STATE OF HAWAI‘I
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawai‘i

April 13, 2018

Chairperson and Members
Board of Land and Natural Resources
State of Hawai‘i
Honolulu, HI

Land Board Members:

SUBJECT: ADMINISTRATIVE ENFORCEMENT ACTION FOR VIOLATION OF HAWAII ADMINISTRATIVE RULE SECTION 13-256-39: HANALEI BAY OCEAN WATERS, GENERAL RESTRICTIONS, AGAINST STEPHEN KOEHNE FOR CONDUCTING COMMERCIAL ACTIVITY WITHOUT A COMMERCIAL USE PERMIT OR PRIOR APPROVAL FROM THE DEPARTMENT.

SUMMARY:

This submittal requests that the Board of Land and Natural Resources (Board) find Mr. Stephen Koehne in violation of Hawai‘i Administrative Rule (HAR) § 13-256-39 Hanalei Bay ocean waters, general restrictions, specifically subsection (b), part (5): "No commercial vessel shall load or unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto without a permit issued by the Department and approval by the County of Kauai. All vessels authorized to load and unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto shall travel to and from the beach only through a designated ingress/egress zone." Division of Boating and Ocean Recreation (DOBOR) staff notes that it brought an enforcement action alleging earlier violations of the same HAR provisions at the November 9, 2017 Board meeting, for which Mr. Koehne requested a contested case hearing. DOBOR staff recommends that the Board issue an administrative fine of fifteen thousand dollars ($15,000.00) as authorized by Hawai‘i Revised Statutes (HRS) § 200-14.5(c).

DOBOR hereby alleges the following violations of HAR provisions by the following individual:

Against: Mr. Stephen E.J. Koehne
Dates of incidents: January 9, 2018, January 25, 2018, and March 18, 2018
Locations of incidents: Hanalei Bay Ocean Waters, Kaua‘i
Violations: Three (3) counts of engaging in illegal commercial activity in violation of HAR § 13-256-39 Hanalei Bay ocean waters, general restrictions.
Recommended Penalty: Administrative fine of fifteen thousand dollars ($15,000.00) pursuant to HRS § 200-14.5(c).

INTRODUCTION

As Item J-1 of the Board's regularly scheduled meeting on November 9, 2017, DOBOR brought an enforcement action against Mr. Koehne alleging multiple violations of HAR § 13-256-39(b)(5). Mr. Koehne requested a contested case hearing, which is currently ongoing. In the meantime, Mr. Koehne has continued to engage in allegedly illegal commercial activity, detailed herein.

Pursuant to HAR § 13-256-39(b)(5), in order to conduct commercial activities in Hanalei Bay ocean waters, an operator must obtain a commercial use permit issued by the Department. Mr. Koehne, a self-proclaimed "pirate," does not hold a required commercial use permit and has not applied for such a permit with DOBOR. Mr. Koehne advertises private charters on his website, livesaltykauai.com, offers private charters through kauaibystephanie.com, and regularly posts pictures of groups he takes out on his boat to his Facebook and Instagram accounts.

The vessel with registration number HA 2789 K is the vessel to which the alleged violations in this enforcement action apply. Mr. Koehne is positively identified as the violator by being the principal owner of the vessel as well as by being the operator of the vessel when the alleged violations occurred (vessel registration information for vessel HA 2789 K is included in Exhibit 1).

DOBOR Kaua'i staff and Division of Conservation and Resources Enforcement (DOCARE) officers observed Mr. Koehne conducting group boat tours with indications of commercial activity on three separate occasions without a commercial use permit. A permitted commercial operator also observed Mr. Koehne operating allegedly illegal commercial tours on multiple occasions. In addition to being notified by DOBOR Kaua'i staff that commercial operators are required to obtain a commercial use permit for the area in order to conduct commercial activities, Mr. Koehne was also made aware of his alleged violations in Item J-1 of the Board's November 9, 2017 meeting. Mr. Koehne therefore had full knowledge of the existing permitting requirements when he conducted the allegedly unlawful commercial activities.

FACTUAL BACKGROUND

Mr. Koehne owns and operates the vessel HA 2789 K, which he has used to conduct commercial activities under the "Live Salty Kauai" trade name (see Exhibit 1 for business registration information). Vessel HA 2789 K is registered for recreational use only and has no attendant commercial permits (see Exhibit 1 for vessel registration information).

The following timeline is presented to summarize the incidents that took place on January 9, 2018 and January 25, 2018 pertaining to Mr. Koehne's alleged violations of HAR § 13-256-39(b)(5):
January 9, 2018: DOBOR Kaua‘i Harbor Agent Rosare observes Mr. Koehne loading eight (8) individuals onto vessel HA 2789 K in Hanalei Bay ocean waters ingress/egress zone two around 8:30am (see Exhibit 2). Permitted commercial operators also witness the event and one operator notifies the passengers that they are taking an illegal charter. The passengers acknowledge the operator’s statement and continue on the charter anyway. This is the first alleged violation of HAR § 13-256-39(b)(5).

January 25, 2018: DOCARE Kaua‘i Supervisor Addington and Officers Donohue, Fernandes, Gandeza, Richardson, Rushforth, and Tavares observe Mr. Koehne offloading ten (10) passengers from vessel HA 2789 K in Hanalei Bay ocean waters ingress/egress zone two around 12:00pm (see DOCARE Report 18-0188-KA, Exhibit 3). The officers obtain contact information from some of the passengers, who all claim that they did not pay anything for the boat tour and that Mr. Koehne is a "friend of a friend." This is the second alleged violation of HAR § 13-256-39(b)(5).

March 18, 2018: Harbor Agent Rosare observes Mr. Koehne carrying passengers in Hanalei Bay ocean waters ingress/egress zone two around 8:00am (see Exhibit 4). Additionally, a permitted operator states that on this instance a passenger stated that they were on a commercial charter. This is the third alleged violation of HAR § 13-256-39(b)(5).

Additionally, a permitted commercial operator notified DOBOR staff of dates and passenger counts when Mr. Koehne was observed allegedly carrying passengers for hire, in violation of HAR § 13-256-39(b)(5). See Exhibit 5 for the permitted commercial operator's email to Harbor Agent Rosare. The dates and passenger counts other than January 9 and 25, 2018 are as follows:

- Unspecified day in December 2017: Seven (7) passengers
- December 30, 2017: Four (4) passengers
- January 28, 2018: Five (5) passengers
- January 29, 2018: Four (4) passengers

REGULATORY AUTHORITY FOR ENFORCEMENT

I. Applicable Hawai‘i Administrative Rules Provisions:

A. Administrative Rule Violated

HAR §13-256-39(b)(5) prohibits unauthorized commercial operation in Hanalei Bay ocean waters as follows:

(b) In addition to all federal, state, and county laws, rules, and ordinances, the following restrictions shall apply to all activities in Hanalei Bay ocean waters:

(5) No commercial vessel shall load or unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto without a permit issued by the department and approval by the County of Kauai. All vessels authorized to load and unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto shall travel
to and from the beach only through a designated ingress/egress zones (Parts 1 through 4 and 6 through 8 omitted).

B. Relevant Definitions

HAR § 13-230-8 defines "Business" as "all professions, trades, occupations, and callings carried on for a profit or livelihood, every kind of commercial enterprise, and the operation of games, machines, or mechanical devices."

HAR § 13-230-8 defines "Commercial activity" as "the use of or activity for which compensation is received by any person for goods or services or both rendered to customers or participants in that use or activity. Display of merchandise or demanding or requesting gifts, money, or services, shall be considered a commercial activity."

HAR § 13-230-8 defines Vessel carrying passengers for hire" as "any vessel which is used for the carriage of any person or persons for a valuable consideration whether directly or indirectly flowing to the owner, charterer, operator, agent, or any person who has a lien on the vessel."

HAR § 13-231-54 defines "Commercial vessel" as "a vessel engaged in any trade or business including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use."

C. Other Relevant Administrative Rules

HAR § 13-231-51 Business activities:

No person shall engage in any business or commercial activity at any small boat harbor or other small boat facility without:

(1) Prior written approval of the department; or

(2) The proper execution of an agreement with the department.

II. Administrative Fines Authorized for Violations of HAR § 13-256-39

HAR § 13-230-4(b) provides that "Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney's fees and costs, or bring legal action to recover administration fines, fees and costs, including attorney's fees and costs, or payment for damages or for the cost to correct damages resulting from violation of subtitle 8 of title 12 or any rule adopted thereunder in accordance with section 200-14.5, Hawaii Revised Statutes. Each day or instance of violation shall constitute a separate offense."
HRS § 200-14.5(a) also affirms the Board's discretion to levy administrative fines: "Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney's fees and costs, or bring legal action to recover administrative fines and fees and costs, including attorney's fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of subtitle 8 of title 12 or any rule adopted thereunder. Each day or instance of violation shall constitute a separate offense."

HRS § 200-14.5(c) sets the limitations on fine amounts for all violations not involving pollution of the waters of the State as follows:

1. For a first violation or a violation beyond five years of a previous violation, a fine of not more than $5,000;
2. For a second violation within five years of a previous violation, by a fine of not more than $10,000; and
3. For a third or subsequent violation within five years of the last violation, by a fine of not more than $15,000.

APPLICATION OF LAW AND RECOMMENDED PENALTY

I. Mr. Koehne's vessel is being used as a commercial vessel, is carrying passengers for hire, is engaged in commercial activity under the pertinent HAR definitions, and Mr. Koehne is therefore subject to administrative action.

The prohibited activity under HAR § 13-256-39(b)(5) involves unauthorized commercial activity in Hanalei Bay. Specifically, the use of a "commercial vessel" to "load or unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto" is prohibited.

There is substantial and well-documented evidence that Mr. Koehne's vessel has been repeatedly loading and unloading passengers in Hanalei Bay ocean waters. Accordingly, the critical issue is whether Mr. Koehne's vessel meets the definition of a "commercial vessel", and whether Mr. Koehne has been engaged in "commercial activity" as defined in the administrative rules.

With respect to whether Mr. Koehne's vessel is a commercial vessel, DOBOR administrative rules define a commercial vessel as "a vessel engaged in a trade or business", and includes circumstances where the vessel is carrying passengers for hire or for a charter fishing business, as well as any "other trade or business wherein the vessel is used in any manner to promote the venture." Here, there is substantial and well-documented evidence that Mr. Koehne's vessel was being used to carry passengers for hire and to promote Mr. Koehne's commercial boat tour venture. Mr. Koehne has been continuously advertising his commercial boat tour venture, including the use of photographs, customer reviews and descriptions of both of his vessels to promote the venture. This strongly supports the conclusion that Mr. Koehne's vessel is a "commercial vessel" under the definitions in DOBOR administrative rules.
With respect to whether Mr. Koehne's activities meet the definition of "commercial activity", DOBOR administrative rule definitions include within the definition for "commercial activity" activities for which compensation is received. During the course of the investigation, there is no clear documentation of money being exchanged, and Mr. Koehne has repeatedly denied that his passengers are paying for the boat tours. However, the definition of commercial activity is not limited to situations involving the exchange of money. The definition also includes activities such as the "display of merchandise or demanding or requesting gifts, money or services." Mr. Koehne's advertisements for commercial boat tours include photographs of the vessels used and description of the commercial tours offered. Online advertisements, websites, and online booking services are a common means to "display merchandise" in today's modern online setting. Mr. Koehne's advertisements for commercial services therefore constitute "commercial activity."

There is also circumstantial evidence that Mr. Koehne is engaged in a commercial venture involving payment of compensation. The advertisements identified in this investigation offer commercial boat tours using Mr. Koehne's vessels, and there are numerous online reviews of the commercial boat tours offered by Mr. Koehne.

II. Mr. Koehne did not comply with HAR requirements and restrictions.

Mr. Koehne neither obtained a permit from the Department pursuant to HAR § 13-256-39(b)(5) to operate a commercial vessel in Hanalei Bay ocean waters nor did he receive prior written approval from the Department or execute an agreement with the Department to operate commercially in Hanalei Bay ocean waters pursuant to HAR § 13-231-51. Mr. Koehne violated HAR § 13-256-39(b)(5): he was witnessed by DOBOR Kaua‘i staff and DOCARE Kaua‘i Officers allegedly operating with passengers for hire without a valid commercial use permit in Hanalei Bay ocean waters on three occasions; he was also witnessed by a permitted commercial operator allegedly carrying passengers for hire on multiple occasions.

III. Administrative Fine authorized by Hawaii Revised Statutes.

Pursuant to HAR § 13-230-4(b), "[e]ach day or instance of violation shall constitute a separate offense." As evidenced by the attached reports, Mr. Koehne was observed on three occasions conducting unauthorized commercial activity in violation of HAR § 13-256-39(b)(5). Pursuant to HRS § 200-14.5(c), Mr. Koehne can be fined five thousand dollars ($5,000.00) for each instance of violation.

There are no mitigating factors that DOBOR staff believes would justify a lesser fine for the violations listed above. Mr. Koehne had full notice of the applicable regulations, and he chose to violate them in multiple instances even after DOBOR brought the November 9, 2017 enforcement action against him. DOBOR staff believes that unless there are consequences for violating HRS and HAR provisions, people do not have an incentive to abide by the rules or directions of the Department. Due to Mr. Koehne's blatant disregard for the Department's rules and in order to curb any future violations of the rules, DOBOR recommends that the Board issue an administrative fine of fifteen thousand dollars ($15,000.00) to Mr. Koehne. DOBOR has
based this recommendation on the three selected instances of violations, dated January 9, 2018, January 25, 2018, and March 18, 2018.

IV. Anticipated contested case hearing request.

As Item J-1 of the Board’s regularly scheduled meeting on November 9, 2017, DOBOR brought an enforcement action against Mr. Koehne alleging multiple violations of HAR § 13-256-39(b)(5). Mr. Koehne requested a contested case hearing, which is currently ongoing. DOBOR staff anticipates that Mr. Koehne will request a contested case hearing for this enforcement action as well. Therefore, DOBOR staff requests as part of its recommendations that the Board approve the contested case hearing request, if made, and consolidate the contested cases.

RECOMMENDATIONS:

DOBOR requests that the Board:

1. Find that Mr. Stephen E.J. Koehne committed three administrative violations of HAR § 13-256-39(b)(5).

2. Issue an administrative fine of fifteen thousand dollars ($15,000.00) to Mr. Koehne for his violations of HAR § 13-256-39(b)(5).

3. Give Mr. Koehne written notice that any future violations of the Department’s rules regarding commercial operation shall result in the inability to register vessel HA 2789 K for any use within the State.

4. Approve a contested case hearing, if requested, resulting from this action and consolidate all contested case hearings, if any, resulting from this action and Item J-1 of the November 9, 2017 Board meeting.

Respectfully submitted,

EDWARD R. UNDERWOOD, Administrator
Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL:

SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources
IMPORTANT!
ALWAYS CARRY THIS CERTIFICATE ON VESSEL WHILE IN USE

STATE OF HAWAI'I
CERTIFICATE OF NUMBER FOR UNDOCUMENTED VESSEL

HA- 2789 K
RID25006H717

EXPIRATION DATE: 8/2018
NAME: STEPHEN EUGENE JOSEPH KOEHN
ADDRESS: PO BOX 366
KILAUEA, HI 96754

SAFEBOTATINGISHNOACCIDENT!

A VESSEL'S REGISTRATION CANNOT BE RENEWED/TRANSFERRED IF THERE ARE UNPAID FEES.

Exhibit 1
LIVE SALTY KAUAI
TRADE NAME

GENERAL INFO OTHER FILINGS BUY AVAILABLE DOCS

General Info

TRADE NAME LIVE SALTY KAUAI
FILE NUMBER 381067 ZZ
CERTIFICATE NUMBER 4126289
STATUS Active
PURPOSE ONLINE ACTIVITY CONCIERGE
CATEGORY NO CATEGORY SELECTED (0)
EXPIRATION DATE Feb 10, 2019
REGISTRATION DATE Feb 11, 2014
MAILING ADDRESS 4566 B KALAMANIA ROAD
KILAUEA, Hawaii 96754
UNITED STATES
REGISTRANT STEPHEN EUGENE KOEHNE
January 9, 2018

At 8:30 AM observe Stephen loading 7 people on his 25' Riddle, HA 2789 K. Garrett West, Robert Kutkowski and myself observed this. Garrett yelled out "You know you're going out on an illegal charter, yeah?". A lady yelled back "Yeah that's all we want". On this particular trip there was 7 adults and a toddler.
Sent from my iPhone
A. COMPLAINT

Taken By: Kalani Addington
How Taken: Phone

Complainant: State of Hawaii DLNR
Home Phone: 808-274-3521
Address: Hi

Incident Summary Description
Suspect
Vehicle/Vessel:

Location: Anini Beach
Location Notes: Napali Coast

Reported Date/Time 01/25/2018 10:00AM

B. REPORT CONTROL

Branch: Kauai
District: Hanalei
Lead Investigator: Kalani Addington
Date Assigned: 01/25/2018 10:00AM

C. NOTES/DISPOSITION/OTHER INFO

report # KA- 19-0188

Exhibit 3
### Investigation Report

**State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement**

**INVESTIGATION #:** 18-0155- KA  
**District:** Kaneohe  
**Lead Investigator:** Addington, Kalani  
**Report Status:** In Progress  
**Location:** Anini Beach  
**Classification:** Commercial Activities

**Date/Time Reported:** 01/25/2018 10:00AM

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#### 68. AGE

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#### 69. BIRTH DATE

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#### 70. OCCUPATION

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#### 71. CATEGORY

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#### 72. ADDRESS

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#### 73. HOME

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#### 74. WORK

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#### 75. CELL

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#### 76. SYNOPSIS

**reporting possible commercial activity**

---

#### 77. WRITER

**Addington, Kalani**

**BADGE No.:** 18  
**DATE/TIME WRITTEN:** 02/14/2018 10:48AM

---

#### 78. SUPERVISOR APPROVING

**Masten, Francis**

**BADGE No.:** BC
Report

ASSIGNED:
Assigned by Enforcement Chief R. FARELL via cell phone on 01/25/18- approximately 0930 hrs. Advised me that suspect was possibly conducting commercial activities (boat tour). Possibly going out of Hanalei.

OFFICER(S) ASSIGNED:
West District CREO's C. GANDEZA, W. TAVARES, R. RUSHFORTH, K. DONOHUE, and A. RICHARDSON

SCENE:
Anini Boat ramp (state), which is located within a county of Kauai park.

TIME/CONDITIONS:
1200 HRS. – 01/25/18 / investigation occurred during daylight hours, sunny clear conditions.

OBSERVATIONS:
Observed vessel coming from the direction of Hanalei towards Anini. As the vessel came closer, I observed approximately 10 passengers on board. Observed the HA number displayed on the side as HA2789K. Male subject personally known to me as Stephen KOEHNE was operating vessel.

PASSENGER(S):

All stated they did not pay for any boat tour. Stated boat captain is a friend and they know him through a surfer friend Ian from Maui.

Addington/Kalani
Officer

18
Badge No.

02/14/18-1130 hrs.
Date / Time
Report (Continued)

VESSEL OPERATOR:

Stephen KOEHNE
P.o. Box 366
Kilauea HI 96754

Stated by advise from his attorney he does not wish to make a statement.

VESSEL:

See front of ECR.

RENTAL VEHICLES OCCUPANT LEFT IN:


INVESTIGATION:

Upon receiving assignment from Enforcement Chief, I contacted my officers to meet at Anini. The Hanalei boat ramp was not being used do to shallow sand bar. Made a check of the Anini ramp area and did locate KOEHNE’s vehicle with boat trailer attached.

Made contact with occupants of vessel when it came in. See attached CREO’s supplementary reports and my report. Photographs were taken by CREO RUSHFORTH of vessel’s arrival at Anini with occupants. Also of vehicles license plates that they left in. See attached. Made contact with vessel operator. See above.

Vessel was inspected. Report of Boarding filled out and submitted (DOCARE27). Attached. No violations. KOEHNE’s vehicle, used to trailer his vessel, did have an expired safety check sticker. Computer check found it expired 10/17. Citation was issued.

Investigation revealed, unable to determine if any commercial activity occurred based on statements and no evidence of money transaction.

DISPOSITION:

PENDING
Report

SYNOPSIS:
Assisted Supervisor K. ADDINGTON with a Commercial Activities complaint.

SCENE / TIME ELEMENT:
The scene of this incednt occurred at Anini Beach park vicinity of the boat ramp. The time element was about 1000hrs on 012518.

INITIAL OBSERVATIONS:
On 102518 at about 1200hrs, I observed a white Radon (boat) approaching the Anini Boat ramp area. Supervisor K. ADDINGTON then informed me that was the boat in question and to make contact with the passengers once the boat is docked. I observed approximately 10 subjects onboard.

ANONYMOUS MALE ID / STATEMENT:
The male subject refused to give this officer any information

I approached a male subject and I identified myself. The male subject appeared to be upset and attempted to walk away. I asked if I could speak to him and ask him a few questions regarding the tour he just went on. The male subject refused to make any statement at this time and only stated "he is my friend and I didn't pay for the tour!"

INVESTIGATION:
While assigned to uniformed patrol, west district, on 012518 at about 1000hrs, I assisted Supervisor K. ADDINGTON with a commercial activities complaint at Anini Beach. On 102518 at about 1200hrs, I observed a white Radon (boat) approaching the Anini Boat ramp area. Supervisor K. ADDINGTON then informed me that was the boat in question and to make contact with the passengers once the boat is docked. I observed approximately 10 subjects onboard. I later approached a male subject and I identified myself. The male subject appeared to be upset and attempted to walk away. I asked if I could speak to him and ask him a few questions regarding the tour he just went on. The male subject refused to make any statement at this time and only stated "he is my friend and I didn't pay for the tour!" No further actions required by this officer.
Report

SYNOPSIS: Complainant reported an illegal boat tour.

ASSIGNMENT/ARRIVAL: I am a Conservation and Resources Enforcement Officer with the Department of Land and Natural Resources. On Thursday, January 25, 2018, Supervisor K. ADDINGTON, Officers L. FERNANDES, C. GANDEZA, R. RUSHFORTH, W. TAVARES, R. RICHARDSON and I investigated this case.

TIME/SCENE/CONDITIONS: The location of the complaint was at the Anini boat ramp. The weather was clear and the time was about 1200 hours.

OBSERVATIONS:

- I observed vessel HA2789K making way through the channel toward the Anini boat ramp.
- As the vessel approached the shoreline, I observed approximately 10 subjects on the vessel.
- I observed Stephen KOEHEN operating the vessel.
- I observed the vessel stop near the boat ramp and off-load the passengers.
- I observed Supervisor K. ADDINGTON tell the passengers that the DLNR officers are here to conduct and ongoing investigation and asked the passengers if they would provide their contact information to the officers.

WITNESS STATEMENTS:

- I approached one of the male passengers and asked if he knew the boat captain. He told me that he and his group of friends are travelling together and his friend, Ian, is a friend of the boat captain. The passenger told me he did not pay for the boat ride today.
- I asked the male subject for his name, age and address and he verbally provide me with the following information:

DISPOSITION: Pending.

Donohue, Kim
Officer

114
Badge No.

03/09/18 2 1100 Hours
Date/Time
Report

SYNOPSIS
Complaint of Unpermitted Commercial Boat Tour in vicinity of Anini Beach.

OFFICER OBSERVATIONS
On 25 January 2018, utilizing department issued binoculars, I observed a blue and white vessel approximately 25’ in length traversing through the channel towards Anini Boat ramp. There appeared to be approximately 9-10 subjects aboard the vessel. Upon arrival at the boat ramp, the operator previously identified as Stephen Koehene, along with the remaining passengers disembarked the vessel. I, along with other assigned officers, approached the subjects to obtain further information.

WITNESS STATEMENT
I made contact with a Caucasian male subject near the Anini boat ramp, as he exited the suspect vessel. The subject appeared to be approximately 30-35 years of age, 6’ tall, heavy build with brownish-red hair. The subject was uncooperative and reluctant to answer questions asked of him. The subject repeatedly stated he did not understand what was going on and stated he did not feel comfortable answering any questions or providing any further information. I identified myself as a State of Hawaii DLNR Conservation Officer and explained that officers present were investigating alleged illegal commercial boat tour. The subject then stated that members of his group were not on a commercial tour and they were friends with “Steph” and knew him from Maui. The subject failed to elaborate further on the nature of the relationship when questioned. Subject denied payment of any kind for boat trip. Upon request for identification, the subject stated he did not have identification and that his name was [redacted]. The subject provided a contact number of 70.

Richardson, Armalin
Officer

02-02-2018 – 1216hrs
Date / Time

Narrative Report
Division of Conservation and Resources Enforcement
SYNOPSIS:
Reported illegal boating tours.

TIME / SCENE / CONDITIONS:
On 1/25/18 at about 1205 hours, at Anini Beach (vicinity of boat ramp), in the Daytime hours.

OBSERVATIONS:
- Observed Vessel (HA 2789 K) traversing into Anini Beach.
- Observed approximately 10 passengers on the vessel.
- Observed KOEHEN, Stephen operating the vessel.
- Observed passengers disembark the vessel at the Anini Boat Ramp.
- Observed food and drinks on the vessel.

VESSEL BOARDING:
Refer to Boarding form attached.

INVESTIGATION:
While on uniform patrol in the East District, I made the above mentioned observations. While the vessel was traversing into Anini Beach there were approximately 10 passengers on the vessel that was being operated by KOEHNE. Upon arriving at the Boat Ramp Passengers disembarked the vessel and I observed food and drinks on the vessel. When making contact with KOHENE a boarding was conducted on his vessel. No violations were found at this time (refer
to Boarding Form attached). It was also found that KOEHNE'S vehicle (KYW679) had an expired safety check. Subject was cited for expired safety check.

DISPOSITION:

Cited

Officer: [Signature]  Badge Number: 232  Date: 2/5/18
### REPORT OF BOARDING

**DATE**: 1/25/18  **BOARDING TIME**: 1205

<table>
<thead>
<tr>
<th>VESSEL NUMBER</th>
<th>VESSEL NAME</th>
<th>MAKE</th>
<th>MODEL</th>
<th>ADULT SIZE</th>
<th>MODEL YEAR</th>
<th>NET TONS</th>
<th>LENGTH</th>
<th>CHILD SIZE</th>
</tr>
</thead>
<tbody>
<tr>
<td>MA0 2784 K</td>
<td>LIDDLE</td>
<td>LIDDLE</td>
<td>LIDDLE 25</td>
<td>Open M/B</td>
<td>25</td>
<td>0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**FULL WATERTIGHT**: Open M/B  **ENGINE COMPARTMENT**: 1 Open

<table>
<thead>
<tr>
<th>Owner</th>
<th>Name</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td>MR</td>
<td>Stephen Koehne</td>
<td>P.O. Box 366</td>
<td>Koloa</td>
<td>HI</td>
<td>96756</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Operator</th>
<th>Name</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td>MR</td>
<td>Same as above</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Body of Water**: Anini  **Detailed Location**:

**Observed By**: Boarding Officer's Name: Deirdra Coots  **Rank**: Chief  **Unit**: Boarding  **District**: East

**Vessel**:

Numbering  
Certificate Not Onboard  
Decal  
Personal Flotation Device  
Sound Producing Device  
Fire Extinguisher  
Backfire Flame Control  
Ventilation  
Nav/Anchor Lts.  
Visual Distress Signals  
Negligent Operation  
Other (Specify):  
Other (Specify):  

**Unsafe Condition**:

Unsafe Conditions Creating Especially Hazardous Conditions, Terminated Use  
Overloaded  
Overpowered  
Other (Specify):  
Other (Specify):  

**Action Taken**:

Corrected on the Spot  
Warning Issued  
Citation Issued  
No Violation

**Remarks** (Continue on reverse, add extra sheets if necessary):

Vessel (HA47) No Violations, Everything in Above Box Was On
**State of Hawaii - Notice of Traffic Infraction(s)**

**In the District Court of the Fifth Circuit**

**CITATION NO.**

5OT1-18-010121

**COMPLAINT:** The undersigned officer, on behalf of the Department of Safety of the State of Hawaii, hereby issues this citation for the traffic infraction(s) committed by the defendant(s) described below.

**DEFENDANT**

<table>
<thead>
<tr>
<th>LAST NAME</th>
<th>STEPHEN</th>
</tr>
</thead>
<tbody>
<tr>
<td>FIRST NAME</td>
<td>KOECHNE</td>
</tr>
<tr>
<td>ADDRESS</td>
<td>P.O. Box 666</td>
</tr>
<tr>
<td>CITY</td>
<td>HANALEI</td>
</tr>
<tr>
<td>STATE</td>
<td>HI</td>
</tr>
<tr>
<td>ZIP CODE</td>
<td>96714</td>
</tr>
</tbody>
</table>

**LOCATION OF VIOLATION:**

ANINI BOAT CAMP

**DESCRIPTION OF ENDANGERMENT:**

TECHNIQUE PARKING

**DESCRIPTION OF VIOLATION(S):**

- OBSERVED VEHICLE EXCEED PARKING AREA ON OCT 2017

**VEHICLE INFORMATION:**

- MAKE: DODG
- MODEL: RAM
- YEAR: 2006

**TRAFFIC INFRACTION(S) COMMITTED & MONETARY ASSESSMENT(S) PAYABLE (INCLUDING FEES):**

<table>
<thead>
<tr>
<th>INFRACTION</th>
<th>DESCRIPTION</th>
<th>FEES</th>
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</thead>
<tbody>
<tr>
<td>violated speed limit</td>
<td>exceeding the speed limit</td>
<td>$41</td>
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</table>

**NOT TO DEFENDANT:**

Please note the following instructions on the reverse side. Complete and return this Notice to the District Court of the Fifth Circuit in the event of an appeal or a plea. The decision in support of your right to an appeal is final, and the District Court will not review this Notice.

**SIGNATURE OF DEFENDANT:**

[Signature]

**DATE OF VIOLATION:**

10/5/18

**TIME:**

1700

**LOCATION:**

EAST ANINI

**WEATHER:**

RAIN

**ROADWAY:**

WET

**TRAFFIC:**

LIGHT

**LIGHTING:**

DAYLIGHT

**NOTICE TO OFFICER:**

- TOTAL DUE: $41
- COURT: COURT 2
- DATE: 10/5/18

**SUMMONS:**

File in the District Court of the Fifth Circuit 3875 Kamehameha Hwy Suite 3179

[Signature]
Classification: Illegal Commercial Boating Activity

Taken by: Robert Rushforth

Equipment: Fujifilm X-E2 with 18 – 55mm lens.

Photo Description: Vessel HA-2789-K approaching Anini Beach with approximately 11 people on board.

Photo# 1 of 6
Classification: Illegal Commercial Boating Activity
Taken by: Robert Rushforth
Equipment: Fujifilm X-E2 with 18 - 55mm lens.
Photo Description: Vessel displaying HA-2789-K in the process of disembarking 11 people at Anini Beach.
Classification: Illegal Commercial Boating Activity
Taken by: Robert Rushforth
Equipment: Fujifilm X-E2 with 18 – 55mm lens.
Photo Description: Vessel displaying HA-2789-K finishing the process of disembarking 11 people at Anini Beach.
Classification: Illegal Commercial Boating Activity
Taken by: Robert Rushforth
Equipment: Fujifilm X-E2 with 18 – 55mm lens.
Photo Description: Operator of the vessel securing HA-2789-K to trailer prior to pulling it out of the water.
Classification: Illegal Commercial Boating Activity
Date & Time Taken: 01-25-18 / 1213 hours

Taken by: Robert Rushforth
Equipment: Fujifilm X-E2 with 18 – 55mm lens.
Photo Description: I followed the group to their vehicles. This is one of the vehicles the group got into. On the way to the vehicles several of the group said that they are traveling together and staying in an ocean side rental house nearby.

Photo# 5 of 6
Classification: Illegal Commercial Boating Activity

Taken by: Robert Rushforth

Equipment: Fujifilm X-E2 with 18 – 55mm lens.

Photo Description: I followed the group to their vehicles. This is one of the vehicles the group got into. On the way to the vehicles several of the group said that they are traveling together and staying in an ocean side rental house nearby.
Tashima, Todd H

From: Borden, Joseph V
Sent: Monday, March 19, 2018 10:31 AM
To: Tashima, Todd H
Subject: Fw: Stephen 3/18/18 8 am

----------------------------------
Joseph "Joe" Borden
Kauai District Manager
2494 Niumalu Road
Lihue, HI 96766
Ph. (808) 241-3113
Fx. (808) 241-3117

----------------------------------

From: Rosare, Kathy L
Sent: Monday, March 19, 2018 10:06 AM
To: Borden, Joseph V
Subject: Stephen 3/18/18 8 am

Kathy Rosare
Harbor Agent II

State of Hawaii, Dept. of Land and Natural Resources
Division of Boating and Ocean Recreation – Kauai
2494 Niumalu Road
Lihue, HI 96766
Nawiliwili - 808-241-3110
Port allen - 808-335-8400

----------------------------------

From: Kathy Rosare [mailto:kathyrosare@gmail.com]
Sent: Sunday, March 18, 2018 8:18 AM
To: Rosare, Kathy L <kathy.l.rosare@hawaii.gov>
Subject: Stephen 3/18/18 8 am

Stephen leaving Anini with 6 passengers. Per he asked one of the passengers if they were on a charter and the guy in the photo said yes.
Sent from my iPhone
Eddie Horio
Auditor
Division of Boating and Ocean Recreation Ph.# 808-587-0131 Fax# 808-587-1971

-----Original Message-----
From: Rosare, Kathy L
Sent: Thursday, February 15, 2018 9:48 AM
To: Horio, Edwin K <edwin.k.horio@hawaii.gov>
Subject: Unpermitted boating

Kathy Rosare
Harbor Agent II
State of Hawaii, Dept. of Land and Natural Resources Division of Boating and Ocean Recreation – Kauai
2494 Niualii Road
Lihue, HI 96766
Nawiiwiili - 808-241-3110
Port Allen - 808-335-8400

-----Original Message-----
From: [Redacted]
Sent: Thursday, February 15, 2018 8:04 AM
To: Rosare, Kathy L <kathy.l.rosare@hawaii.gov>
Subject: Unpermitted boating

Hello Kathy
Here are the days I have written down for Steph

Dec 2017
7 passengers

Dec 30
4 passengers

2018
January 9th 7 passengers,
January 25th 10 passengers,( two) DLNR trucks here noon
January 28th 5 passengers, sent to Kathy

January 29th 4 passengers Driver dropped off passengers