REAL ESTATE COMMISSION

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
www.hawaii.gov/hirec

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes.

Date: Friday, August 29, 2014

Time: 9:00 a.m.

Place: Queen Liliuokalani Conference Room

King Kalakaua Building

335 Merchant Street, First Floor

Honolulu, Hawaii

Present: Nikki T. Senter, Chair, Public/Honolulu Commissioner

Scott Sherley, Vice Chair, Broker, Hawaii Island Commissioner

Bruce Faulkner, Broker/Maui Commissioner Scott Arakaki, Public/Honolulu Commissioner Rowena Cobb, Broker/Kauai Commissioner Laurie Lee, Broker/Honolulu Commissioner Aileen Wada, Broker/Honolulu Commissioner Aleta Klein, Broker/Honolulu Commissioner Michael Pang/Honolulu Commissioner

Neil Fujitani, Supervising Executive Officer

Miles Ino, Executive Officer

Diane Choy Fujimura, Senior Real Estate Specialist

Cynthia Yee, Senior Condominium Specialist

David Grupen, Real Estate Specialist Amy Endo, Real Estate Specialist Shari Wong, Deputy Attorney General Marilyn Antolin, Recording Secretary

Other: May Ferrer – PVL Executive Officer

Carol Kramer – PVL Executive Officer

Lei Fukumura – Special Deputy Attorney General

Russell Hardy Ben Fukuyama

Call to Order: Chair Senter called the meeting to order at 9 a.m., at which time quorum

was established.

Chair's Report: The Chair announced that the Commission may move into executive

session to consider and evaluate personal information relating to

individuals applying for licensure in accordance with section 92-5(a) (1), HRS, and/or to consult with the Commission's attorney on questions and

issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities in accordance with Section 92-5(a) (4), HRS.

Executive Officer's Report

The Executive Officer (EO) informed the Commissioners that the original applications, with any original associated documents considered at the meeting, were available for review.

EO announced that the Commission shall afford all interested persons an opportunity to submit data, views, or arguments, in writing, on any agenda item and shall provide all interested parties an opportunity to present oral testimony on any agenda item subject to the conditions set forth in Section 16-99-83, HAR. The Commission may remove any person or persons who willfully disrupts a meeting to prevent and compromise the conduct of the meeting in accordance with Section 92-3, HRS.

Additional Distribution:

- 6. Licensing Applications
 - f. Jon William Brath update
 - i. Celeste J. Cheeseman Minutes of the October 31, 2003 Meeting

Minutes of Previous Meetings:

Upon a motion by Commissioner Sherley, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the minutes of the July 25, 2014 meeting, as circulated.

Licensing Ratification:

Upon a motion by Commissioner Cobb, seconded by Commissioner Sherley, it was voted on and unanimously carried to ratify the attached list.

EO introduced Professional and Vocational Licensing (PVL) Division Executive Officer May Ferrer - Pest Control Board, Psychology Board, Respiratory Therapists Program, & Social Workers Program; and, Executive Officer Carol Kramer – Activity Desks Program, Acupuncture Board, MVR Board, & Travel Ag/Charter Tour Program

Licensing Applications:

EO informed the Commissioners that the information provided to the Commissioners is related only to the issue that is before the Commission for consideration. The other materials submitted are available for the Commissioners review should they desire to review it. If the applicants have an issue, which is personal in nature, they have the right to request that their application be considered in executive session.

Russell D. Hardy

Mr. Hardy was present to answer any questions that the Commissioners may have regarding his application for a real estate salesperson license. Mr. Hardy was asked if he wished to have his application considered in executive session. He accepted the offer.

Executive Session:

Upon a motion by Commissioner Faulkner, seconded by Commissioner Sherley, it was voted on and unanimously carried to enter into executive session, pursuant to section 92-5(a)(1), HRS, "To consider and evaluate personal information, relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and pursuant to section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities."

Upon a motion by Commissioner Sherley, seconded by Commissioner Cobb, it was voted on and unanimously carried to move out of executive session.

Upon a motion by Commissioner Sherley, seconded by Commissioner Cobb, it was voted on and unanimously carried to take this matter under advisement.

Ben Fukuyama

Mr. Fukuyama was present to answer any questions that the Commissioners may have regarding his application for preliminary decision for a real estate salesperson license. Mr. Fukuyama was asked if he wished to have his application considered in executive session. He declined the offer.

Chair Senter acknowledged receipt of the documentation Mr. Fukuyama has submitted to the Commissioners. Chair Senter welcomed Mr. Fukuyama back, and asked if there were recent activity and/or additional information that Mr. Fukuyama would like to contribute since his last attendance at the Commissioner's meeting several months ago.

Mr. Fukuyama has secured full-time employment and is currently employed at Dollar Rental Car Center, Honolulu airport location.

Mr. Fukuyama stated that everything is paid in full. Mr. Fukuyama was ordered to pay a total \$350,000 in restitution, of which an estimate of \$9,754.45 reportedly has already been applied. Mr. Fukuyama continues to wait for approval from U.S. Attorney/USDC to apply the net proceeds from the sale of the seized property towards the remaining balance owed for restitution.

Chair Senter asked Mr. Fukuyama for clarification about his statement "paid in full." Mr. Fukuyama indicated that there is a \$340,000 lien on the seized property, the balance of which will be applied and satisfy the restitution balance. Mr. Fukuyama stated that he and the victim are waiting for a decision from the U.S. Attorney Office.

Chair Senter asked if the tax on the property has been paid. Mr. Fukuyama said that the victim has been paying the property tax and it

would be up to the victim whether they would continue to maintain the property after the settlement.

Commissioner Klein requested verification of information provided in Mr. Fukuyama's resume, included in his documentation submittal. Commissioner Klein asked if a real estate license was required for his employment at Hilton Grand Vacation Club and Disney Aulani. Mr. Fukuyama stated that his employment at Hilton and Disney did not require a real estate license.

Commissioner Lee inquired when the Iolani Court Plaza was obtained. Mr. Fukuyama responded, on or around May 2005. Mr. Fukiuyama felt that the ordered restitution has been paid in full, however, administratively has not yet been settled.

He apologized for his actions and requested a second chance. He regrets what he has done and would change it if he could. He needs his real estate license so that he may support his family.

Upon a motion by Commissioner Faulkner, seconded by Commissioner Sherley, it was voted on and unanimously carried to take this matter under advisement.

Jon W. Brath

Mr. Brath resides in Maui and was available via teleconference to answer any questions that the Commissioners may have regarding his application for preliminary decision for a real estate salesperson license. Mr. Brath was asked if he wished to have his application considered in executive session. He declined the offer.

Mr. Brath relocated from Arizona to Maui in 2002, and is currently living in Maui. Commissioner Klein introduced herself and asked if Mr. Brath was served with process.

Mr. Brath responded that he was not sure if he was served with the process as during the same period he was also receiving correspondence from bill/debt collectors, credit card applications, home equity loan letters, and other business related information. He felt overwhelmed and literally stopped reading what he received and avoided phone calls. Mr. Broth stated he used the Chase credit to make mortgage payments.

In 2002, when he moved to Maui, he came across a television commercial for creditkarma.com. In the process of rebuilding his credit, he pulled a credit report and became aware of the Judgments. To date, he has not yet reported the subject judgments to Arizona.

Mr. Brath also shared that he could have filed for bankruptcy but did not do so due to family considerations. He also indicated that this hardship built his character.

Chair Senter said there were no further questions. Upon a motion by Commissioner Sherley, seconded by Commissioner Faulkner, it was voted on and unanimously carried to take this matter under advisement.

Executive Session:

Upon a motion by Commissioner Arakaki, seconded by Commissioner Klein, it was voted on and unanimously carried to enter into executive session, pursuant to section 92-5(a)(1), HRS, "To consider and evaluate personal information, relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and pursuant to section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities."

Upon a motion by Commissioner Sherley, seconded by Commissioner Faulkner, it was voted on and unanimously carried to move out of executive session.

Chapter 91, HRS, Adjudicatory Matters: The Chair called for a recess from the meeting at 9:30 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Real Estate License of Gregory S. Gerstenberger; REC 2013-148-L

Upon a motion by Commissioner Cobb, seconded by Commissioner Arakaki, it was voted on and unanimously carried to accept the settlement agreement.

In the Matter of the Real Estate Licenses of Monalisa Sabo, a Real Estate Salesperson, Prudential Locations, LLC, a Real Estate Broker, and Helen M. Lindemann, A Real Estate Broker; REC 2013-177-L

Commissioner Wada recused herself from discussion and voting on this matter.

Upon a motion by Commissioner Faulkner, seconded by Commissioner Cobb, it was voted on and carried to accept the settlement agreement.

In the Matter of the Real Estate License of Loren M. Small a.k.a. Mike Small, a Real Estate Salesperson; REC 2013-306-L

Upon a motion by Commissioner Faulkner, seconded by Commissioner Arakaki, it was voted on and unanimously carried to accept the settlement agreement.

In the Matter of the Real Estate License of Samuel H. Yoshida dba Samuel Hayato Yoshida, a Real Estate Salesperson; REC 2014-13-L

Upon a motion by Commissioner Faulkner, seconded by Commissioner Wada, it was voted on and unanimously carried to accept the settlement agreement.

Following the Commission's review, deliberation, and decisions in these matters, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled meeting at 9:45 a.m.

Executive Session:

Upon a motion by Commissioner Cobb, seconded by Commissioner Faulkner, it was voted on and unanimously carried to enter into executive session, pursuant to section 92-5(a)(1), HRS, "To consider and evaluate personal information, relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and pursuant to section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities."

Upon a motion by Commissioner Sherley, seconded by Commissioner Cobb, it was voted on and unanimously carried to move out of executive session.

Licensing Applications:

Angeline R. Devlin-Brown

After review of the information presented by the Applicant, Commissioner Arakaki moved to approve the real estate salesperson license of Angeline R. Devlin-Brown. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

Anthony G. Gand

After review of the information presented by the Applicant, Commissioner Sherley moved to approve with conditions the real estate salesperson license of Anthony G. Gand, pursuant to Section 436B-19 HRS, subject to the following conditions:

- That any subsequent criminal conviction whether by nolo contendere or otherwise, of a penal crime directly related to the qualifications, functions or duties of the licensed profession or vocation shall be grounds for revocation of license.
- 2. That failure to provide written notice within 30 days to the licensing authority of any judgment, award, disciplinary sanctions, order, or other determination, which adjudges or finds that the licensee is civilly, criminally or otherwise liable for any personal injury, property damage or loss caused by the licensee's conduct in the practice of the licensee's profession or vocation shall be grounds for revocation of license.

- That the Applicant shall at all times be associated with and under the direct supervision of a principal broker ("PB") or one or more brokers in charge ("BIC"), for all real estate transactions.
- 4. That the Applicant shall inform the PB, sole proprietor real estate broker, or BIC of a real estate branch office with whom the Applicant associates that the Applicant holds a conditional real estate salesperson license and may only practice pursuant to certain terms of the conditional license. The Applicant shall present to the Applicant's PB, sole proprietor real estate broker, or BIC of a real estate branch office a copy of the Commission-issued conditional letter. The Applicant shall ensure that the PB, sole proprietor real estate broker, or BIC of a real estate branch office acknowledges the terms of the Applicant's conditional license by signing and returning a signed copy of the conditional letter to the Commission.
- 5. That <u>ALL</u> changes of association and/or employment by Applicant to another real estate broker shall be submitted in writing to the Commission. The new PB, sole proprietor real estate broker, or BIC of a real estate branch office shall acknowledge the terms of the Applicant's conditional license within ten (10) days of the change by submitting a completed Change Form along with a copy of the conditional letter signed by the new PB. Failure to attach the signed conditional letter by the new PB may result in disciplinary action.
- 6. That the release of the Applicant from parole/probation shall not change any terms of the conditional license.
- 7. That upon successful completion of parole/probation, the Applicant must submit a written request to the Commission if the Applicant desires to have the conditions removed.

Commissioner Arakaki seconded the motion. The motion was voted on; Chair Senter, Wada, Sherley, Arakaki, Faulkner, Lee, Klein, and Cobb voted aye. Commissioner Pang voted nay. The motion passed.

Gisele M. L. Gardner

After review of the information presented by the Applicant, Commissioner Arakaki moved to approve with conditions the real estate salesperson license of Gisele M. L. Gardner pursuant to Section 436B-19 HRS, subject to the following conditions.

- That during the term of this conditional license, any violation of the terms of the payment plans with the Chase Bank USA, N.A. and Citibank (South Dakota), N.A. by the Applicant, shall be grounds for revocation of license.
- That failure to provide written notice within 30 days to the
 licensing authority of any judgment, award, disciplinary
 sanctions, order, or other determination, which adjudges or
 finds that the licensee is civilly, criminally or otherwise
 liable for any personal injury, property damage or loss
 caused by the licensee's conduct in the practice of the
 licensee's profession or vocation shall be grounds for
 revocation of license.
- That the Applicant shall at all times be associated with and under the direct supervision of a principal broker ("PB") or one or more brokers in charge ("BIC"), for all real estate transactions.
- 4. That the Applicant shall inform the PB, sole proprietor real estate broker, or BIC of a real estate branch office with whom the Applicant associates that the Applicant holds a conditional real estate salesperson license and may only practice pursuant to certain terms of the conditional license. The Applicant shall present to the Applicant's PB, sole proprietor real estate broker, or BIC of a real estate branch office a copy of the Commission-issued conditional letter. The Applicant shall ensure that the PB, sole proprietor real estate broker, or BIC of a real estate branch office acknowledges the terms of the Applicant's conditional license by signing and returning a signed copy of the conditional letter to the Commission.
- 5. That <u>ALL</u> changes of association and/or employment by Applicant to another real estate broker shall be submitted in writing to the Commission. The new PB, sole proprietor real estate broker, or BIC of a real estate branch office shall acknowledge the terms of the Applicant's conditional license within ten (10) days of the change by submitting a completed Change Form along with a copy of the conditional letter signed by the new PB. Failure to attach the signed conditional letter by the new PB may result in disciplinary action.
- 6. That the satisfaction of the Applicant from said payment plan(s) shall not change any terms of the conditional license.
- 7. That upon completion of payment plan(s) with the IRS and/or State Department of Taxation, the Applicant must

submit a written request to the Commission if the Applicant desires to have the conditions removed.

Commissioner Arakaki moved to approve with conditions the real estate salesperson license of Gisele M. L. Gardner. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

Russell D. Hardy

After review of the information presented by the Applicant, Commissioner Faulkner moved to approve the real estate salesperson license of Russell D. Hardy. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

David L. Minkus

After review of the information presented by the Applicant, Commissioner Faulkner moved to approve with conditions the real estate salesperson license of David L. Minkus, pursuant to 436B-19 HRS, subject to the following conditions:

- That during the term of this conditional license, any violation of the terms of the payment plans with the Araki-Regan and Associates (Paradise Acquisitions, LLC debt) and United States Small Business Administration (Bank of Hawaii debt) by the Applicant, shall be grounds for revocation of license.
- 2. That failure to provide written notice within 30 days to the licensing authority of any judgment, award, disciplinary sanctions, order, or other determination, which adjudges or finds that the licensee is civilly, criminally or otherwise liable for any personal injury, property damage or loss caused by the licensee's conduct in the practice of the licensee's profession or vocation shall be grounds for revocation of license.
- That the Applicant shall at all times be associated with and under the direct supervision of a principal broker ("PB") or one or more brokers in charge ("BIC"), for all real estate transactions.
- 4. That the Applicant shall inform the PB, sole proprietor real estate broker, or BIC of a real estate branch office with whom the Applicant associates that the Applicant holds a conditional real estate salesperson license and may only practice pursuant to certain terms of the conditional license. The Applicant shall present to the Applicant's PB,

sole proprietor real estate broker, or BIC of a real estate branch office a copy of the Commission-issued conditional letter. The Applicant shall ensure that the PB, sole proprietor real estate broker, or BIC of a real estate branch office acknowledges the terms of the Applicant's conditional license by signing and returning a signed copy of the conditional letter to the Commission.

- 5. That <u>ALL</u> changes of association and/or employment by Applicant to another real estate broker shall be submitted in writing to the Commission. The new PB, sole proprietor real estate broker, or BIC of a real estate branch office shall acknowledge the terms of the Applicant's conditional license within ten (10) days of the change by submitting a completed Change Form along with a copy of the conditional letter signed by the new PB. Failure to attach the signed conditional letter by the new PB may result in disciplinary action.
- 6. That the satisfaction of the Applicant from said payment plan(s) shall not change any terms of the conditional license.
- 7. That upon completion of payment plan(s) with the IRS and/or State Department of Taxation, the Applicant must submit a written request to the Commission if the Applicant desires to have the conditions removed.

Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

Jon W. Brath

After review of the information presented by the Applicant, Commissioner Arakaki moved to most likely approve with conditions the real estate salesperson license of Jon W. Brath. Commissioner Faulkner seconded the motion. The motion was voted on; Chair Senter, Wada, Sherley, Arakaki, Faulkner, and Pang voted aye. Commissioners Lee and Klein voted nay. The motion passed.

Paul C. M. L. Day

After review of the information presented by the Applicant, Commissioner Faulkner moved to most likely approve the real estate salesperson license of Paul C. M. L. Day. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

Ben Fukuyama

After review of the information presented by the Applicant, Commissioner Arakaki moved to most likely deny the real estate salesperson license of Ben Fukuyama. Commissioner Cobb seconded the motion. The motion was voted on and unanimously carried.

Celeste J. Cheeseman

After review of the information presented by the Applicant, Commissioner Lee moved to approve Ms. Cheeseman's request for removal of conditions on license. Commissioner Arakaki seconded the motion. The motion was voted on; and Chair Senter, Wada, Sherley, Arakaki, Faulkner, Lee, Klein, and Pang voted aye. Commissioner Cobb voted nay. The motion passed.

Georgina M. Hunter

After review of the information presented by the Applicant, Commissioner Arakaki moved to deny Ms. Hunter's request for determination of broker experience, as the Commission determined it did not have authority to approve the request for an exception to the requirements of 467-9.5(2)(B)(iii).

The motion was voted on and unanimously carried.

Next Meeting: Friday, October 24, 2014

9:00 a.m.

Queen Liliuokalani Conference Room

King Kalakaua Building

335 Merchant Street, First Floor

Honolulu, Hawaii

Adjournment: With no further business to discuss, Chair Senter adjourned the meeting

at 10:58 a.m.

Reviewed and approved by:					
/S	/ M	iles I.	Ino		
		I. Ino tive C	officer		
Se	epte	mber	15, 2014		
D	ate				
]	Χ]	Approved as circulated. Approved with corrections; see minutes of	meeting.	

APPROVED APPLICATIONS FOR REAL ESTATE REAL ESTATE COMMISSION MEETING ON AUGUST 29, 2014

Brokers – Limited Liability Companies and Partnerships Maui Luxury Real Estate, LLC Bob Hansen, PB	Effective Date 7/22/2014
JPL Investment Properties, LLC Julie C. Pak, PB	7/22/2014
Brokers – Corporations and Partnerships Case Properties, Inc. dba Case Properties International Patricia Case, PB	Effective Date 7/21/2014
Brokers – Sole Proprietor	Effective Date
Michael H. Ferreira	06/23/2014
Honey Rodrigues Dung	06/24/2014 07/14/2014
Walton Young dba Sunrise Properties 808 Jeannie Yu dba Hawaii Top Realty	07/14/2014
Richard K. Green dba Hawaiian Beach Realty	08/07/2014
Michard IX. Green aba Hawalian Beach Realty	00/01/2014
Branch Office	Effective Date
Hawaii Life Real Estate Services, LLC	06/09/2014
Trade Name	Effective Date
Island Pacific Realtors LLC dba Takanishi Real Estate	08/04/2014
Educational Equivalency Certificate	Expiration Date
Edmond Paul Bartlett	07/21/2016
Terry Lee Lambeth	07/21/2016
Shana Lee Davis	07/23/2016
Mary Thuy Mora	07/23/2016
Bart Francis Sitzberger	07/23/2016
Zachary Lee LaPrade	07/23/2016
Maria Elena Smith	07/23/2016
Derek James Hermsen	07/24/2016
Wendy Jean Duran	07/28/2016
Gilberto Wolmers Fernandez	07/30/2016
Stefanie Marie Barela	07/30/2016
Janine Hope Green Robert James White	08/01/2016 08/01/2016
Thomas Roger Roth	08/01/2016
Ruth Ann Pugh	08/01/2016
Marjorie Pamela Cooper	08/01/2016
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08/11/2016
08/11/2016
08/12/2016

Equivalency to Uniform Section of Examination Certificate	Expiration Date
Edmond Paul Bartlett	07/21/2016
Terry Lee Lambeth	07/21/2016
Shana Lee Davis	07/23/2016
Bart Francis Sitzberger	07/23/2016
Maria Elena Smith	07/23/2016
Derek James Hermsen	07/24/2016
Wendy Jean Duran	07/28/2016
Gilberto Wolmers Fernandez	07/30/2016
Stefanie Marie Barela	07/30/2016
Janine Hope Green	08/01/2016
Thomas Roger Roth	08/01/2016
Ruth Ann Pugh	08/01/2016
Yasmin C. Vatter	08/01/2016
Marjorie Pamela Cooper	08/01/2016
Mahyar Nooraei	08/01/2016
D. Michael Van Konynenburg	08/04/2016
Alysha K. Nichols-Sparkman	08/04/2016
Roozbeh Hassanzadeh	08/06/2016
Ryan Kenneth Mandigma Susa	08/07/2016
Beverly Burroughs	08/11/2016
Wanita V. Caldwell	08/11/2016
Sheridan Ann Hasselswerth	08/11/2016
Kimberly M. Johnson-Wright	08/12/2016

Real Estate Broker Experience Certificate	Expiration Date
Edmond Paul Bartlett	07/21/2016
Terry Lee Lambeth	07/21/2016
Bart Francis Sitzberger	07/23/2016
Megumi Fujioka	07/23/2016
Stefanie Marie Barela	07/30/2016
Stephanie G. Stark	08/01/2016
Mary Margaret Kerstulovich	08/01/2016
Mark Guagliardo	08/01/2016

Thomas Roger Roth	08/01/2016
Jennifer S. McLean	08/01/2016
Robert John Hasson	08/01/2016
Bruce W. Graham	08/04/2016
D. Michael Van Konynenburg	08/04/2016
Todd J. Hudson	08/04/2016
Rafael Baniaga	08/11/2016

Real Estate Broker	Effective Date
Priscilla I. Walthouse	07/02/2014
James J. Augustine	07/03/2014
Simona Winstone	07/09/2014
Walton Young	07/14/2014
Robert Stock	07/14/2014
Richard K. Green	07/14/2014
Scott Paul Timberlake	07/21/2014
Cherie Dasmacci	07/24/2014
Bruce W. Graham	08/04/2014