STATE OF HAWAI‘I
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawai‘i 96813

May 22, 2020

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

Subject: Enforcement Action against Tyron Terazono, Kacie Terazono, and Wayne Newman for Unlawful Collection of Aquatic Life for Aquarium Purposes within the West Hawai‘i Regional Fishery Management Area, Island of Hawai‘i.

Summary: This submittal requests the Board of Land and Natural Resources find that Tyron Terazono, Kacie Terazono, and Wayne Newman violated Hawaii Administrative Rules §§13-60.4-4, 13-60.4-7, 13-74-20 and 13-75-14 by possessing illegal aquarium collection gear and fish collected for aquarium purposes within the West Hawai‘i Regional Fishery Management Area. The Division of Aquatic Resources recommends that the Board of Land and Natural Resources approve the following proposed administrative fines: 1) Tyron Terazono - $38,600; 2) Kacie Terazono - $37,800; and 3) Wayne Newman - $38,000.

Date of Incident: February 20, 2020

Against: Tyron Terazono
Kacie Terazono
Wayne Newman

Location of Incident: Within the West Hawai‘i Regional Fishery Management Area, GPS coordinates: (20.039454°, -155.831234°), Island of Hawai‘i, Hawai‘i
I. INTRODUCTION

At approximately 12:30 on February 20, 2020, the Department of Land and Natural Resources ("DLNR") Division of Aquatic Resources ("DAR") became aware that the *Masako* (HA 4495K), a vessel unregistered and unmarked for aquarium collection was at the Kawaihao Small Boat Harbor. Upon further investigation, it was discovered that the *Masako* contained illegal aquarium collection gear and aquarium fish onboard. DAR staff, along with Division of Conservation and Resources Enforcement ("DOCARE") Officers, investigated and documented the incident. The DAR Kona Report is attached as Exhibit A.

DAR recommends that the Board of Land and Natural Resources ("Board") approve the proposed administrative fines of **$38,600** against Tyron Terazono; **$37,800** against Kacie Terazono; and **$38,000** against Wayne Newman for the unlawful aquarium collection activities.

II. FACTUAL BACKGROUND

A. Aquarium collection prohibited within the West Hawai‘i Regional Fishery Management Area

The West Hawai‘i Regional Fishery Management Area ("WHRFMA") extends from Ka Lae, Ka‘ū (South Point) to ‘Upolu Point, North Kohala, from the upper reaches of the wash of the waves on shore, seaward to the limit of the States police power and management authority (3 nautical miles). The near shore waters of the Kawaihao Small Boat Harbor are well within the WHRFMA.

It is a violation to possess aquarium collecting gear, or take or possess any specimen of aquatic life for aquarium purposes while within the WHRFMA without proper permits under chapter 13-60.4 Hawaii Administrative Rules (HAR).

On September 7, 2017, DAR ceased issuing and renewing West Hawai‘i aquarium permits and State of Hawai‘i aquarium fish permits. On October 27, 2017, by court order, all State of Hawai‘i commercial aquarium fish permits were declared invalid. As of January 5, 2018, there is a total prohibition on all commercial aquarium collection within the WHRFMA. The prohibition includes transit through the WHRFMA with aquarium collection gear or possession of live marine life.

B. The February 20, 2020 incident

On February 20, 2020, at approximately 11:40am, DOCARE Officer Verl Nakama arrived at the Kawaihao Small Boat Harbor in response to a report of possible aquarium fish collection within the WHRFMA. At approximately 11:42am, Officer Nakama observed a vessel, later identified as the *Masako*, traveling toward the boat ramp from the North. The *Masako* entered into the ramp area and offloaded a male person, who retrieved a truck and trailer. The *Masako’s* captain, later identified as Tyron Terazono ("TYRON") was informed that his vessel would be inspected.
upon him trailering it. He then trailered the *Masako* and drove it to the boat wash area. There were three people onboard the *Masako* when it was observed on the water: the operator and registered owner TYRON, a male passenger later identified as Wayne Newman ("WAYNE"), and a female passenger later identified as Kacie Terazono ("KACIE").

At the time of the incident, TYRON had a valid Commercial Marine License ("CML") (#2419). KACIE also had a valid CML (#29628). WAYNE did not have a valid CML, but had previously held a CML (#3483), which expired on 9/27/17. None of the individuals onboard possessed a valid State of Hawai‘i aquarium fish permit or a valid West Hawai‘i aquarium permit. The *Masako* was not registered as an aquarium collection vessel. The *Masako* did not have the “AQ” marking required to be visible on both sides of an aquarium collection vessel. The *Masako* did not have an aquarium pennant required for an aquarium collection vessel. The *Masako* contained a net with a stretched mesh of less than two inches. This net was not marked as aquarium collection gear. Aside from SCUBA gear, holding containers, and other accessories, no other legal aquarium collecting gear was onboard. The *Masako* contained live aquarium fish.

DAR staff Laura Jackson ("Laura") and Nikki Smith ("Nikki") met Officer Nakama on site to quantify and identify the fish found onboard the *Masako*. Officer Nakama, Laura, and Nikki boarded the *Masako* and counted and identified the following fish in the *Masako*’s live well:

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yellow tang</td>
<td><em>Zebrasoma flavescens</em></td>
<td>472</td>
</tr>
<tr>
<td>Kole</td>
<td><em>Ctenochaetus strigosus</em></td>
<td>37</td>
</tr>
<tr>
<td>Orange-spine unicornfish</td>
<td><em>Naso literatus</em></td>
<td>26</td>
</tr>
<tr>
<td>Orangeband surgeonfish</td>
<td><em>Acanthurus olivaceus</em></td>
<td>5</td>
</tr>
<tr>
<td>Moorish Idol*</td>
<td><em>Zanclus cornutus</em></td>
<td>5</td>
</tr>
<tr>
<td>Saddle wrasse</td>
<td><em>Thalassoma duperrey</em></td>
<td>1</td>
</tr>
<tr>
<td>Goldrim surgeonfish</td>
<td><em>Acanthurus nigricans</em></td>
<td>1</td>
</tr>
<tr>
<td>Hawaiian Dascyllus</td>
<td><em>Dascyllus albisella</em></td>
<td>1</td>
</tr>
<tr>
<td>Common Longnose Butterflyfish</td>
<td><em>Forcipiger flavissimus</em></td>
<td>1</td>
</tr>
<tr>
<td>Blacklip Butterflyfish</td>
<td><em>Chaetodon kleinii</em></td>
<td>1</td>
</tr>
</tbody>
</table>

**Total Fish Count**

550

* *Zanclus cornutus* is not on the White List of fish permitted for aquarium collection

At approximately 3:00pm, after identifying and quantifying all fish species onboard, DOCARE Officers released all 550 fish back into the ocean waters adjacent to the Kawaihae break wall. The DOCARE Investigative Report is attached as Exhibit B.
III. LEGAL AUTHORITY FOR ENFORCEMENT

A. WHRFMA Regulations

The WHRFMA is regulated by Hawaii Administrative Rules ("HAR") Title 13, Chapter 60.4.

"Aquarium collecting gear" is defined as "any equipment or gear adapted, designed, or commonly used to collect, capture or maintain aquatic life alive in a state of captivity, including but not limited to hand nets, fence or barrier nets, fiberglass, plastic, wood or metal 'tickles sticks' (including spears or similar implements used to manipulate the movement of aquarium fish or animals), catch buckets, keeps, baskets or venting needles." HAR §13-60.4-3.

"Aquarium collecting vessel" is defined "as any motorized or non-motorized vessel used by any person to collect, ferry, or scout for aquarium fish or animals." HAR §13-60.4-3.

"Aquarium purposes" is defined as "to hold aquatic life alive in a state of captivity, whether as pets, for scientific study, for public exhibition, for public display, or for sale for these purposes. Aquatic life collected under a valid aquarium permit may not be used for human consumption, for bait, or for other consumptive purposes." HAR §13-60.4-3.

"Aquatic life" is defined as "any type or species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animal that inhabits the freshwater or marine environment and includes any part, product, egg, or offspring thereof; or freshwater or marine plants, including seeds, roots, products, and other parts thereof." HAR §13-60.4-3.

"White list" is defined as "a list of species of marine life that may be taken for aquarium purposes." HAR §13-60.4-3.

HAR §13-60.4-4(3)(B) provides in relevant part that while within the WHRFMA, no person shall "[p]ossess aquarium collecting gear, or take or possess any specimen of aquatic life for aquarium purposes: . . . [w]ithout holding a valid West Hawai‘i aquarium permit issued pursuant to section 13-60.4-7(a)."

HAR §13-60.4-4(3)(D) provides in relevant part that while within the WHRFMA, no person shall "[p]ossess aquarium collecting gear, or take or possess any specimen of aquatic life for aquarium purposes: . . . [w]hile occupying any vessel that does not conform to the registration and marking requirements of section 13-60.4-7(d)."

HAR §13-60.4-4(4) provides in relevant part that while within the WHRFMA, no person shall "[p]ossess or use any net or container employed underwater to capture or hold aquatic life alive for aquarium purposes, that is not labeled with the commercial marine license number or numbers of the person or persons owning, possessing or using the equipment."

1 HAR §13-60.4-4(3)(D) incorrectly references section 13-60.4-7(d). The correct reference is section 13-60.4-7(c).
HAR §13-60.4-7(a) provides in relevant part that “[n]o person, unless exempted from provisions of this chapter by the issuance and possession of a valid special activity permit under section 187A-6, Hawaii Revised Statutes, shall engage in aquarium collecting activities within the West Hawai‘i regional fishery management area without first having been issued and possessing a West Hawai‘i aquarium permit in addition to a valid State of Hawai‘i aquarium fish permit.”

_Zanclus cornutus_ is not on the White List of fish permitted for aquarium collection with a valid WHRFMA Aquarium Permit. HAR §13-60.4-7(b).

HAR §13-60.4-7(c)(1-3) provides in relevant part that “[a]ll aquarium collecting vessels shall: (1) Be registered every year with the Division of Aquatic Resources West Hawai‘i (DAR-Kona) office to take aquatic life for aquarium purposes within the West Hawai‘i regional fishery management area . . . (2) Clearly display the capital letters "AQ" permanently affixed to both sides of the vessel . . . (3) Fly a "stiffened" flag or pennant from the vessel with the letter "A" as specified by the department . . . The flag or pennant shall be displayed and clearly visible from both sides of the vessel at all times while aquarium collecting gear or collected aquarium marine life or both are onboard.”

### B. Commercial Marine License (CML) Regulations

License requirements are found in HAR Title 13, Chapter 74.

A “commercial marine license” is defined as “a license issued to take marine life within or outside the State for commercial purpose.” HAR §13-74-1.

“Commercial purpose” means “the taking of marine life for profit or gain or as a means of livelihood where the marine life is taken in or outside of the State, or where the marine life is sold, offered for sale, landed, or transported for sale anywhere in the State.” HAR §13-74-1.

HAR §13-74-20(a) states in relevant part that “[n]o person shall take marine life for commercial purposes whether the marine life is caught or taken within or outside of the State, without first obtaining a commercial marine license.”

### C. Fishing Gear Regulations

Fishing gear regulations are found in HAR Title 13, Chapter 75.

“Stretched mesh” is defined as “the straight line distance between two opposite inner edges of each eye of the net mesh as measured when the eye is stretched to its maximum size.” HAR §13-75-1.

HAR §13-75-14 states in relevant part that “[i]t is unlawful for any person to use nets made of or using netting with a stretched mesh of less than two inches.”

### D. Administrative fines authorized for violations of HAR Title 13, Chapters 60.4, 74, and 75
Hawai‘i Revised Statutes (HRS) §187A-12.5(c) provides the administrative penalties for violations relating to aquatic resources, including HAR §§ 13-60.4 (WHRFMA), 13-74 (CML), and 13-75 (regulated gear), as follows:

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

HRS §187A-12.5(e) also provides that “[i]n addition to subsection (c), a fine of up to $1,000 may be levied for each specimen of all other aquatic life taken, killed, or injured in violation of subtitle 5 of title 12 or any rule adopted thereunder.” The definition of “aquatic life” includes fish. See HRS §187A-1.

IV. APPLICATION OF LAW AND RECOMMENDED FINE

A. Applicable violations

The following rules were violated:

1) HAR §13-60.4-4(3)(B) – possession of aquarium collecting gear or aquatic life for aquarium purposes without a valid West Hawai‘i aquarium permit. Neither TYRON, KACIE, nor WAYNE held a valid West Hawai‘i aquarium permit. They were collectively in possession of aquarium collecting gear and live aquatic life onboard the Masako.

2) HAR §13-60.4-4(3)(D) – possession of aquarium collecting gear or aquatic life for aquarium purposes on an unregistered/unmarked aquarium collection vessel. TYRON, KACIE, and WAYNE were collectively in possession of aquarium collecting gear and live aquatic life onboard the Masako, an unregistered and unmarked aquarium collection vessel.

3) HAR §13-60.4-4(4) – possession of unmarked commercial aquarium collecting gear. TYRON, KACIE, and WAYNE were collectively in possession of aquarium collecting gear (a net) onboard the Masako, and this gear was not labeled with the CML number or numbers of the person or persons owning, possessing or using the equipment. Without labels to identify who owned, possessed, or used the gear, possession should be attributed to all persons onboard.

4) HAR §13-60.4-7(a) – engaging in aquarium collecting activities without a valid State of Hawai‘i aquarium fish permit. Neither TYRON, KACIE, nor WAYNE held a valid State of Hawai‘i aquarium fish permit. The possession of aquarium collecting gear and live aquatic life onboard the Masako, which was observed landing at the boat ramp, suggests that, more likely than not, all three had engaged in aquarium collecting activities. The term

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² HRS § 187A-12.5(b) specifically addresses violations involving threatened or endangered species. Subsection (c) covers “all other violations.”
“aquarium collecting activities” is not specifically defined by rule, but it is reasonable to interpret it as encompassing all actions, including vessel operation and transportation, associated with the collection of aquarium fish.

5) **HAR §13-60.4-7(b) – possession of non-white list species.** TYRON, KACIE, and WAYNE were collectively in possession of live moorish idol (*Zanclus cornutus*) onboard the *Masako*.

6) **HAR §13-60.4-7(c)(1) – failure to register as an aquarium collecting vessel.** The *Masako* was not registered as an aquarium collection vessel as required by law. TYRON was the registered owner of the *Masako*.

7) **HAR §13-60.4-7(c)(2) – failure to display the required “AQ” marking on both sides of the vessel.** The *Masako* did not clearly display the capital letters “AQ” permanently affixed to both sides of the vessel as required by law for aquarium collecting vessels. As the registered owner of the *Masako*, TYRON was responsible.

8) **HAR §13-60.4-7(c)(3) – failure to display the aquarium pennant.** The *Masako* did not fly a “stiffened” flag or pennant from the vessel with the letter “A” as required by law for aquarium collecting vessels with aquarium collecting gear or collected aquarium marine life onboard. As the operator and registered owner of the *Masako*, TYRON was responsible.

9) **HAR §13-74-20(a) – take of marine life for commercial purpose without a valid CML.** WAYNE did not have a valid CML, which is required to take marine life for commercial purpose. The definition of “commercial purpose” includes “the taking of marine life for profit or gain… where the marine life is… landed, or transported for sale anywhere in the State.” Considering the quantity of aquarium fish onboard the *Masako* and the possession of CMLs by TYRON and KACIE, it is more likely than not that WAYNE took marine life for commercial purpose.

10) **HAR §13-75-14 – use of a net with a stretched mesh of less than two inches.** TYRON, KACIE, and WAYNE were collectively in possession of a fine meshed net onboard the *Masako*. Aside from SCUBA gear, holding containers, and other accessories, no other legal aquarium collecting gear was onboard. It is more likely than not that this net was used to take the aquarium fish in their possession.

B. **Maximum authorized fines**

HRS §187A-12.5 authorizes an administrative fine of $1,000 for a first-time violation, as well as an additional $1,000 per specimen taken.

As outlined above, TYRON violated nine distinct rules, which carries a maximum fine of $9,000; KACIE violated six distinct rules, which carries a maximum fine of $6,000; and WAYNE violated seven distinct rules, which carries a maximum fine of $7,000.
Given the documented unlawful possession of 550 live fish onboard the *Masako*, the maximum administrative fine authorized for the specimens taken would be $550,000, attributable to the three respondents jointly.

C. **Recommended fines**

The Board has broad discretion in assessing administrative fines for a natural resource violation. In 2014, the Board adopted an Administrative Sanctions Schedule to facilitate the standardization of enforcement for violations of aquatic resource laws. This schedule recommends a $200 fine for each of the applicable violations and a $200 fine per specimen taken.\(^3\) Based on this schedule, the recommended fine against TYRON alone (9 distinct violations) is $1,800; the fine against KACIE alone (6 distinct violations) is $1,200; the fine

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\(^3\) Item 2-3. **Category 3 Violations – Unlawful Fishing Gear; Unlawful Vessel Activity.**

(b) A person commits a category 3 violation if he or she violates any of the following provisions:

(1) Rules adopted under HAR Title 13, Subtitle 4, Parts I, II, and III, relating to the use or possession of unlawful fishing gear or methods within any MLCD, Marine FMA, or Freshwater FMA;

(2) Rules adopted under HAR Title 13, Subtitle 4, Parts I, II, and III, relating to unlawful mooring, anchoring, or operation of a vessel within any MLCD, Marine FMA, or Freshwater FMA;

(3) Rules adopted under HAR Title 13, Chapter 74, relating to unlawful fishing for aquatic life without an appropriate license or permit, where a license or permit is required;

(4) Rules adopted under HAR Title 13, Chapter 75, relating to the unlawful possession, sale, disposal, or use of certain regulated fishing gear or methods;…

(c) For category 3 violations, administrative fines shall be imposed as follows:

(1) For a first category 3 violation, an administrative fine of up to $200 shall be assessed…

(d) In addition to any fines assessed for a category 3 violation involving the unlawful possession, sale, disposal, or use of regulated fishing gear or methods in violation of HAR Title 13, Chapter 75, an additional fine shall be assessed for each specimen of aquatic life taken, killed, or injured as a result of the unlawful possession, sale, disposal, or use of the regulated fishing gear or methods. Per specimen fines shall be imposed as follows:

(1) For aquatic life regulated under HRS Title 12, Subtitle 5 or HAR Title 13, Subtitle 4, an administrative fine shall be assessed as provided for in Items 2-4(c), (d), & (e) of this Administrative Sanctions Schedule.

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Item 2-4. **Category 4 Violations – Unlawful Extractive Activity.**

(c) For category 4 violations, except as provided in Items 2-4(d) and (e), below, administrative fines shall be imposed as follows:

(1) For a first category 4 violation, an administrative fine of up to $200 per specimen shall be assessed…
against WAYNE alone (7 distinct violations) is $1,400; and the fine against all three respondents jointly would be $110,000.

For purposes of practicality in assessing jointly attributable fines, DAR recommends the total catch of the Masako be allocated as equally as possible among all respondents. Therefore, DAR attributes the specimens as follows: TYRON - 184; KACIE - 183; and WAYNE - 183.

Based on the above, the following individual fines are suggested:

**Tyron Terazono**

<table>
<thead>
<tr>
<th>Violations</th>
<th>Fine</th>
<th>Count</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No West Hawai‘i Aquarium Permit</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Aquarium gear/fish on unregistered vessel</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Unmarked aquarium gear</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>No State Aquarium Permit</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Possession of non-white list species</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Failure to register as aquarium vessel</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Failure to display &quot;AQ&quot;</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Failure to display pennant</td>
<td>$200</td>
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<td>$200</td>
</tr>
<tr>
<td>Illegal fine meshed net</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Specimens unlawfully taken/possessed</td>
<td>$200</td>
<td>184</td>
<td>$36,800</td>
</tr>
<tr>
<td><strong>Total Fine</strong></td>
<td></td>
<td></td>
<td>$38,600</td>
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</tbody>
</table>

**Kacie Terazono**

<table>
<thead>
<tr>
<th>Violations</th>
<th>Fine</th>
<th>Count</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No West Hawai‘i Aquarium Permit</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Aquarium gear/fish on unregistered vessel</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Unmarked aquarium gear</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>No State Aquarium Permit</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Possession of non-white list species</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Illegal fine meshed net</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Specimens unlawfully taken/possessed</td>
<td>$200</td>
<td>183</td>
<td>$36,600</td>
</tr>
<tr>
<td><strong>Total Fine</strong></td>
<td></td>
<td></td>
<td>$37,800</td>
</tr>
</tbody>
</table>

**Wayne Newman**

<table>
<thead>
<tr>
<th>Violations</th>
<th>Fine</th>
<th>Count</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No West Hawai‘i Aquarium Permit</td>
<td>$200</td>
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<td>$200</td>
</tr>
<tr>
<td>Aquarium gear/fish on unregistered vessel</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
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<tr>
<td>Unmarked aquarium gear</td>
<td>$200</td>
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<td>$200</td>
</tr>
<tr>
<td>No State Aquarium Permit</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Possession of non-white list species</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>No CML</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
<tr>
<td>Illegal fine meshed net</td>
<td>$200</td>
<td>1</td>
<td>$200</td>
</tr>
</tbody>
</table>
Specimens unlawfully taken/possessed $200 183 $36,600
Total Fine $38,000

D. Other considerations

In assessing fines, the Board may also consider the market value of the natural resources taken, as well as pecuniary gains that may be potentially realized by the respondent from an unauthorized commercial activity. The following table shows current retail prices of the unlawfully taken aquarium fish species as listed on three online tropical fish stores on May 12, 2020, as well as the average price per species. The approximate total retail value of the 550 illegally taken specimens is shown in the right hand column.

<table>
<thead>
<tr>
<th>Species</th>
<th>LiveAqua.com price</th>
<th>FreshMarine.com price</th>
<th>NatureRave.com price</th>
<th>Average Retail Price</th>
<th>Count</th>
<th>Total Retail Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yellow tang</td>
<td>$84.99</td>
<td>$49.98</td>
<td>$69.95</td>
<td>$68.31</td>
<td>472</td>
<td>$32,240.75</td>
</tr>
<tr>
<td>Kole</td>
<td>$99.99</td>
<td>$49.98</td>
<td>$79.95</td>
<td>$76.64</td>
<td>37</td>
<td>$2,835.68</td>
</tr>
<tr>
<td>Orange-spine unicornfish</td>
<td>$64.99</td>
<td>$49.98</td>
<td>$59.95</td>
<td>$58.31</td>
<td>26</td>
<td>$1,515.97</td>
</tr>
<tr>
<td>Orangeband surgeonfish</td>
<td>$34.99</td>
<td>$34.95</td>
<td>$69.95</td>
<td>$46.63</td>
<td>5</td>
<td>$233.15</td>
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<td>Moorish Idol</td>
<td>$62.98</td>
<td>$99.95</td>
<td>$81.47</td>
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<td>5</td>
<td>$407.33</td>
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<tr>
<td>Saddle wrasse</td>
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<td>$69.95</td>
<td>$49.47</td>
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<td>1</td>
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<tr>
<td>Goldrim surgeonfish</td>
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<td>$89.95</td>
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<td></td>
<td>1</td>
<td>$74.97</td>
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<tr>
<td>Hawaiian Dascyllus</td>
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<td>$24.95</td>
<td>$24.95</td>
<td></td>
<td>1</td>
<td>$24.95</td>
</tr>
<tr>
<td>Longnose Butterflyfish</td>
<td>$44.99</td>
<td>$39.98</td>
<td>$54.95</td>
<td>$46.64</td>
<td>1</td>
<td>$46.64</td>
</tr>
<tr>
<td>Blacklip Butterflyfish</td>
<td>$34.99</td>
<td>$28.98</td>
<td>$49.95</td>
<td>$37.97</td>
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<td>$37.97</td>
</tr>
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<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td></td>
<td>$37,466.87</td>
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\(^4\) HAR §13-1-70(c)(1)
\(^5\) HAR §13-1-70(c)(7)
V. RECOMMENDATIONS

1. That the Board find that Tyron Terazono violated HAR §§13-60.4-4(3)(B), 13-60.4-4(3)(D), 13-60.4-4(4), 13-60.4-7(a), 13-60.4-7(b), 13-60.4-7(c)(1), 13-60.4-7(c)(2), 13-60.4-7(c)(3), and 13-75-14.

2. That the Board find that Kacie Terazono violated HAR §§13-60.4-4(3)(B), 13-60.4-4(3)(D), 13-60.4-4(4), 13-60.4-7(a), 13-60.4-7(b), and 13-75-14.

3. That the Board find that Wayne Newman violated HAR §§13-60.4-4(3)(B), 13-60.4-4(3)(D), 13-60.4-4(4), 13-60.4-7(a), 13-60.4-7(b), 13-74-20(a), and 13-75-14.

4. That the Board assess an administrative fine of $38,600.00 against Tyron Terazono, $37,800 against Kacie Terazono, and $38,000 against Wayne Newman to be paid within 60 days of the date of this submittal.

Respectfully Submitted,

[Signature]
Brian Neilson, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL:

[Signature]
Suzanne D. Case, Chairperson
Department of Land and Natural Resources
Date: February 20, 2020

Time: 12:30pm to 3:45pm

Place: Kawaihae Harbor North Basin

DAR Kona Staff: Nikki Smith and Laura Jackson

Vessel: HA 4495-K, “Masako” (Registered to Tyron Terazono, expires 10/2020)

Subject/Violations: HAR 13-60.4 West Hawaii Regional Fishery Management Area (WHRFMA)

1) 13-60.4-4 (4) Possession of unmarked commercial aquarium collection gear while on an unregistered aquarium collection vessel.
2) 13-60.4-4 (3)(D) Possession of marine life taken with such gear while on an unregistered aquarium collection vessel.
3) 13-60.4-7 (C) (2) Failure to clearly display the capital letters AQ on both sides of aquarium collection vessel.
4) 13-60.4-7 (C) (3) No Aquarium pennant on vessel.
5) 13-60.4-7 (C) (1) Unregistered aquarium vessel.
6) 13-60.4-7 (b) One species was collected that is not listed on West Hawai‘i White List of previously permitted species (*Zanclus cornutus*). Five individuals were collected.
7) In October 2017, the Hawai‘i Circuit Court ruled that existing ‘aquarium’ permits (for use of fine mesh nets/traps) were illegal and invalid pending a full review of the fishery under the Hawaii Environmental Policy Act (HEPA). On January 5, 2018, a total prohibition of all commercial aquarium collecting in West Hawai‘i was announced, including prohibition of transit through the West Hawaii Regional Fishery Management Area with aquarium collection gear or possession of live marine life.
8) One of the three fisherpeople (Wayne Newman) does not presently have a valid Commercial Marine License and therefore would have a five fish per day limit.

Description of Events: Laura Jackson (DAR Kona) received a call at approximately 12:30pm from John Kahiaopo, DAR Information & Education Specialist regarding DOCARE Officer Nakama with an Aquarium collection vessel at Kawaihae Harbor. Laura then spoke with DOCARE Officer and Big Island Branch Chief
Kamakau who requested DAR staff to meet the enforcement officers at Kawaihae to help quantify and identify fish species found on the aquarium vessel. Nikki Smith (DAR Kona) and Laura gathered supplies and promptly headed north to Kawaihae. Nikki received a call from Brian Neilson, DAR Administrator, at 12:43pm and an email at 12:45pm requesting our assistance as well.

When DAR Kona staff arrived on site, Laura observed Tyron Terazono (CML 2419, expires 4/25/20, no WHAQ permit) outside of his truck and vessel speaking with the four DOCARE officers (Kamakau, Nakama, Elvinia, and Keawe). Mr. Terazono was released by DOCARE officers and left the Kawaihae Harbor as DAR Kona staff approached the vessel. The officers informed us that Mr. Terazono was fishing on his boat with his wife Kacie Terazono (CML 29628, expires 1/6/21, no WHAQ permit) and another known aquarium fisherman, Wayne Newman (CML 3483, expired 9/27/17, no WHAQ permit).

Nikki and Laura boarded the vessel with DOCARE Officer Nakama and proceeded to count, identify, and remove the fish from the vessel’s fish storage well. A total of 550 fish were placed in buckets filled with ocean water and DOCARE officers released the fish back to the ocean outside and adjacent to the Kawaihae break-wall.

Table 1. List of live fish found in fish well on vessel HA 4495 K.

<table>
<thead>
<tr>
<th>Number</th>
<th>Common Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>472</td>
<td>Yellow tang</td>
<td>Zebrasoma flavescens</td>
</tr>
<tr>
<td>37</td>
<td>Kole</td>
<td>Ctenochaetus strigosus</td>
</tr>
<tr>
<td>26</td>
<td>Orange-spine unicornfish</td>
<td>Naso litteratus</td>
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<tr>
<td>5</td>
<td>Orangeband surgeonfish</td>
<td>Acanthurus olivaceus</td>
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<tr>
<td>5*</td>
<td>Moorish Idol*</td>
<td>Zanclus cornutus*</td>
</tr>
<tr>
<td>1</td>
<td>Saddle wrasse</td>
<td>Thalassoma duperrey</td>
</tr>
<tr>
<td>1</td>
<td>Goldrim surgeonfish</td>
<td>Acanthurus nigricans</td>
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<td>1</td>
<td>Hawaiian Dascyllus</td>
<td>Dascyllus albisella</td>
</tr>
<tr>
<td>1</td>
<td>Common Longnose Butterflyfish (Forcepsfish)</td>
<td>Forcipiger flavissimus</td>
</tr>
<tr>
<td>1</td>
<td>Blacklip Butterflyfish</td>
<td>Chaetodon kleinii</td>
</tr>
</tbody>
</table>

TOTAL FISH CONFISCATED 550

*Species not on West Hawai‘i White List of previously permitted aquarium fish.

DAR Kona staff completed identification and removal of all collected fish and left Kawaihae at 3:00pm. DAR Kona staff arrived back at Honokohau Harbor at 3:45pm.
Figure 1. Vessel involved in the aquarium fish poaching incident on 2/20/20. Image by DAR Kona (Nikki Smith)

Figure 2. DAR Aquatic Biologist Nikki Smith inventories confiscated aquarium fish on 2/20/20. Image by DAR Kona (Laura Jackson).
Figure 3. DAR Kona staff (Nikki Smith and Laura Jackson) inventory confiscated aquarium fish, including yellow tang (*Zebrasoma flavescens*) and nine other fish species. Image by DAR Kona (Laura Jackson).

Figure 4. DAR Kona Aquatic Biologist, Nikki Smith inventories confiscated aquarium fish, including yellow tang (*Zebrasoma flavescens*) and nine other fish species. Image by DAR Kona (Laura Jackson).
State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION #

District: West Hawaii
Lead Investigator: Verl Nakama, Verl
Report Status: Assigned

Key Report
[ ] Yes [X] No

Date/Time Reported: 02/20/2020 10:55AM
Location: West Hawaii Regional
Classification: MPA: PROHIBITED ACTIVITIES

Incident & Report Control Form

A. COMPLAINT

Taken By: Verl Nakama
How Taken: Mail
Reported Date/Time: 02/20/2020 10:56AM

Complainant: MICHAELE NAKACHI

Phone: 
Address: 

Incident Summary: Description: FOUND TO BE IN POSSESSION OF AQUARIUM COLLECTING GEAR (SMALL MESH NET) AND AQUATIC LIFE (APPROXIMATELY 835 LIVE TROPICAL FISH)

Suspect: Tyron Takash TERAZONO

Vehicle/Vessel: 2019 FORCE 24 HA 4485K

Location: West Hawaii Regional Fisheries Management Area
Location Note: WATERS FRONTING KAWAIAE SBH

Occurred From: 02/20/2020 11:40AM
Occurred To:

B. REPORT CONTROL

Branch: Hawaii
District: West Hawaii
Lead Investigator: Verl Nakama
Date Assigned: 02/20/2020 11:40AM

C. NOTES/DISPOSITION/OTHER INFO
### Investigator Report

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

<table>
<thead>
<tr>
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<th>District</th>
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<th>Report Status</th>
<th>Key Report</th>
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<td>20-0207-HA</td>
<td>West Hawaii</td>
<td>Nakama, Ved.</td>
<td>In Progress</td>
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**Date/Time Reported**: 02/20/2020 10:58AM  
**Location**: West Hawaii Regional  
**Classification**: MPAs: PROHIBITED ACTIVITIES

#### BASIC

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<tr>
<td>2. SOURCE</td>
<td>Mail</td>
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#### COMPLAINTS NAME

**MICHEAL NAKACHI**

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<th>6. AGE</th>
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#### ADDRESS

P.O BOX 4454, KAILUA KONA, HI, 96745

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#### LOCATION OF INCIDENT

NEAR SHORE WATERS FRONTING KAWAHAU SMALL BOAT HARBOR

<table>
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<tr>
<th>14. LOCATION OF INCIDENT INTERSECTING STREET</th>
<th>15. DATE/TIME OCCURRED</th>
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#### TYPE

**Force Marine**

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#### BURDEN

**Tyron TERAIZONO**

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**Notes**

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#### VEHICLES

**Type**

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<td>WESTCO</td>
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#### REGISTERED OWNER

**Tyron TERAIZONO**

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<th>41. HOME</th>
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#### NOTES

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#### PEOPLE

**MICHEAL NAKACHI**

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<th>46. SEX</th>
<th>47. RACE</th>
<th>48. AGE</th>
<th>49. BIRTH DATE</th>
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<td>MANAGER</td>
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**Reporting Person**

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<th>54. WORK</th>
<th>55. CELL</th>
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**Tyron TERAIZONO**

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<th>57. SEX</th>
<th>58. RACE</th>
<th>59. AGE</th>
<th>60. BIRTH DATE</th>
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<td>Commercial Fisherman</td>
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**Suspect**

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<tbody>
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#### SYNOPSIS

The above described person, vessel captain and owner Tyron TERAIZONO was found to be in possession of aquarium collecting gear (approximately 40 foot small mesh net) and approximately 636 live tropical fish, while within the near shore waters fronting The Kawahaue Small Boat Harbor, which is within the West Hawaii Regional Fisheries Management Area, in violation of 13-80.4-4 Hawaii Administrative Rules.

Refer to supplementary report under Master Report 20-0207-HA for more information.

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

Investigation #: 20-0207-HA
District: West Hawaii
Lead Investigator: Verl Nakama

Date/Time Reported: 2/20/2020 10:58:00 AM
Location: West Hawaii Regional Fisheries Management Area
Classification: MPA: PROHIBITED ACTIVITIES

Report Type: [ ] Continuation of Report
[x] Supplemental
[ ] Follow Up

Date/Time Written: 02-20-2020/1911hrs
Written By: Nakama, Verl

Report

Assignment

02-20-2020 1056hrs. I was assigned by Hawaii Branch Chief Lino KAMAKAU, via email, to investigate a report of possible tropical fish collecting within the West Hawaii Regional Fishery Management Area.

The email related that a reporting person by the name of Mike NAKACHI, was observing a vessel approximately 8 miles north of Kawaihae, NAKACHI also reported a truck and trailer, parked at the Kawaihae Small Boat Harbor, which he believes may belong to a tropical fish collector. The email has been submitted in this report under “Attachment A”.

Background

The West Hawaii Regional Fishery Management Area is from Ka Lae, Kau (South Point) to Opolu Point, North Kohala, and extending from the wash of the waves on shore, seaward to the limit of the States police power and management authority (3 nautical miles).

The near shore waters of the Kawaihae Small Boat Harbor is well within the West Hawaii Regional Fishery Management Area. It is a violation to possess aquarium collecting gear, or take or possess any specimen of aquatic life for aquarium purposes while within the West Hawaii Regional Fishery Management Area under section 13-60.4-4 Hawaii Administrative Rules.

Officers Observations

02-20-2020 1140hrs. Upon arrival at the Kawaihae Small Boat Harbor, a single black Chevy Truck (109HDX) attached to an empty vessel trailer (453HZF) was observed to be parked and unattended. This matched the description of the email from Chief KAMAKAU.

02-20-2020 1142hrs. A vessel was observed traveling toward the boat ramp from the North. I watched as the vessel entered into the ramp area, and off loaded a male person whom retrieved the Chevy truck and trailer. The vessels captain, later identified as Tyron TERAZONU was informed that his vessel would be inspected upon him trailering it. He then trailered the vessel and drove it to the boat wash area.

There was a total of (3) people on the vessel when it was observed on the water, the operator and registered owner Tyron TERAZONU, a male passenger later identified as Wayne NEWMAN and a female passenger, later identified as Kacie TERAZONU.

Safety Inspection

02-20-2020 1145hrs. A vessel safety inspection was conducted, refer to my Report of Boarding form for detailed information. This form has been submitted under “Attachment B”.

Nakama, Verl
Officer

7
Badge No.

02-21-20 1830hrs
Date / Time
Report (Continued)

COMMERCIAL FISHING LICENSE

Vessel owner and captain TERAZONO was asked if he possessed a Commercial Marine License at which time he said yes and provided it. License number: [redacted]

He was then informed that a gear and catch inspection would be conducted at which time he appeared to drop his head and get nervous. I asked what kind of fishing he had done while on the water and he said that he had been diving. I then asked if he had any aquarium collecting gear and any aquarium fish on board and he said yes. He explained that he wanted to be honest, and opened a storage compartment near the rear of the boat, pulling out a small mesh net, he also made a spontaneous statement saying that he had “tangs” and pointed to a separate storage area which appeared to be the main fish box.

It should be noted that the vessel did not have any markings or pennants, which would identify it as an aquarium collecting vessel, such as “AQ”.

ADVICE OF RIGHTS

02-20-2020 1206hrs. TERAZONO was advised of his rights, refer to The Advice of Rights Form for more information. He initialed that he understood the rights that was read to him, he did not want a lawyer now, he was willing to answer questions and make a statement and he did not want a lawyer during this interview.

Upon completing the advice of rights, I asked TERAZONO to show me the “tangs”. He opened the fish box and a large water filled tank, separated into 3 sections by dividers, which contained a large number of live tropical fish. I asked how much live fish was in the tank and he said, around 600 or so. He said he had around 99 percent tangs which included yellow tangs and koles, he said he had a few Moorish Idols, and around 20 kalis and a few wrasses.

I asked TERAZONO to tell me about their day on the water. He explained the following:

He said that they had left Kawaihau Small Boat Harbor in the morning and traveled approximately half a mile past Opolu Point. He explained that he and the other male person (later identified as Wayne NEWMAN) had both used scuba gear and the small mesh net to collect the fish. His wife, he explained drove the vessel while they were in the water, as they did not anchor.

I asked him to explain how they collect the fish. He said that they chase the fish away from the reef, then lay the mesh net across, between the fish and the reef, at which time the fish, while trying to return, get trapped in the net.

I asked TERAZONO if he had a GPS to show his location of his collecting point and he said no. I asked if he collected tropical fish in that area a lot and he said no, mostly Makalawana and Pebble Beach.

I asked how long he had been diving for the tropical fish and he said about an hour, when asked what they were doing for the remainder of the time, he explained that they had been driving the boat to and from the location, saying that the water was choppy.

INVESTIGATION

Hawaii Branch Chief Lino KAMAKAU was contacted and advised of the situation. Upon consultation, KAMAKAU instructed us to recover the small mesh net, live fish, vessel and trailer as evidence. He informed me he would be coming with a larger truck to tow the vessel and trailer that DLNR Aquatics Staff would be arriving shortly to assist with the counting and releasing the live fish.
Report (Continued)

SUSPECT IDENTIFIED
The suspect in this case is identified as:
Tyron Takeshi TERAZONO
DOB: [REDACTED]
Hawaii DLN: [REDACTED]
Address: [REDACTED]
Ph: [REDACTED]
Occupation: Commercial Fisherman, self employed

CITATION ISSUED
It was explained to TERAZONO that possessing aquarium collecting gear, such as the small mesh net, and possessing any specimen of aquatic life for aquarium purposes, such as the live fish within the tanks, while within The West Hawaii Regional Management Area, such as the near shore waters he was observed operating his vessel on fronting The Kawaihae Small Boat Harbor, was a violation under section 13-80.4.4 Hawaii Administrative Rules.

He was issued a citation for the above offense under 050143LNR. He was informed that his vessel, trailer, mesh net and fish would be confiscated as evidence.

TERAZONO was asked if he had any items of high value of cash on the vessel, at which time he stated that he had no large items of value on the vessel and no cash, but made it a point to say that the vessel and trailer was valued at $120,000.

TERAZONO requested that he be able to remove and take with him (2) large fishing reels attached to (2) fishing poles and a smaller fishing pole and a tackle box as he explained that they did not use it while collecting the fish and that he was concerned that it would be stolen; he also requested that he be allowed to adjust his vessel on the trailer more securely, and wash down the motors and hull. He was allowed to remove the fishing poles and reels and wash down his vessel while under continuous observation from DOCARE Officers.

VESSEL IDENTIFIED
The vessel in this case is identified as:

Year: 2019
Make: Force 24
SID: HA 4495
Name: Masako
Owner: Tyron TERAZONO
Hull ID: FQUF1838L414
Report (Continued)

The Trailer is identified as:

Year: 2019
Make: Westco
Color: Silver
Owner: Tyron TERAZONO and Kacie AKEA
Plate: 453HZF
Vin: 1A9B24265F16266453
Address:

VEHICLE IDENTIFIED

The vehicle in this case is identified as:

Year: 2013
Make: Chevy
Model: PKUP
VIN: 1GC1K645DF2356559
Plate: 109HDX
Owner: TERAZONO Tyron T. and Kacie K.
Address:

EVIDENCE RECOVERED

The vessel, trailer, net and scuba gear was recovered as evidence. The mesh net was measured and determined to be approximately 25 feet long and 8 feet and 3 inches high. The eye size was smaller than 0.5 inches and it was not marked with any designation of registration and or permit numbers. Refer to the property and evidence receipts for more information.

PHOTOGRAPHS

Photographs were taken, refer to photographic records 1-3 for detailed information.

INVESTIGATION

02-20-2020 1256hrs Kacie TERAZONO, who was previous advised of her rights and interviewed by Officer Daniel ELVENIA, approached me and asked if I wanted to take a snap shot of her cell phone, which contained a list of the fish that was in the vessel. She explained that they wanted to be helpful. I thanked her and took a photograph of her phone, refer to my photographic record for more information.

02-20-2020 1330hrs Laura JACKSON and Nikki SMITH of The Division of Aquatic Resources (DAR) arrived on scene and assisted with the identification, counting and releasing of the live tropical fish. A total of 550 live fish were identified, counted and returned to the ocean.

JACKSON also reported several other potential violations which may have occurred. Refer to JACKSON’s report for detailed information, submitted under “Attachment C.”

Nakama, Verl
Officer

Badges No.

02-21-20 1836hrs
Date / Time
Report

SCENE

The scene of this incident is the near shore waters fronting The West Hawaii Regional Fishery Management Area.

WITNESS INTERVIEWED

02-20-2020 1733hrs. The reporting person and witness was interviewed via phone, He is identified as:

Michael NAKACHI
DOB: [redacted]
SSN: [redacted]
Address: [redacted]
Ph: [redacted]

NAKACHI explained that he arrived at The Kawaihae Small Boat Harbor on 02-20-2020 at around 0855hrs. He explained that he saw a black Chevy Truck attached to an empty trailer which he knows from previous occasions to belong to a tropical fish collector named Tyron TERAZONO. After seeing the truck and trailer he drove North on Akula Pule Hwy to look for the vessel. NAKACHI is very familiar with the rules and restrictions for tropical fish collecting.

At around 0930hrs. he found a vessel, which matches the vessel he knows to belong to TERAZONO, in the near shore waters (75-125 feet) fronting the 10.5 mile marker of Akoni Pule Hwy.

He watched as the vessel made circles, consistent with an operator, not anchored, it appeared to be waiting for divers. He could not see any dive flags or make out any vessel numbers, but explained that he could tell by experience that it was a “Force” and that it had silver Honda motors, consistent with TERAZONO’s vessel.

He used his cell phone to document the incident and found that he was fronting the 10.5 mm of Akoni Pule Highway. He reported his observations to DLNR.

INVESTIGATION

The following fish were identified, counted and released by Laura JACKSON and Nikki SMITH of DLNR’s Division of Aquatic Resources.
INVESTIGATION Cont.

Table 1. List of live fish found in fish well on vessel HA 4495 K.

<table>
<thead>
<tr>
<th>Number</th>
<th>Common Name</th>
<th>Scientific Name</th>
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<tbody>
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<td>Yellow tang</td>
<td>Zebrasoma flavescens</td>
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<tr>
<td>37</td>
<td>Kole</td>
<td>Ctenochaetus strigosus</td>
</tr>
<tr>
<td>26</td>
<td>Orange-spine unicornfish</td>
<td>Naso literatus</td>
</tr>
<tr>
<td>5</td>
<td>Orangeband surgeonfish</td>
<td>Acanthurus olivaceus</td>
</tr>
<tr>
<td>5*</td>
<td>Moorish idol*</td>
<td>Zanclus cornutus*</td>
</tr>
<tr>
<td>1</td>
<td>Saddle wrasse</td>
<td>Thalassoma duperrey</td>
</tr>
<tr>
<td>1</td>
<td>Goldrim surgeonfish</td>
<td>Acanthurus nigricans</td>
</tr>
<tr>
<td>1</td>
<td>Hawaiian Dascyllus</td>
<td>Dascyllus albisella</td>
</tr>
<tr>
<td>1</td>
<td>Common Longnose Butterflyfish</td>
<td>Forcipiger flavissimus</td>
</tr>
<tr>
<td>1</td>
<td>Blacklip Butterflyfish</td>
<td>Chaetodon kleinii</td>
</tr>
</tbody>
</table>

TOTAL FISH CONFISCATED 550

*Species not on West Hawaii’s White List of previously permitted aquarium fish.

ADDITIONAL VIOLATIONS

Upon review of this incident, JACKSON’s report provides several other rules and regulations that may apply to the vessel and suspects in this case. Refer to “Attachment C”. DOCARE defers this additional information to The Prosecutors Office for their review.

MASTER REPORT

This is the master report for connect up report number 20-0208-HA.

DISPOSITION

In review of the above information, I recommend that this investigation be closed, citation issued and a copy of this report routed to The Hawaii Branch Division of Aquatic Resources with our recommendation to present this to DLNR’s Land Board.

CLOSED: CITATION ISSUED

OFF. V. NAKAMA
Officer

7
Badge No.

02-22-2020 2000HRS.
Date / Time
DOCARE COMPLAINT & SUMMONS

In the DISTRICT/FAMILY COURT

of the

CIRCUIT, STATE OF HAWAII

STATE: [Blank] JUVENILE [Blank]

NAME: [Redacted]

Last: [Redacted]

Address: [Redacted]

City, State, Zip: [Redacted]

ID: [Redacted]/SS# [Redacted]

Place of Employment: [Redacted]

Job Title: [Redacted]

Type Of Case: [Blank]

Did on or about the 20th day of FEB, 2020, at about 12:00 AM did operate/possess Vehicle/Vessel: [Redacted] and did commit the offense of: [Blank]

SECTION: 73-60-4-4

EVIDENCE TAKEN: [Redacted]

DESCRIPTION OF EVIDENCE

VEHICLE: [Redacted]

Rear: [Redacted] 875 [Redacted] NET

Receipt of this citation is acknowledged (Your signature is not an admission of guilt)

Signature

Date of Issue: 20 FEB 2020 Time: 12:00 AM

Complainant: [Redacted]

Bail Forfeiture by Mail Permitted: Yes [Redacted] No [Redacted]

A) Payment/Deposit before court date Payment Amount: [Redacted] B) Payment/Deposit on or after court date Payment Amount: [Redacted]

SUMMONS

Your court appearance date is:

DATE: 21 MAR 2020 TIME: 09:00 AM COURTROOM [Redacted]

District Court [Redacted] Family Court [Redacted]
**DOCARE PROPERTY RECEIPT**

**Case / Report / Citation #**

**Date** 02/20/2020  **Time** 13:28

**Location**

**Received From:** [ ] Owner  [ ] Suspect  [ ] Finder

**Print** [ ] Tera 20

**Address**

**Phone #**

<table>
<thead>
<tr>
<th>Item #</th>
<th>Description</th>
<th>Quantity</th>
<th>Serial #</th>
<th>Est. Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2019 Force 24 Vessel w/ Trailer w/ Contents</td>
<td></td>
<td>HA 4425K 120k</td>
<td></td>
</tr>
</tbody>
</table>

**Note:** This form shall be used for field purposes only. It is not to take the place of the Property Report (DOCARE-9).

**ORIGINAL – DOCARE**  **YELLOW – Defendant**  **PINK – Book**
Report Description: MPA: PROHIBITED ACTIVITIES
Date/Time Taken: 02-20-2020 1153hrs
Taken By: Nakama, Verl
Scene: Kawaihae SBH

Equipment: iPhone
Weather Conditions: clear
Lighting: day
Focus: auto
9 MAIN FISH TANK TOWARD AFT

10 MAIN FISH TANK MIDDLE SECTION

11 MAIN FISH TANK TOWARD BOW

12 DIVE GEAR IN COMPARTMENT
INVESTIGATION #: 20-0207-HA
DATE / TIME REPORTED: 2/20/2020 10:58:00 AM
DISTRICT: West Hawaii
LOCATION: West Hawaii Regional Fisheries Management Area
LEAD INVESTIGATOR: Verl Nakama
CLASSIFICATION: MPA: PROHIBITED ACTIVITIES

Report Description: MPA: PROHIBITED ACTIVITIES
Date/Time Taken: 02-22-2020 1700HRS
Taken By: Nakama, Verl
Scene: NH

1. Mesh net
2. Mesh net measured approx. 25 feet
3. Top view of net with floaters
4. Height of net approx. 9 feet 3 inches.
Report Description: MPA: PROHIBITED ACTIVITIES
Date/Time Taken: 02-21-2020
Taken By: Nakama, Verl
Scene: NH DOCARE BASEYARD

Equipment: IPHONE
Weather Conditions: CLEAR
Lighting: DAY
Focus: AUTO
5 Close up of measuring tape (Height)  6 Mesh less than .5 inch eye

7 Port side of vessel  8 Port side of vessel
9 Port close up

10 Rear of vessel

11 Starboard side of vessel

12 Starboard close up
A. COMPLAINT

Taken By: Daniel Elvenia
How Taken: Other

Complainant: Home Work Cell

Phone: HI
Address: HI

Incident Summary
Description: Suspect(s) were observed traversing through a restricted FMA and found to be in possession of prohibited fishing gear and live marine animals.

Suspect: Wayne Thomas NEWMAN, W40

Vehicle/Vessel: Force 24 fishing boat, named "MASAKO"

Location: West Hawaii Regional Fisheries Management Area
Location Notes: Waters along the South Kohala Shoreline from Kawaihae to Upolu Point

Reported Date/Time: 02/20/2020 10:56AM

B. REPORT CONTROL

Branch: Hawaii
District: West Hawaii
Lead Investigator: Daniel Elvenia
Date Assigned: 02/20/2020 05:57PM

C. NOTES/DISPOSITION/OTHER INFO
**Investigation Report**

1. **CLASSIFICATION**
   - MPA: PROHIBITED ACTIVITIES

2. **SOURCE**
   - Other

3. **COMPLAINANT'S NAME**
   - Michael NAKACHI

4. **SEX**
   - Male

5. **RACE**
   - Black

6. **AGE**
   - 30

7. **BIRTH DATE**
   - 02/20/1990

8. **OCCUPATION**
   - Manager

9. **ADDRESS**
   - 123 Street, Honolulu, HI 95822

10. **PLACE EMPLOYED/SCHOOL ATTENDING**
    - Hawaii Division of Lands and Natural Resources

11. **HOME**
    - 123 Street, Honolulu, HI 95822

12. **WORK**
    - Hawaii Division of Lands and Natural Resources

13. **CELL**: 123-456-7890

14. **LOCATION OF INCIDENT/INTERSECTING STREET**
    - Near shore waters fronting Kawaihae Small Boat Harbor

15. **DATE/TIME OCCURRED**
    - 02/20/2020 08:00AM

16. **DATE/TIME REPORTED**
    - 02/20/2020 10:58AM

17. **TYPE**
    - Boat

18. **MAKE**
    - FORCE

19. **MODEL**
    - 24

20. **COLOR**
    - WHITE

21. **LICENSE / HA No.**
    - HA4495K

22. **STOLEN**
    - Yes

23. **LENGTH**
    - 20

24. **REGISTERED OWNER**
    - HI

25. **ADDRESS**
    - 123 Street, Honolulu, HI 95822

26. **HOME**
    - 123 Street, Honolulu, HI 95822

27. **WORK**
    - Hawaii Division of Lands and Natural Resources

28. **CELL**: 123-456-7890

29. **NOTES**

30. **NAME**
    - Wayne NEWMAN

31. **SEX**
    - Male

32. **RACE**
    - Black

33. **AGE**
    - 30

34. **BIRTH DATE**
    - 02/20/1990

35. **OCCUPATION**
    - Manager

36. **ADDRESS**
    - 123 Street, Honolulu, HI 95822

37. **HOME**
    - 123 Street, Honolulu, HI 95822

38. **WORK**
    - Hawaii Division of Lands and Natural Resources

39. **CELL**: 123-456-7890

40. **NOTES**

41. **DATE/TIME WRITTEN**
    - 02/20/2020 07:09PM

42. **SUBMISSION APPROVING**
    - Daniel NAKAMA

43. **DATE/TIME APPROVED**
    - 02/20/2020 07:34PM

44. **BADGE No.**
    - 16

45. **DISPOSITION**

---

**SYNOPSIS**

On 20 FEB 2020 at 1120 Hrs, DOCARE North Hawaii Supervisor Verl NAKAMA, assigned me to respond to the Kawaihae Small Boat Harbor regarding a report of a possible aquarium fishing violation. I arrived at the scene at 1150 Hrs where I observed NAKAMA initiating a vessel boarding inspection of a boat named "MASAKO".

This investigation is connected to the master report number 20-C207-HA. Please refer to the attached supplemental report for additional information.

**INV: CONTINUING**

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

INVESTIGATION #: 20-0208-HA
DISTRICT: West Hawaii
LEAD INVESTIGATOR: Daniel Elvenia
KEY REPORT: [X] Yes [ ] No
DATE / TIME REPORTED: 2/20/2020 10:56:00 AM
LOCATION: West Hawaii Regional Fisheries Management Area
CLASSIFICATION: MPA: PROHIBITED ACTIVITIES
CONNECTING REPORT(S): 20-0207-HA

Report Type: [ ] Continuation of Report [X] Supplemental [ ] Follow Up
Date/Time Written: 20 FEB 2020 / 1915 HRS
Written By: Elvenia, Daniel

Assignment / Arrival

On 20 FEB 2020 at 1120 Hrs, DOCARE North Hawaii District Supervisor Lieutenant Verl NAKAMA contacted me via mobile phone and instructed me to meet with him at the Kawaihae Small Boat Harbor, north ramp, to investigate a possible aquarium fishing violation. I arrived on scene at 1150 Hrs.

Initial Observations

Upon arrival, I observed Lt NAKAMA standing beside a boat, later identified as a Force 24 named “Masako”, on a trailer connected to a black Chevrolet Silverado pickup truck parked at the boat wash station. NAKAMA appeared to be initiating a boarding and safety inspection on the vessel. There was an adult male on board, later identified as Tyron TERAZONO, another adult male moving about the trailer, later identified as Wayne NEWMAN, and an adult female standing beside the pickup truck, later identified as Kacie TERAZONO.

I moved to consort with Lt NAKAMA regarding the situation and he confirmed that he was about to start the boarding and boat safety inspection on the vessel Masako. NAKAMA informed me that he received information that the vessel was seen operating in waters off the South Kohala Shoreline in the area of the 10.5 mile marker of Akoni Pule Highway (Hwy 270), possibly engaged in the collecting of marine life for aquarium purposes. He observed the vessel approaching the Kawaihae SBH from the north, traveling through waters along the South Kohala Shoreline. He viewed Tyron TERAZONO operating the vessel as it came into port, where Wayne NEWMAN disembarked and retrieved the black Chevrolet pickup. Kacie TERAZONO also disembarked to help steady the boat dockside and prepare it for trailering. After NEWMAN returned with the truck and trailer, all 3 parties trailered the boat and brought it ashore.

NAKAMA began conducting a boarding inspection of the vessel Masako, as I moved on board to assist. While on board, I observed a small eye mesh net laying on the deck near the rear of vessel, and also viewed numerous live yellow tang and koli fish, swimming in the vessel’s centerline compartment after Tyron TERAZONO voluntarily opened it. Upon viewing the net and live fish, NAKAMA contacted the DLNR Division of Aquatic Resources (DAR) requesting assistance with determining if any violations of the Hawaii Administrative Rules occurred, considering the circumstances.

Vessel Description

The vessel involved in this investigation is described as a 2019 Force 24 Open M/B, with twin outboard Honda 150 engines and made of fiberglass material. The vessel is registered with the Department of Land and Natural Resources Division of Boating and Ocean Recreation under vessel number HA 4495 K, is named “Masako”, and is owned by Tyron TERAZONO and his wife, Kacie TERAZONO.

Division of Aquatic Resources Recommendation

While conducting the boarding inspection, NAKAMA received information from the DLNR DAR that a violation of HAR Section 13-60.4-4, ACTIVITIES PROHIBITED WITHIN THE WEST HAWAII REGIONAL FISHERY MANAGEMENT AREA (WHRFMA), had been committed.

Upon receiving this information, he decided to administer the Department of Land and Natural Resources (DLNR), Division of Conservation and Resources Enforcement (DOCARE) Advice of Rights to Tyron TERAZONO, and asked me to do the same with Wayne NEWMAN and Kacie TERAZONO. I proceeded to contact Wayne NEWMAN and Kacie TERAZONO while NAKAMA spoke with Tyron TERAZONO.

Elvenia, Daniel
Officer 16
Badge No.
20 FEB 20:30 / 21:30 HRS

Narrative Report
Division of Conservation and Resources Enforcement
Page 1 of 4
Report (Continued)

ADVICE OF RIGHTS

At 1223 Hrs, I contacted Wayne NEWMAN and administered the DLNR Division of Conservation and Resources Enforcement (DOCARE) Advice of Rights, after informing him of the above mentioned violation. NEWMAN understood the rights explained to him, did not request a lawyer at the time, was willing to answer questions and provide a statement, and did not want a lawyer during the interview. He so indicated by providing his signature and initials on the form at 1225 Hrs. Please refer to the attached AOR form for further information.

SUSPECT IDENTIFICATION / STATEMENT

I identified, via a valid State of Hawaii Driver's License, and received the following statement from:

NAME: NEWMAN, Wayne Thomas
DOB: 
SSN: 
ADDRESS: 
PHONE: 
OCCUPATION: Diver/Aquarium Fish Collector

NEWMAN stated that he is a friend and colleague of Tyron TERAZONO and works with him in the business of collecting and selling marine life for use in private collectors/hobbyists aquariums. NEWMAN was on board the Masako on 20 FEB 2020 and operating in waters off the South Kohala Shoreline with TERAZONO and his wife, Kacie TERAZONO. He said that they launched the vessel from the Kawaihae SBH north ramp at approximately 8 o’clock in the morning and headed north with the intention of collecting aquarium fishes and possibly deep water fish such as Ahi and Ono, while traveling about the ocean.

NEWMAN stated that their plan was to head north to Upolu Point and do their collecting past the point, as he was aware of the designated Fisheries Management Area which extends from Kawaihae to Upolu Point. He explained that he knew capturing and taking marine life within the WHRFMA for the purpose of aquarium collections is restricted, which is why the plan was to travel past the point to do their fish collecting.

NEWMAN said both he and Tyron TERAZONO were the divers whom collected the fish which were held in the centerline compartment on board the Masako. He added all of the fish on board were caught past the point using the mesh net viewed during the boarding inspection. NEWMAN said that they were in the water collecting for an hour or so, before heading back to Kawaihae after completing a “successful catch”, and while they were in the water, Kacie TERAZONO was operating the vessel.

NEWMAN informed me that they traveled back to Kawaihae along the coastline, approximately one half mile from shore. He admitted to knowing that the area was a designated fisheries management area, however was not aware that traversing these waters while in possession of aquarium collecting gear and/or fish species, is prohibited.

NEWMAN added that he is a long time waterman and aquarium collecting fisherman. He prided himself as being aware of the State of Hawaii rules and regulations governing fishing in Hawaiian waters. He said he had never heard of the HAR Section for prohibited activities within the WHRFMA. For this reason, he was surprised to learn that he would be issued a citation for violating the HAR Section.

CONFISCATION OF PROPERTY

Shortly after interviewing NEWMAN, Lt NAKAMA informed me that he received direction from higher authority within DOCARE, that we would be seizing the vessel, trailer, and its contents to include the mesh net and marine life. We informed TERAZONO of this and provided him with a property receipt form to account for the items. Please refer to the Property and Evidence reports for further information on the vessel, trailer, and items taken into evidence.

Etvenia, Daniel
Ficer

16
Badge No.

20 FEB 2020 / 2130 HRS
Date / Time
Report (Continued)

SECOND SUSPECT IDENTIFICATION / STATEMENT

On 20 FEB 2020 at 1235 Hrs, I identified the third person aboard the Masako as:

NAME: TERAZONO, Kacie Kuuleiulani Masako
DOB: 
SSN: 
ADDRESS: 
PHONE: 
OCCUPATION: Business Owner/Operator

TERAZONO informed me that she is the wife of Tyrion TERAZONO, and was on board the vessel Masako with her husband and NEWMAN. She said that on the above date and times, they intended to collect aquarium fishes for selling to collectors/hobbyists, as they have done numerous times in the past, and that their self-owned and operated business is their primary source of income.

Before continuing my conversation with TERAZONO, I informed her that I would need to administer an Advice of Rights form to which she acknowledged and agreed upon.

ADVICE OF RIGHTS

At 1238 Hrs, I administered the DLNR Division of Conservation and Resources Enforcement (DOCARE) Advice of Rights to Kacie TERAZONO. She indicated that she understood the rights as stated on the form, but requested a lawyer at the time and during an interview, and declined to make any additional statements. Please refer to the attached AOR form for further information.

HAR VIOLATION / CITATION ISSUED

On 22 FEB 2020 at 1300 Hrs, I issued a Department of Land and Natural Resources DOCARE Complaint and Summons citation number 050463LNR, to Wayne NEWMAN for violation of the Hawaii Administrative Rules Section 13-60.4-4, ACTIVITIES PROHIBITED WITHIN THE WEST HAWAII REGIONAL FISHERY MANAGEMENT AREA. Please refer to attached copy of the citation for additional information.

After accepting the citation, NEWMAN left the area with Tyrion and Kacie TERAZONO via the black Chevrolet Silverado pickup truck.

DOCARE & DAR SUPPORT

At approximately 1330 Hrs, DOCARE Hawaii Island Branch Manager Lino KAMAKAU and West Hawaii District Officer Kainoa KEAWE arrived on scene to provide towing support for the vessel. The vessel was towed to and secured at the DOCARE facility in North Hawaii District.

A few moments after their arrival, the DLNR Division of Aquatic Resources agents arrived to assist with identifying and counting the fishes. Once identified and accounted for, all captured fish were returned to the ocean outside of the North Kawaihae SBH break wall. Please refer to the attached DAR incident report for detailed information and additional HAR violations.

MASTER REPORT

This report is connected to the master report by Lieutenant Veri NAKAMA. The master report number is 20-0207-HA, and contains information regarding the vessel owner and operator, Tyrion TERAZONO. Please refer to the master report for related additional information.
Report (Continued)

DISPOSITION

Due to the above information, I recommend this investigation be closed, citation issued. Please route a copy of this report to the Hawaii Island Division of Aquatic Resources for their review and presentation to the DLNR Land Board. Also recommend a copy of this report be routed to the Prosecutors Office for their review.

CLOSED: CITATION ISSUED

COPY OF THIS REPORT HAS BEEN FORWARDED TO THE SOUTH KOHALA PROSECUTORS OFFICE.

Elvenia, Daniel
Officer

16
Badge No.

20 FEB 2020 / 2130 HRS
Date / Time
State of Hawaii  
Department of Land and Natural Resources  
Division of Conservation and Resources Enforcement

ADVICE OF RIGHTS

I am a Conservation Enforcement Officer. I want to inform you of your rights.

1. You have the right to remain silent. You do not have to answer any questions.

2. Anything you say may be used against you in a court of law.

3. You have the right to talk to a lawyer before we ask you any questions and to have him with you during questioning.

4. If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.

5. If you decide to answer the questions now without a lawyer present, you will still have the right to stop answering at any time and talk to a lawyer.

The Advice of Rights was administered to ________________________________

By ________________________________
Conservation Enforcement Officer

Location: ____________________________  Date: 02-08-2020  Time: 12:23

WAIVER OF RIGHTS

1. Do you understand the rights that I have just read to you? Yes ___ No ___

2. Do you want a lawyer now? Yes ___ No ___

3. Are you willing to answer questions and make a statement? Yes ___ No ___

4. Do you want a lawyer during this interview? Yes ___ No ___

Witness: ____________________________  Subject's Signature: ____________________________

Date: ____________________________  Time: ____________________________  Date: 02-08-2020  Time: 12:25

Refused to sign: / /  

All the foregoing was translated into ____________________________

By ____________________________  Remarks: ____________________________
State of Hawaii
Department of Land and Natural Resources
Division of Conservation and Resources Enforcement

ADVICE OF RIGHTS

I am a Conservation Enforcement Officer. I want to inform you of your rights.

1. You have the right to remain silent. You do not have to answer any questions.

2. Anything you say may be used against you in a court of law.

3. You have the right to talk to a lawyer before we ask you any questions and to have him with you during questioning.

4. If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.

5. If you decide to answer the questions now without a lawyer present, you will still have the right to stop answering at any time and talk to a lawyer.

The Advice of Rights was administered to Kaei Krauseli Telozono

By D. Enloe #16
Conservation Enforcement Officer

Location 20 FEB 2020 1238

WAIVER OF RIGHTS

1. Do you understand the rights that I have just read to you? Yes ☑ No

2. Do you want a lawyer now? Yes ☑ No

3. Are you willing to answer questions and make a statement? Yes ☑ No ☑

4. Do you want a lawyer during this interview? Yes ☑ No

Witness

Subject’s Signature 1/20/20 12:40

Date Time

Refused to sign /

All the foregoing was translated into

By ___________________________ Remarks: ___________________________
DO CARE COMPLAINT & SUMMONS

In the DISTRICT/FAMILY COURT
of the 3rd DISTRICT
CIRCUIT, STATE OF HAWAII
STATE

NAME

WANE THOMAS

Current/Mailing Address

Phone number

Plate of Employment
School or Branch of Service

SCH NAU

Parent's name if Juvenile:

Did or order about this

20

day

do not

of

at

about

12:00 AM

Vehicle/Vessel:

Make/Model

Date: 2020

Color

Year

2019

and did commit the offense of:

SECTION:

13-60.4-4

EVIDENCE TAKEN:

Y

DESCRIPTION OF EVIDENCE

VESSEL MODERO

Received:

Signature

The undersigned affirms that the person named above committed the offense herein set forth, contrary to law.

Date of Issue

2020

Time

12:00

Complainant

Blindfold No.

Beail Forfeiture by Mail Permitted:

Yes

No

A

Postmarked

Before court date

Payment Amount

B

Postmarked/paid

or after court date

Payment Amount

Your court appearance date is

DATE:

OFFICER'S COPY