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 licensing should Respondent apply for renewal of her guard license or submit any new application for a guard license.

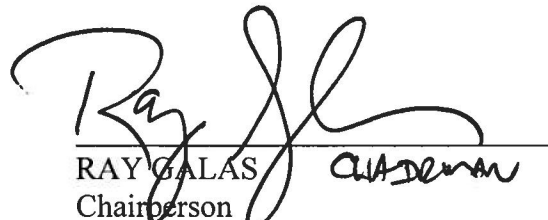
3. Respondent shall report her current address and any address change to the Board immediately upon receipt of the Board's Final Order and/or moving to a new address or otherwise obtaining a new mailing address.

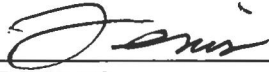
4. Respondent shall report the Board's Final Order to her current employer, if any, and as well, to the Colorado State Board of Nursing, within (30) days of receipt of the Board's Final Order.

5. Respondent's license, and any renewals or attempts to renew said license, shall be suspended concurrently with the issuance of the Board's Final Order and remain suspended until Respondent can be served with the Board's Final Order and Respondent thereafter complies with all of the terms of the Board's Final Order.

DATED: Honolulu, Hawaii,

12 July 2018

  
RAY GALAS  
Chairperson  
Public Member



ALBERT DENIS  
Vice Chairperson  
Industry Member

CHIEF DARRYL PERRY  
Kauai County Police Chief



KENNETH CHANG  
Industry Member

CHIEF TIVOLI FAAUMU  
Maui County Police Chief



DOUGLAS INOUE  
Public Member

CATHERINE P. AWAKUNI COLON  
Director  
Ex-Officio, DCCA



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

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HEARINGS OFFICE

BOARD OF PRIVATE DETECTIVES AND GUARDS  
OFFICE OF ADMINISTRATIVE HEARINGS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the Guard License of	)	PDG 2016-16-1
	)	
	)	AMENDED FINDINGS OF FACT,
MARGRET L. GULLICKSON, also	)	CONCLUSIONS OF LAW, AND
known as LOUISE M. GULLICKSON	)	RECOMMENDED ORDER
	)	
Respondent,	)	
	)	Senior Hearings Officer:
	)	David H. Karlen
_____	)	

**AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND RECOMMENDED ORDER**

**I. INTRODUCTION**

On October 4, 2016, in PDG 2016-16-L, the Department of Commerce and Consumer Affairs, through its Regulated Industries Complaints Office (hereafter "Petitioner"), filed a petition for disciplinary action against the Guard License of Margret L. Gullickson, also known as Louise M. Gullickson ("Respondent").

A Notice of Hearing and Pre-Hearing Conference was filed on October 31, 2016, setting the Pre-Hearing Conference for November 28, 2016, and the Hearing for December 12, 2016. On November 2, 2016, this Notice was delivered by certified mail to Respondent as evidenced by the signed "green card" returned to the Office of Administrative Hearings.

The prehearing conference was held on November 28, 2016. Petitioner was represented by Marc T. Nakamura, Esq. Despite written acknowledgement of receipt of the aforesaid Notice on November 2, 2016, Respondent did not appear at the prehearing conference and did not provide a telephone number where she could be reached in order to participate in the prehearing conference by telephone.

A Prehearing Order was filed on November 29, 2016, that, among other things, confirmed the hearing date to be December 12, 2016. The certified mail containing this Prehearing Order and addressed to Respondent was returned by the Post Office as undeliverable and with no forwarding address.

The hearing did take place on December 12, 2016. Petitioner was again represented by Marc T. Nakamura, Esq. Respondent did not appear and did not provide a telephone number where she could be reached in order to participate in the hearing by telephone. At the hearing, the Petitioner represented that its mail to Respondent containing its witness list and exhibit list, as well as copies of its proposed exhibits, was also returned by the Post Office as undeliverable and with no forwarding address. Respondent did not appear at the hearing and did not provide a telephone number where she could be reached during the hearing.

Because Respondent had received the Notice of Hearing and there was nothing in the Prehearing Order that changed the hearing date or the parameters of the hearing, the Hearings Officer ruled that the hearing should proceed without the presence of Respondent.

Petitioner's Exhibits 1 through 13 were thereafter admitted into evidence without objection.

Ms. Charlene Tamanaha and Ms. Joni Mishima testified on behalf of Petitioner.

Having reviewed and considered the evidence and argument presented at the hearing on December 12, 2016, together with the entire record of the proceeding, the Hearings Officer renders the following Findings of Fact, Conclusions of Law, and Recommended Order.

## **II. FINDINGS OF FACT**

To the extent that any Findings of Fact are more properly construed as Conclusions of Law, they shall be so construed.

1. Respondent was issued a Guard License in the State of Hawaii under license number GD 14990 on or about January 6, 2016. The license expired on or about June 30, 2016, and will forfeit on or about July 1, 2016.

2. The last known address of Respondent is 75-5708 Alahou Street, Kailua-Kona, Hawaii 96740.

3. Respondent submitted a Guard Employee Registration Application (“Application”) dated October 8, 2015.

4. On her Application, Respondent listed her address as 78-7070 Alii Drive, Apt. B204, Kona, Hawaii 96740 (“Alii Drive address”).

5. Question 4 on the Application asked Respondent, “[h]as any license or registration ever been suspended, revoked or otherwise subject to disciplinary action?”

6. Respondent checked the “no” box in response to Question 4.

7. Question 4 asked for information about disciplinary actions pertinent to any license or registration held by Respondent. Question 4 was not limited to disciplinary actions pertaining to guard licenses.

8. Question 4 asked for information about any disciplinary action in any other state. Question 4 was not limited to disciplinary actions in Hawaii.

9. A letter dated November 23, 2015 was sent to Respondent at her Alii Drive address by the Professional Vocational Licensing Division ("PVL") of the Department of Commerce and Consumer Affairs. That letter requested that Respondent provide additional information relating to her "no" answer to question 4 in her Application.

10. On December 14, 2015, and again on December 30, 2015, PVL received two written responses from Respondent.

11. Thereafter, as noted above, a Guard License was issued to Respondent on January 6, 2016. Pursuant to Board practice, the license was granted while PVL's investigation was still pending.

12. Ms. Joni Mishima, an investigator for Petitioner, was assigned to investigate alleged licensing law violations by Respondent based upon Respondent's "No" answer to Question 4 on her application.

13. As part of her investigation, Ms. Mishima sent a letter dated July 1, 2016 to Respondent at her Alii Drive address. The letter informed Respondent of the pending investigation and requested additional information and/or a written response.

14. On or before July 11, 2016, the aforesaid July 1 letter was returned to Ms. Mishima from the United States Postal Service with the notation "Return to Sender" and listed a possible new address for Respondent as 75-5708 Alahou Street, Kailua-Kona, Hawaii 96740-1853 ("Alahou Street address").

15. Ms. Mishima sent another letter July 20, 2016 to Respondent at the Alahou Street address.

16. Respondent sent a written response that Ms. Mishima received on or about August 25, 2016.

17. Respondent did not inform the Petitioner or PVL of the Alahou Street address. But for the notation added by the Post Office when returning the July 1, 2016 letter, neither Petitioner nor PVL would have learned of that new address.

18. On September 2, 2010, the Hawaii Board of Nursing, in case number RNS 2006-40-L, approved a *Settlement Agreement After Fling of Petition for Disciplinary Action and Board's Final Order* ("Settlement Agreement").

19. The Settlement Agreement placed Respondent's nursing license on probation for one year, imposed a \$2,000.00 fine, and required Respondent to complete continuing education courses.

20. By letter dated January 26, 2011, the Colorado Board of Nursing issued a *Letter of Admonition* against Respondent's nursing license in Colorado based upon the Settlement Agreement that was approved by the Hawaii Board of Nursing.

21. On or about December 2, 2014, the Colorado Board of Nursing issued an *Order of Suspension Pursuant to Section 12-38-131(4), C.R.S.* ("Colorado Order"), effective December 5, 2014.

22. The Colorado Order suspended Respondent's Colorado Nursing License for multiple instances of non-compliance with the February 24, 2012 Agreement to Participate in the Nursing Peer Health Assistance or Nurse Alternative to Discipline Program.



### **III. CONCLUSIONS OF LAW**

If any of the following Conclusions of Law shall be deemed to be a Finding of Fact, the Hearings Officer intends that every such Conclusion of Law shall be construed as a Finding of Fact.

1. The Board has jurisdiction over a license and a licensee regardless of the withdrawal or forfeiture of the license, and it has the authority to suspend forfeited licenses and/or fine the licensee. HRS §436B-22.

2. Petitioner has charged Respondent with violating the following provisions of the Hawaii Revised Statutes (“HRS”) and Hawaii Administrative Rules (“HAR”):

a. **HRS §436B—17** (Licensee has a duty to submit to the licensing authority a current business, mailing, and residence address within thirty (30) days of an address change)

Petitioner has proved by a preponderance of the evidence that Respondent violated this statute with respect to the Alahou Street address.

It should be noted that it appears Respondent has violated this statute with respect to her present (unknown) address as well. However, Petitioner did not learn of this violation until after filing the Petition herein, and it did not seek to amend the Petition in order to assert this new violation.

b. **HRS §436B-19(2)** (Making untruthful or improbable statements)

Petitioner has proved by a preponderance of the evidence that Respondent violated this statute with respect to Question No. 4 on her application. Proof of a violation of this statute does not depend upon proof of any knowing intent to make untruthful statements.

c. **HRS §436B-19(5)** (Procuring a license through fraud, misrepresentation, or deceit)

Petitioner has proved by a preponderance of the evidence that Respondent violated this statute with respect to Question No. 4 on her application.

Proof of a “misrepresentation” as set forth in HRS §436B-19(5) does not require proof of any intentional or fraudulent action. In Kim v. Contractor’s License Board, 88 Haw. 264, 965 P.2d 806 (1998), the Hawaii Supreme Court was concerned with a disciplinary action with respect to a contractor’s license because of any “misrepresentation of a material fact” in connection with an application for that license. See HRS §444-17 (10). The Court held that the term “misrepresentation” did not require any intentional or fraudulent misrepresentation. The term “misrepresentation” encompassed any misrepresentation even though it may be the result of carelessness or ignorance. 88 Haw. at 812-813, 965 P.2d at 270-271. The same interpretation should apply to the word “misrepresentation” in HRS §436B-19(5).

d. **HRS §436B-19(17)** (Violating Chapter 436B or the applicable licensing law statute or administrative rule)

This is a catch-all statute with no independent substantive content. Petitioner has proved a preponderance of the evidence that Respondent violated the other statutes and the administrative rules discussed in the Conclusions of Law, and Petitioner has therefore proved by a preponderance of the evidence that Respondent has violated this statute.

e. **HAR §16-97-46(12)** (“misrepresentation of a material fact by an applicant in obtaining a license)

Petitioner has proved by a preponderance of the evidence that Respondent has violated this statute by her answer to Question 4 on her application. See, also, the discussion above concerning the basis for the violation of HRS §436B-19(5).

f. **HAR §16-97-46(21)** (Failure in any material respect to comply with HRS Chapter 463 or this chapter)

This is a catchall regulation with no independent substantive content. Because Petitioner has proven by a preponderance of the evidence that Respondent violated HAR §16-97-46(12), Petitioner has proven by a preponderance of the evidence that Respondent has violated this regulation.

**IV. RECOMMENDED ORDER**

Petitioner is seeking the following relief:

- a. Imposition of a fine in the total amount of \$1,000.00 payable with thirty (30) days of receipt of the Board's Final Order;
- b. Respondent be required to report any address change to the Board immediately upon moving to a new address or otherwise obtaining a new mailing address; and
- c. Respondent report the Board's Final Order to her current employer, if any, and to the Colorado State Board of Nursing within thirty (30) days of receipt of the Board's Final Order.

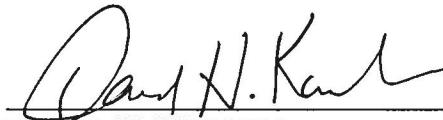
The Hearings Officer agrees with the Petitioner's requests. Considering Respondent's continuing practice of not informing the Board of her current address, and considering the fact that neither the Board nor Petitioner have any current address for Respondent to which the Board's Final Order can be sent, the Hearings Officer believes that Respondent's license, or any renewals thereof, be suspended at this time and until Respondent can be served with the Board's Final Order and Respondent thereafter complies with all of the terms of the Board's Final Order.

Based upon the foregoing, the Hearings Officer recommends as follows:

1. That the Board of Private Detectives and Guards find that Respondent violated the following Hawaii Revised Statutes and Hawaii Administrative Rules, namely HRS §§436B-17, 436B-19(2), 436B-19(5), and 436B-19(17), and HAR §§16-97-46(12) and 16-97-46(21).
2. That the Board of Private Detectives and Guards impose upon Respondent a fine in the amount of One Thousand and No/100 Dollars (\$1,000.00).
3. That Respondent be ordered to pay her fine within thirty (30) days of receipt of the Board's Final Order. Respondent shall send a certified check or money order for her fine, 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 also recommends that payment of the fine shall be a condition for licensing should Respondent apply for renewal of her guard license or submit any new application for a guard license.
4. That Respondent be required to report her current address and any address change to the Board immediately upon receipt of the Board's Final Order and/or moving to a new address or otherwise obtaining a new mailing address
5. That Respondent be required to report the Board's Final Order to her current employer, if any, and, as well, to the Colorado State Board of Nursing, within thirty (30) days of receipt of the Board's Final Order.
6. That Respondent's license, and any renewals or attempts to renew said license, be suspended concurrently with the issuance of the Board's Final Order and

remain suspended until Respondent can be served with the Board's Final Order and Respondent thereafter complies with all of the terms of the Board's Final Order.

DATED: Honolulu, Hawaii, DEC 29 2016.

A handwritten signature in dark ink, appearing to read "David H. Karlen", is written over a horizontal line.

DAVID H. KARLEN  
Senior Hearings Officer  
Department of Commerce and Consumer  
Affairs