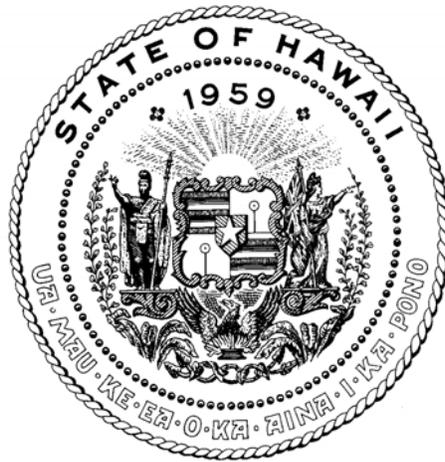


**2008 Annual
Compliance Resolution Fund Report
to the Legislature**



**DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS**

STATE OF HAWAII

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INTRODUCTION

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OVERVIEW

The Department of Commerce and Consumer Affairs (DCCA) submits its Annual Compliance Resolution Fund Report. As mandated by section 26-9(o) of the Hawaii Revised Statutes, DCCA describes the use of the Compliance Resolution Fund (CRF) by presenting individual overviews of the functions and activities of the various DCCA programs funded by the CRF, and provides a financial summary of the expenditures made from the fund including personnel and operating expenses, as well as revenues received. In addition, the report addresses the department's compliance with the reporting requirements contained in Act 100 (1999) regarding the statement of goals, objectives and policies.

The CRF, in existence since July 1, 1996, evolved into the primary funding source for the various DCCA programs as the department moved its operations away from support by general tax revenues to funding by fees and charges generated by its various programs. Pursuant to section 26-9(o), Hawaii Revised Statutes, fees shall be assessed and deposited into the CRF for the issuance of a license, permit, certificate, or registration, subsequent renewals, together with all other fines, income, and penalties collected or reimbursement of costs or attorneys' fees assessed as a result of actions brought by the department. The director may use the moneys in the fund to employ and train hearings officers, investigators, attorneys, accountants, and other necessary personnel for CRF funded operations, and the fund shall defray all other administrative costs, including costs of operating the supporting offices of DCCA. Any other activity related to compliance resolution may also be funded by the CRF. "Compliance resolution" means a determination of whether:

- (1) Any licensee or applicant under any chapter subject to the jurisdiction of the department of commerce and consumer affairs has complied with the requirements of said chapter;
- (2) Any person subject to chapters 485, 467B, 514E, and section 485-6(15), Hawaii Revised Statutes has complied with the applicable requirements; or
- (3) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce.

By Fiscal Year 1998-1999, eight DCCA programs were part of the CRF: Business Registration Division, Professional and Vocational Licensing Division, Regulated Industries Complaint Office, Office of Consumer Protection, and the Director's Office with its supporting offices of Administrative Services, Information Systems and Communications, and Administrative Hearings (ISCO).¹ Act 129 SLH 1999, effective July 1, 1999, expanded the CRF to include the Division of Consumer Advocacy, Division of Financial Institutions, and the Cable Television Division. Act 39, SLH 2002, effective July 1, 2002 merged the Insurance Regulation Fund, the primary funding source for the Insurance Division, into the CRF.

¹ The Director's Office provides general policy and administrative leadership in supervising and coordinating the various department activities. Personnel management services are provided by the Director's Office, while Administrative Services provides programs with centralized budgeting, accounting, personnel management, and organizational analysis support as well as centralized clerical services. Information Systems and Communications provides system and technical computer support services for the various DCCA programs. Administrative Hearings conducts formal administrative hearings for the department programs and various attached boards and commissions, and also administers the Medical Claims and the Design Professional Conciliation Panels, and hears appeals of the State procurement code.

Except for trust and special funds with dedicated purposes², the CRF provides the sole source of funding for DCCA since calendar year end 2003.

GOALS and OBJECTIVES

The Department’s goals and objectives are reflected in the sum of those stated by each of its divisions throughout this report. ADMIN’s various functional areas have adopted the following objectives, goals and measures:

Functional Area	Objective	Goal	Measure
Director’s Office	Balance the department’s revenues and expenditures in light of department’s self-funded status	Bring department’s beginning year cash reserves to 9 months of budget ceiling plus overhead	Degree of cash reserve reduction until department reaches 9 month goal.
	Timely and complete responses to customer inquiries / complaints.	95% of all initial non-rhetorical customer inquiries / complaints properly addressed (or acknowledged) within 5 business days	Percentage of inquiries / complaints sent to the Director’s Office addressed (or acknowledged) within 5 business days.
Personnel Office	Accurately process personnel transactions in timely manner.	100% processing of actions within time frame allotted to complete the transaction	Percentage of personnel transactions processed properly and timely.
Fiscal Office	Review and process all departmental expenditures. Provide cashiering services for all payments and collections made to the department.	100% timely processing of payments.	Percentage of late payments processed.
Administrative Services Office	Provide timely clerical support to divisions regarding mail, duplication	Timely collection and distribution of mail. Complete requests within	Percentage of requisitions completed in a timely manner.

² The Professional and Vocational Licensing Division has the following trust funds: Real Estate Recovery, Real Estate Education, Condominium Management Education, Contractor’s Recovery, Contractor’s Education, Real Estate Appraisers, Travel Agency Recovery, all of which are managed and controlled by the respective licensing boards. The Insurance Division has the following trust funds: Insurance Commissioner’s Education, Patient’s Compensation; and the following special funds: Driver’s Education and Captive Insurance. The Regulated Industries Complaint’s Office has the Motor Vehicle Arbitration trust fund, and the Office of Consumer Protection has a Restitution trust fund. Additionally, the Hawaii Hurricane Relief Fund Board is administratively attached to DCCA, and its Board of Directors (rather than the director of DCCA) manages and controls the Fund. These funds are not included in the CRF.

	projects and word processing.	deadline.	
	Timely and complete response to division inquiries and complaints.	Timely address and answer all division concerns.	Percentage of concerns addressed (or acknowledged if time does not permit) within 5 business days.
ISCO	Find, acquire, implement and maintain information technology that improves the divisions' operations and allows them to provide better customer service.	Improve the department's fiscal and budget systems. Increase the use of documents in electronic form. Reduce computer equipment costs and electricity usage. Improve the quality of software deployment. Provide flexibility for staff to work outside the office.	Reduce production time and improve accuracy of fiscal and budget reports. Reduce use of paper and speed delivery of responses to customers. Reduce budget spent on computer hardware and reduce electrical usage for running hardware. Reduce work requests by 5% by deploying software more accurately. Allow 50-100 staff to work remotely.

ACCOMPLISHMENTS

The overall CRF financial summary for FY 07-08³ is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$24,440,347	\$7,677,634	\$32,117,981	\$30,599,934

The department's financial strategy requires generally that revenue-generating divisions secure revenues to cover division expenses, and contribute equitably to non-revenue generating divisions, while ensuring that anticipated major improvements are addressed and a portion of next year's operating expenses is available. This ensures solvency of the fund and continuation of mandatory services to the public. From the onset of the CRF, the department's primary fiscal goal has been to implement this strategy and, as a result, we have been very conservative in our spending and reduced expenses by the elimination of offices.⁴ Accordingly, the department's financial planning has taken into account current fiscal year expenses, and planning for future major projects and expenditures.

³ The CRF financial summary relating to ADMIN (director's office, personnel, administrative hearings, fiscal and administrative services offices and ISCO) for FY 07-08 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,520,155	\$1,486,576	\$5,006,731	\$690,547

⁴ The Hawaii Public Broadcasting Authority ("HPBA") was a program of DCCA until June 30, 2000, after which (and pursuant to Act 63 SLH 1999) all licenses and assets of HPBA were transferred to the non-profit Hawaii Public Broadcasting Foundation. The Hawaii Claims Office ceased operations under chapter 674, Hawaii Revised Statutes, in the fall of 1999.

In the Information Technology (IT) area there were six major accomplishments this year: (1) the interface of DCCA's Insurance Division's computer systems with the systems run by the National Association of Insurance Commissioners (NAIC) to automate the exchange of information; 2) in the Insurance area the completion of a comprehensive package of on-line services to allow agents to see their continuing education (CE) status, search and sign up for CE classes, and have CE credits submitted electronically; 3) in the Insurance area the completion of an Insurance Retrofit grant program to allow the public to receive credit for hurricane proofing their homes; 4) the creation of an on-line service to allow the public to obtain electronic copies of filings made with the Business Registration Division; 5) the development of a uniform business information process to keep the core business entity information in sync across DCCA's many diverse business systems and improve the quality of complaint history reporting; and 6) providing a more structured approach to managing and developing Internet documents and the participation in the legislature's program for electronic delivery of testimony. Much of this work has been accomplished by ISCO staff with the continued focus on reducing support from vendors. ISCO works collaboratively with DCCA business staff to bring these projects to fruition, along with the participation of the State's central I.T. group (ICSD) and the State's Web Portal Manager.

Although not as visible to our customers, ISCO continues to enhance its infrastructure to provide DCCA's business staff with efficient and secure computer tools to get their work done. Included in these infrastructure enhancements is a new solution for email SPAM that has affectively cut this problem down to zero. DCCA also acquired new equipment to improve the reliability of its Interactive Voice Response telephone system. With the potential of a 4-10 day work-week, efforts were accelerated on DCCA security policies and telework capability. Although, DCCA is not currently participating in a 4-10 day work week, the telework capability is available for incidental telework and for remote work for those DCCA staff that work daily in the field. The telework technology will also be part of the future DCCA disaster recovery planning and efforts to reduce computer hardware and electrical usage. Finally, all of DCCA core business systems have been migrated to new hardware and software versions to improve reliability and ultimately better serve DCCA customers.

Projects underway at this time include: (1) making wireless Internet available to members of the public who visit the department; 2) the use of software to improve the accuracy and speed of delivery of new programs and other computer updates; 3) the evaluation of video conferencing to reduce travel time for staff and board members to and from the neighbor islands; and 4) the use of virtualization is under investigation to reduce the number of servers and electricity used by the department. There is also the potential for virtualizing personal computers to reduce the costs for expensive desktops and associated electricity, while also providing remote access capability for telework and in the event of a disaster.

CONCLUSION

The department looks forward to continuing to fulfill its mission to regulate business fairly and reasonably, while protecting consumers from fraud and unfair business practices. We have adopted the motto "Upholding fairness in the marketplace" to remind us of our responsibilities. We will endeavor to provide our customers with the best value for their money by continuing our efforts to find more efficient ways of providing our services that are also convenient for our customers, such as making more services available online.

ADMIN will continue to provide administrative support to the department's divisions so that they can concentrate on their respective specific substantive responsibilities. ADMIN will also continue to make a concerted effort to expand and improve the use and operation of information technology as a means to improve efficiency and effectiveness of our programs. We will continue our efforts to ensure that inquiries and complaints are responded to in a reasonable amount of time, and that our expenditures are aligned with our revenues.

BUSINESS REGISTRATION DIVISION (BREG)

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e-mail address: breg@dcca.state.hi.us

OVERVIEW

The Business Registration Division (BREG) has three primary functions. Its ministerial registration duties include the processing and maintaining for public access registrations of corporations, general and limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, trade names, trademarks and service marks. It provides point-of-service information and assistance to the public to help facilitate, coordinate and simplify the application process for customers who wish to register with the State in the areas of business, tax and employment. Its regulatory function includes substantive regulatory oversight of the securities industry in the State of Hawaii in the following areas: (1) registration of broker-dealers, securities sales agents, investment advisers, investment adviser representatives, investment companies and securities and franchise offerings for sale in the State, (2) field examinations of broker-dealers and investment advisers in the State, (3) review of securities and franchise offerings for sale in the State, and (4) the enforcement of the Uniform Securities Act.

Composition

The division's main offices are located at 335 Merchant Street, Honolulu, HI 96813 on the second floor. It also occupies three Business Action Center (BAC) offices: one at 1130 North Nimitz Highway, Second Level, Suite A-220 Honolulu, HI 96817; one at 70 E. Kaahumanu Ave., Unit 8-9, Kahului, HI 96732; and one at 100 Pauahi St., Suite 109, Hilo, Hawaii 96720.

In order to carry out the division's primary missions, the division is segregated into three separate branches: (1) the Documents Registration Branch that includes the Business Action Center, (2) the Securities Compliance Branch that includes the Investor Education Program, and (3) the Securities Enforcement Branch. These branches are supported by a fourth branch, the Office Services Branch. The division's staff includes attorneys, investigators, securities examiners, an auditor, business center specialists, investor education specialists, business registration assistants, clerk-typists, legal stenographers, licensing clerical staff, clerical support staff and administrative staff.

The **Documents Registration Branch** maintains the business registry for corporations, limited liability companies, general partnerships, limited partnerships, limited liability limited partnerships and limited liability partnerships conducting business activities in the State. In addition, the registry contains trade names, trademarks and service marks. This branch consists of the Documents Information Section, the Documents Processing Section and the Records Section. It also includes the Business Action Center.

The **Business Action Center (BAC)**, as part of the Documents Registration Branch, runs business centers on Oahu, Maui and the Big Island that provide point-of-service information and assistance to the public primarily to facilitate, coordinate and simplify the application process with the State for business, tax and employer registration and licensing purposes. The BAC accepts BREG filings and fees and also serves as an information clearinghouse that provides general information on county, state and federal licensing, permitting and filing requirements and assistance programs related to business or commerce activities.

Services are delivered in-person at the center and via phone, e-mail, mail, fax, and Live Chat (an instant messaging system which allows customers on the Hawaii Business Express website to obtain live help).

The **Securities Compliance Branch** handles the registration activities for the securities industry operating in the State. This includes the registration of securities broker-dealers, securities sales agents, investment advisers, investment adviser representatives, investment companies, securities offerings, and the filing of franchise offering circulars in the State. The branch is also responsible for conducting field examinations of broker-dealers and investment advisers in the State. The division's Investor Education Program that provides investor education and financial literacy outreach to the public is also part of the Securities Compliance Branch.

The **Securities Enforcement Branch** enforces the State laws governing the securities industry, the Uniform Securities Act, by investigating and taking legal action against those persons and/or firms, both registered and unregistered, who violate securities laws or purposely evade them. The branch has also worked in conjunction with other government agencies such as the Securities Exchange Commission, the Office of Consumer Protection and the Insurance Division in DCCA, the Honolulu Police Department's White Collar Crime Unit, the State Attorney General, the U.S. Bankruptcy Trustee, and other federal and state securities and law enforcement agencies.

GOALS, OBJECTIVES and ACCOMPLISHMENTS

Documents Registration Branch

The Documents Registration Branch is supervised by one branch supervisor and three section supervisors. It provides an invaluable service to the business community in assuring that the information on file is readily available, accessible, and current in order to support commercial activities in the State. Without the availability of this information to the business community, commercial activity in the State would be substantially impaired, since businesses depend on the information on record to support the extension of trade credit, commercial leases, real estate transactions and the delivery of financial services.

The Documents Registration Branch processed over 100,000 documents this year and maintains the public registry of over 165,000 businesses, trade names, trade marks and service marks. The active files include business entities that have been on record with the State for over 100 years. Information is also retained for business entities that have been dissolved or cancelled. Minimal information must be kept for these inactive files for the purposes of research, litigation, real estate transactions, and general business use.

As part of an effort to make the Documents Registration Branch as convenient as possible for the public, we have been working to advance our computerized information systems so we can process and record documents with enhanced speed and accuracy. We have also been working to increase and improve online services including developing a system to allow the public to review and purchase filed documents online. This project was completed in the spring of 2008 and has received positive reviews from users.

Goals and Objectives

The goal of the Documents Registration Branch is to become one of the fastest, most efficient, customer-oriented business registries in the nation. To accomplish this goal, the branch has the following

objectives: (1) review and implement policies and procedures designed to achieve a level of efficiency in processing document filings and information requests in a timely manner consistent with industry best practices; (2) continue to modernize the business laws so that they track as closely as possible the most current versions of the best uniform or model laws; (3) enhance the information systems to improve retrieval, processing and recording of public filing information, and (4) remove social security numbers from public information. We will continue to measure performance by tracking processing days, backlogs and consumer comments.

Accomplishments

The branch's accomplishments and goals this year continue to be focused on actively looking at thoughtful ways to improve and automate online services for the public. We were one of the first business registries in the country with the technological and legal infrastructure in place to allow both online incorporation and annual filings and now we continue to be one of the most efficient and technologically advanced registries.

Our efforts were once again internationally recognized. The branch was awarded top honors for technological innovation for its online service by the International Association of Commercial Administrators (IACA) this year. IACA is the leading association for business registries and has given top honors to Hawaii for three years in a row.

This year, the branch won the IACA award for the documents online project. This was a major accomplishment completed in May that allows the public to purchase filed documents through an online webpage. Through the new interface, the public can search for documents in the registry filed after 1993, review them and purchase them online instead of having to come to the physical office to make requests and retrieve documents. This new online service saves the public time and money and increases convenient public access to the registry documents, especially to those on the neighbor islands. Many documents are available for instant download and others are available by email or mail within 1-2 business days. The branch continues to upgrade the interface of its website that can be found at www.BusinessRegistrations.com.

To improve online convenience for the public, the branch has also modified its system so that it can now accept e-check payments for annual filings. This has improved accounting accuracy as well as processing times for check payers who choose to use echecks.

The branch has also been working on a year-long project to "go green" with respect to annual filings. Since October 2007, the branch has been working to make online annual filings easier and to encourage the public to file electronically. Beginning October 2008 (FY09), the branch will no longer mail pre-filled paper annuals automatically to filers. Instead, filers will receive reminder postcards to file online and may receive paper annuals only on request. This effort is expected to save an estimated **560** pounds of paper and nearly **\$24,000** in postage a year.

In addition to annual filings, the branch currently accepts a total of 17 other online filings. We are working to add more online filings of forms in the upcoming year. Name searches and certificates of good standing requests can also be done online. Additionally, all forms that the branch generates are now available online for the public to download. The branch also maintains its Hawaii Business Express website that allows customers to submit one filing through the Internet portal to complete three different

filings: register their business entity with the Department of Commerce and Consumer Affairs, obtain a general excise tax number with the Department of Taxation and obtain an identification number with the Department of Labor and Industrial Relations.

This year, the branch also completed an extensive tracking system for online transactions, fees and refunds. This new system compares and checks online transactions, fees and refunds reported by the vendor with that which is received by the branch. The project took over a year and half to complete and required extensive work from staff and IT developers. Although this project does not directly impact customer service and does not attract the public fanfare that other efforts do, this was critical work to improve fiscal accountability. The branch worked very hard on this project and we believe better accountability is the result.

The branch also put in place three computer terminals for the public's use in the main branch office. The terminals offer immediate access to document searches, purchases and filings for any members of the public who come to visit the office. In response to increased online services and a more online savvy public, the terminals offer filers an opportunity to complete filings instantly, access online services that complement over-the-counter inquiries they may have, and take advantage of online filing fee discounts.

The technological innovations and the hard work of the staff have also kept the processing times down to an average of 3 days and annual backlogs as low as a record-breaking zero.

Business Action Center Branch

The BAC is supervised by a business center specialist who is responsible for five business registration assistants and three offices. The BAC runs permanent business centers on Oahu and Kahului, Maui and opened a temporary office in Hilo in February 2008. The offices offer point-of-service assistance and information to help facilitate, coordinate and simplify the application process for those who wish to register with the State in the areas of business, tax and employment. Customers interested in starting a business receive one-on-one assistance with completing necessary business license and registration applications. Customers can also submit applications instantly, receive certain temporary tax licenses and pay fees.

With the popularity of online registration increasing through Hawaii Business Express (HBE), the BAC also provides the support for "Live Chat," HBE's instant messaging system accessible to online filers who have registration questions. BAC also provides e-mail, fax and phone support for HBE or any other filers. The BAC encourages online filing by referring customers to the HBE website and providing designated terminals in the offices for customer use. Online filing reduces the number of paper filings over-the-counter at BAC while also increasing processing efficiencies.

In addition, BAC acts as a clearinghouse of information for broader business-related matters. For other industry-specific licenses and permits, the BAC provides application forms and information for obtaining them from the respective state, federal or county offices. The BAC also provides general business start-up information and refers prospective business owners to a broad spectrum of public and private nonprofit organizations that assist new and existing businesses, and to business seminars and other training or entrepreneurial education programs.

In FY08, the BAC branch assisted over **16,400** customers over the counter or via phone, e-mail, fax, or Live Chat, a 2.5% increase from FY07. In particular, the popularity of Live-Chat assistance seems to be increasing dramatically, with 170 customers in the first quarter of FY08 to 620 customers by the last quarter of FY08. Through 28 outreach sessions that included presentations on filing and licensing requirements for start-up businesses and entrepreneurs on Oahu, Maui and the Big Island, the BAC outreached to approximately **600** people.

Goals and Objectives

The goal of the BAC is to be the most responsive and helpful point-of-service business center for business registration and licensing assistance to as many businesses in Hawaii as possible. The BAC opened its temporary office in Hilo this year and objectives for the fiscal year ending June 30, 2009, will be: (1) to continue to develop relationships within the Hilo business community; (2) to explore better ways to accept business, employer and state tax registration filings from the remote BAC sites such as Maui and Hilo; (3) to continue seeking ways to reach communities in need of business registration assistance and to market BAC's services; and (4) to continue working closely with other state agencies (including cross-training) to help increase compliance with new laws. We will continue to measure performance by tracking number of customers per office, outreach efforts and customer comments.

Accomplishments

In February of 2008, the BAC established a temporary presence in Hilo, Hawaii by partnering with the Hilo Small Business Development Corporation (SBDC). The BAC now provides its business assistance services in Hilo once a week during regular State hours. In addition, BAC continues to support the permanent offices in Maui and Oahu.

In FY08, the BAC has worked extensively with the new HPU Entrepreneurship Program in teaching seminars, participating in events and collaborating on various projects. The HPU program has helped improve the visibility of the BAC services to young entrepreneurs. In addition, the BAC participated in workshops and counseling sessions throughout Hawaii, many with the military. The BAC participated in a workshop at the Kuha'o Business Center in Kaunakakai and intends to continue outreach efforts to Moloka'i. The BAC has also expanded outreach services to other state agencies such as the Department of Health office in Kapolei. We are striving to meet the needs of our community and look forward to continuing to do so in the upcoming fiscal year.

The BAC hosts U.S. Small Business Administration representatives who offer financial services counseling to our customers once a week and the Hawaii State Bar Association's Business Law Section volunteer attorneys who answer business law questions at our Nimitz Office every Thursday free of charge. This year, the BAC continues to work with the Service Corps of Retired Executives ("SCORE"). SCORE is a nonprofit organization partially funded by the U.S. Small Business Administration, that provides business counseling and mentoring services free of charge. BAC customers are paired with a SCORE volunteer, who may be an attorney, accountant, marketing expert, business owner in the same industry as the BAC customer, or other expert, depending on the needs of the customer. SCORE volunteers meet in one-on-one sessions with the customer to offer advice. If no local SCORE volunteer fits the customer's needs, SCORE can find a volunteer with the requisite expertise through its nation-wide network of

volunteers. These partnerships allow unique opportunities for small business owners to speak with experts on a one-on-one basis.

Securities Compliance Branch

The Securities Compliance Branch of the division is supervised by a specialist who is responsible for the work of six examiners, five licensing clerical staff, and one secretary. The branch currently has approximately 67,040 securities salespersons and 1360 broker/dealer firms on record registered to sell securities. In addition, the branch has 49 state registered investment advisory firms and over 1450 registered investment adviser representatives on record. The branch also processed over 1100 franchise offering circular filings and approximately 500 filings for the private placement of securities in FY08.

Goals and Objectives

The goal of the Securities Compliance Branch and Securities Enforcement Branch is to become one of the most effective state securities regulatory agencies in the country. To accomplish this goal, the Securities Compliance Branch's objectives are to: (1) implement an ongoing comprehensive training program, (2) implement a regular field examination cycle for registered broker/dealers and state registered investment advisers, and (3) develop valuable investor education programs and materials that improve investor awareness of fraud, reach communities throughout Hawaii with the investor education materials and increase investor education efforts for students throughout the State.

With respect to investor education, in particular, we are currently in the process of (1) collaborating with the Department of Education's Instructional Services Branch of the Office of Curriculum, Instruction & Student Support. DOE will use investor education/ financial literacy as the topic for its next student competition to create a game focusing on the topic. The securities branch will be in the role of "client" to these students and will train the teachers in financial literacy and investor education-related matters; (2) continuing our partnerships with nonprofits and state agencies in order to expand outreach throughout Hawaii to Native Hawaiians, the military, labor unions and others; (3) continuing our efforts to keep our kupuna informed; (4) increasing investor education programs for our keiki; and (5) improving our website features and developing electronic media. We will continue to measure performance by tracking processing times, personnel activity, investor education outreach numbers, teacher and student participation and increases in their financial literacy, and feedback from the community and partners.

Accomplishments

The staff continues to efficiently manage the volume of applications and renewals received this year and the number of pending applications for broker-dealers, sales agents, investment advisers and their representatives remains very low. The field examination program continues to provide examinations of broker-dealers and state-registered investment advisers in Hawaii. Examinations of broker-dealers and investment advisers located on all islands throughout the State are being conducted on a regular basis to provide onsite review of compliance with Hawaii State law.

The branch is also continuing its comprehensive training program for professional development of its securities examiners staff. Currently, the branch is supporting training leading to the Certified

Regulatory and Compliance Professional from the FINRA Institute at Wharton. The division currently has two certified examiners and one additional staff member preparing to be certified.

Investor education continues to be another important component to securities regulation, and substantial progress was made over the last year. The division completed **34** presentations and participated in **45** community events through which we reached over **51,000** consumers in Hawaii in FY08.

Our major project this year was the publication of “**Hawaii’s Fraud Prevention and Resource Guide**” in collaboration with the Department of Health’s Executive Office on Aging and the Attorney General’s Crime Prevention and Justice Assistance Division. It took over 18 months to compile information on fraud from agencies and nonprofits throughout Hawaii. The 134-page booklet contains descriptions of fraudulent schemes, practical tips on avoiding fraud, and a comprehensive contact list of organizations that can help victims of fraud. Over **20,000** guides have been distributed statewide and the guide has been well received, with many notes of thanks and several other states asking to copy our model.

The division also partnered extensively with Hawaii Council on Economic Education (HCEE) to support financial literacy and investor education for our keiki. For the fifth year in a row, we have supported the **stock market simulation** program that trains teachers to incorporate multi-media interactive stock market software into their curriculum to help students learn sound investing principles. From Spring 2004 to Summer 2008, over **670** teachers have participated in this program and the program has reached over **21,700** students. This fiscal year alone, the program has reached **145** teachers and **4,326** students. The division looks forward to the program’s continued success.

We have also supported two newer HCEE programs. The first is **Na Wai Puapua’i** (Care for Our Future), a financial literacy and investor education curriculum that incorporates Native Hawaiian culture into the lesson plans. It includes traditional *ōlelo no’eau* into the course work and was developed to be compliant with the No Child Left Behind Act, making it easier for teachers to adopt the curriculum. This program has been rolled out in the Leeward Coast and reached **34** teachers who reported their intent to use the lesson plans for over **1,160** students. Additional workshops are planned for the Leeward Coast and Windward Coast of Oahu in the coming fiscal year.

The second HCEE program is the **Economic Cadre**, a statewide two-year program to train key teachers to advocate economic education by incorporating it into any subject matter and encouraging other teachers and students to become involved. Twenty-nine teachers from across the State received specialized training in economics and in methodologies for teaching economics. The teachers were trained to assist schools within their complex areas to incorporate economics and personal finance in the classroom. The full two-year program is estimated to reach 1,200 students statewide and to increase their financial proficiency overall. FY09 will be the second year of the program.

Another priority of the investor education program is outreach to the Native Hawaiian community. In addition to **Na Wai Puapua’i**, our investor education specialist has worked with the Office of Hawaiian Affairs and the Department of Hawaiian Homelands to distribute materials. We have also exhibited materials at the Council on Native Hawaiian Advancement Conference and at the Department of Hawaiian Homelands. Outreaching to the Native Hawaiian community remains a priority for FY09 and we look forward to continue to build our relationships.

We have also initiated a new outreach program to labor unions and the military. We have provided information packets to HGEA, UPW, Hawaii Teamsters, IBEW and ILWU and given presentations to union members and retirees at HBEA and UPW. The labor union outreach is generating a lot of interest and several other states are looking to model our program. Similarly, we are making more contacts with the military to help military personnel and their families learn more about investor protection. Reaching working class union members and military families remains a priority for FY09 and we look forward to continuing the effort.

The branch maintains nearly 60 different kinds of handouts, brochures, booklets, CDs, DVDs, guides & mini-guides covering a wide range of investor education topics from how to select an investment professional to how to avoid scams and fraud. We also have five investor protection presentations and 20 special large print handouts that have been notably popular with our seniors.

Securities Enforcement Branch

The Securities Enforcement Branch of the division is supervised by a Senior Enforcement Attorney who is responsible for the regulatory enforcement activities of four attorneys, one supervising investigator, six investigators, one auditor, and five clerical staff. The difficult nature and complexity of the cases being handled by the branch is increasing every year. Cases involving multiple respondents, multiple complainants, and multiple bank accounts are occurring with much greater frequency today requiring extensive financial analysis.

The branch continues with the implementation of a comprehensive training program to improve the quality and efficiency of the securities enforcement work. The program consists of: (1) cross-training with licensing clerks and securities examiners of the Securities Compliance branch, (2) in-house training with panels of regulatory enforcement and legal experts from other regulatory and law enforcement agencies, academia, and industry, and (3) outside training classes and conferences.

Goals and Objectives

As mentioned above, the goal of the Securities Compliance Branch and Securities Enforcement Branch is to become one of the most effective state securities regulatory agencies in the country. To that end, the Securities Enforcement Branch's objectives are to: (1) implement a comprehensive training and development program that includes extensive cross-training (for all employees of both securities regulatory branches) and outside training courses and conferences, including training with other securities regulatory agencies, particularly those provided by invitation from the U.S. Securities and Exchange Commission and National White Collar Crime Center, (2) draft and assist in passing new securities legislation, (3) develop closer relationships with the media to engage their assistance in raising public awareness of securities violations and fraud in order, in part, to improve public reporting of such cases, and (4) develop and implement procedures that will improve the timely and effective resolution of cases, improving the branch's overall effectiveness. We will continue to measure performance by tracking case resolution, backlog, penalties imposed, resolution to victims and public comment and feedback.

Accomplishments

As a result of the enforcement work of the branch, the division issued four (4) preliminary orders to cease and desist, obtained one (1) final order, and issued eight (8) consent agreements or orders in fiscal

year 2008. During the past fiscal year, the branch recommended imposing approximately \$1,772,700.00 and collected \$35,500.00 in fines and penalties.

The securities enforcement branch has been involved in the litigation and settlements of major banks over the freezing of the auction rate securities markets, a market estimated to be over \$300 billion. Hawaii has assisted the North American Securities Administrators' Association in the multi-state actions. Resolutions are still pending.

In addition to enforcement work, the major accomplishment of the branch was the drafting and vetting of the new Hawaii Administrative Rules for securities regulation Chapter 16-39. The new Uniform Securities Act 485A, Hawaii Revised Statute, was passed in 2006 and made effective July 1, 2008. It was critical to overhaul the corresponding rules and to make them effective at the same time. The old rules were originally implemented decades ago and this redrafting required an extensive undertaking. Securities staff examined rules from multiple jurisdictions and engaged the assistance and comments of the Hawaii State Bar Association's securities law subsection, SIFMA, CFA, FPA and the Banker's Association. Due to the thorough collaboration with the industry, no objections or public comments were introduced during the public hearing and the rules were made effective on July 1, 2008.

In other matters, the branch's position in its amicus curiae to the Hawaii Supreme Court in the matter of Fong v. Oh, a case that addresses the definition of securities, was adopted by the Hawaii Supreme Court in its final opinion.

The Securities Enforcement Branch has continued with the implementation of an extensive and comprehensive training program that includes: (1) outside training in the form of seminars and conferences specifically aimed at improving skills, staying up-to-date with the increasing complexity of cases and achieving more effective regulatory actions, and (2) frequent interaction with regulators in other states and, particularly in specific areas including franchises, investor education for youth and broker dealer operations. The training and interaction have resulted in more focused enforcement, effective impact on the market and increased attention on the use of conduct remedies and monetary penalties. Currently, the branch is supporting training leading to the Certified Fraud Examiners designation for investigators (4 certified) and the Certified Regulatory and Compliance Professional from the FINRA Institute for Professional Development for attorneys (2 certified).

The CRF financial summary relating to BREG for FY 08 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,382,593	\$1,178,271	\$5,560,864	\$7,221,315

CONCLUSION

The Business Registration Division continues to receive business filings, requests to purchase business documents, business registration inquiries, securities and franchise registration filings, securities and franchise inquiries and securities and franchise complaints that indicate an enduring need for the essential government services involving the business registry, business action center, securities law

enforcement, securities registration and investor education outreach. The demand for the division's services has necessitated improved information systems to handle the workload, more sophisticated online support, increased training to improve the quality of regulatory oversight, and constant attention and commitment to re-engineering and adaptation to the changing, increasingly complex needs for service.

CABLE TELEVISION DIVISION (CATV)

website: www.hawaii.gov/dcca/catv

e-mail address: cabletv@dcca.hawaii.gov

OVERVIEW

The Cable Television Division (CATV) supports the Director in the regulation of franchised cable television operators. CATV's primary function is to determine whether the initial issuance, renewal, or transfer of a cable franchise is in the public's best interest. This determination is made only after careful consideration by CATV of the public need for the proposed service, the adequacy, efficiency, and reliability of service, and the technical, financial, and operational ability of the franchisee.

Subsequent to the issuance of a franchise, CATV's role in protecting the public interest continues. Functionally, CATV acts to enforce obligations of the franchisee and ensure compliance with rules and regulations relating to operators' practices and procedures. CATV thereafter continues to monitor the franchisee to ensure that the operating system is reliable and responsive to the public. Such reliability and responsiveness to the public's interest may be indicated by operators providing the widest possible diversity of information sources and services and enhancing communication capabilities for its communities by supporting the interconnection of public facilities, public television, and public, educational and government access.

CATV is cognizant of the increasing importance of cable service to the people of Hawaii. With advanced technology, cable systems are becoming more than strictly a source of entertainment, and increasingly serve as a means of providing informational and educational programming. Therefore, the Division recognizes that the extension of cable service to all communities within the franchised areas should remain a high priority.

Included within the responsibility of overseeing all franchised wireline cable operators within the State, and as an integral part of the cable regulatory scheme, CATV responds to public inquiries, concerns, and complaints. Staff is trained to assist, provide answers, refer the complaint to the system operator governing the franchised area, or otherwise inform the general public of complaint-filing procedures. It is the division's mission to oversee that all complaints and concerns are researched and result in some form of resolution. In furtherance of this goal, CATV will continue to monitor how customer service concerns are being addressed and to examine the degree of customer satisfaction by reviewing surveys and reports. The division will continue to encourage operators to develop new, improved, or more effective utilization of cable communications services and facilities that enhance customer based services to the people of Hawaii.

In addition to overseeing system operators, CATV is also responsible for the expansion of the State's Institutional Network ("INET") in a manner that is efficient and effective for the State. The INET is constructed for two-way operation as part of the cable system and provides broadband telecommunications capabilities among government and educational organizations. The recent growth in information processing, storage, and retrieval by the State illustrates the increasing need for high transmission capacity with a more flexible network configuration which may be achieved through the INET.

In its franchise agreements with cable operators, the State requires that cable operators set aside a number of channels for public, educational and governmental access ("PEG") and provide a percentage of

gross revenues for PEG use. The State has delegated oversight of the access channels and funds to non-profit groups, one in each of the four counties.

Composition

The staff of CATV currently consists of an administrator, attorney, program specialist, and secretary. The office is located on the first floor of the King Kalakaua Building at 335 Merchant Street. Mailing address: P.O. Box 541, Honolulu, HI 96809; phone number: 586-2620; internet address: www.hawaii.gov/dcca/catv.

GOALS and OBJECTIVES

CATV's performance measurements include various categories of information. Among others, CATV is involved with federal legislation and FCC rulemaking that impact Hawaii residents, Institutional Network ("INET") expansion and enhancement, PEG practices and policies, consumer / subscriber matters and complaints, and monitoring of non-cable technologies such as Direct Broadcast Satellite ("DBS") service. Only some of these activities of significant impact to Hawaii residents are easily measured. Some of these are described below in the Accomplishments section.

- 1) Advocate for equivalent DBS, and other enhanced services.
 - Ensure that DirecTV and DishNetwork comply with FCC order regarding service to Hawaii
 - Monitor development and deployment of new advanced services
 - Ensure that Hawaii receives equivalent service as does the mainland
- 2) Monitor and participate in federal telecommunications legislation and rulemaking.
 - Continue working with Hawaii's congressional delegation on federal legislation
 - Continue our working relationship with the FCC on DBS and other cable related matters
 - Continue to monitor federal issues that may have an impact to Hawaii cable television subscribers
- 3) Ensure consistent cable television regulatory policies and practices
 - Continue with Cable Advisory Committee meetings
 - Procure PEG services, consistent with chapter 103D, HRS
 - Continue with scheduled franchise fee and PEG reviews
 - Continue to collaborate on INET deployment

ACCOMPLISHMENTS

Hawaii Broadband Task Force – DCCA was selected as a representative on the Hawaii Broadband Task Force which was established through [Act 2 of the First Special Session of 2007](#). The working vision statement for the Task Force is: *"Hawaii understands that advanced broadband is essential infrastructure for the innovation economy and knowledge society of the 21st century. As a result of proactive policy initiatives, Hawaii residents and businesses throughout the State have access to advanced broadband services of the caliber and at the pricing available in the leading developed nations of the world."*

CATV has actively participated in the development of the Task Force's report which will be delivered to the 2009 Legislature. For additional information on the Task Force and its activities, please refer to its website at: www.hbtf.org.

Request for Proposal ("RFP") for PEG Access Services – The Department of the Attorney General and the State Procurement Office ("SPO") informed the DCCA that its contracts with the PEG access organizations in each county must comply with the State procurement code. The SPO issued an RFP for PEG Services in July 2007. Since the issuance of the RFP, the SPO has received protests and complaints which are being addressed. Due to these protests and complaints, the SPO issued Addendum C on August 14, 2007 stating that no further action shall be taken. The status of this RFP has not changed since the issuance of Addendum C.

The DCCA's current contracts with the various PEG access organizations were exempted from the procurement code by the SPO until December 31, 2008 with the condition that DCCA promulgate rules regarding the selection of these organizations. The DCCA has adopted a rule amendment which was approved by Governor Lingle on November 24, 2008. Based on the completion of the required rule making, the DCCA will be working with the SPO to determine the next steps in the RFP process.

House Concurrent Resolution 358 H.D. 1 Task Force – The 2008 Legislature adopted HCR358 H.D. 1 requesting that the DCCA establish a task force to (1) solicit public input and examine methods other than the Public Procurement Code process to oversee PEG expenditures and ensure proper checks and balances; and (2) examine the selection process for PEG advisory board members; and (3) that recommendations made by the task force should take into account the first amendment rights of PEG. The task force, chaired by Mr. Eric Knutzen, County of Kauai, has been meeting regularly to address the requirements of HCR358. Mr. Knutzen, as Chair of the task force, will be delivering the report as required by HCR358 directly to the 2009 Legislature.

Oceanic Time Warner Cable of Hawaii ("Oceanic") – Oahu Franchise Renewal – CATV, along with its consultant Merina and Company, has held numerous meetings with various stakeholders and groups seeking comments regarding the renewal for Oceanic's Oahu franchise which expires on December 31, 2009. In addition, three (3) public comment meetings in Honolulu, Kaneohe and Kapolei were held to ensure that ample opportunities were provided to the public for input into this renewal process. CATV is in the final stages of its review process which include: a technical / engineering review, community needs assessment, a compliance review and a financial review. The public will again have the opportunity to comment at a public hearing, which is required once an application for renewal is filed by Oceanic and accepted by DCCA.

Hawaiian Telcom ("Hawtel") Application For a Cable Television Franchise – Hawtel submitted their application for a cable franchise on May 5, 2006 which was accepted by the DCCA on June 21, 2006. On September 11, 2008, Hawtel requested its twenty first (21) extension to the application review period, which currently expires on December 31, 2008. The DCCA continues to be ready, willing, and available to complete the application process that has been extended at the request(s) of Hawtel.

DTV Conversion – The DCCA is assisting the Lt. Governor's office in its activities with FCC personnel assigned to the Hawaii conversion, and with the Hawaii Association of Broadcasters. Following are excerpts from the FCC website developed specifically for Hawaii: www.dtv.gov/Hawaii/index.html.

The switch from analog to digital broadcast television is referred to as the digital TV (DTV) transition. In 1996, the U.S. Congress authorized the distribution of an additional broadcast channel to each broadcast TV station so that they could start a digital broadcast channel while simultaneously continuing their analog broadcast channel. Later, Congress mandated that February 17, 2009 would be the last day for full-power television stations to broadcast in analog. Broadcast stations in all U.S. markets are currently broadcasting in both analog and digital. After February 17, 2009, full-power television stations will broadcast in digital only. Here in Hawai'i, all full-power stations will make the DTV transition at noon on January 15, 2009.

An important benefit of the switch to all-digital broadcasting is that it will free up parts of the valuable broadcast spectrum for public safety communications (such as police, fire departments, and rescue squads). Also, the majority of the other spectrum has been auctioned off to companies that will be able to provide consumers with more advanced wireless services (such as wireless broadband).

Consumers also benefit because digital broadcasting allows stations to offer improved picture and sound quality, and digital is much more efficient than analog. For example, rather than being limited to providing one analog program, a broadcaster is able to offer a super sharp "high definition" (HD) digital program or multiple "standard definition" (SD) digital programs simultaneously through a process called "multicasting."

Actually, the broadcasters in Hawai'i requested to move the DTV transition date forward.

Currently, most analog broadcasts on Maui are transmitted from equipment located at the top of Haleakala. The Department of Defense and the University of Hawai'i had requested that broadcasters relocate their transmission equipment because of interference with astrological equipment also located on Haleakala. It had always been the broadcasters' plan to, upon the DTV transition date, broadcast only in digital at a new antenna farm lower down the mountain at Ulupalakua. Upon the switch, the equipment on Haleakala would be removed.

The Hawaiian petrel - a threatened bird species - nests upon Haleakala beginning in March. Broadcasters needed to make the change to digital early in order to take down existing mountaintop transmission equipment before the petrels arrive. It was decided that if Maui had to make the DTV transition early, it would make sense to have the entire state do the same to prevent possible confusion among consumers within the state.

Cable Advisory Committee (CAC) – The CAC was established by statute to advise the Director and cable operators, at their request, on cable matters. The Director of DCCA continues to hold CAC meetings to gather comments from members on various cable matters.

Consultant's Report on Franchise Fee Collection – DCCA has contracted with a certified public accounting firm to conduct reviews of the franchise fee payment process of the cable operators in each of the different franchise areas. The DCCA is continuing these reviews to ensure that the franchise fee collection process is being conducted accurately.

Review of Public, Educational and Governmental (PEG) access organizations – DCCA commenced an independent third party review of all PEGs during the fall of 2004. On-site reviews of each PEG by the independent consultant focused on contract compliance, by-law compliance, timely complaints resolution,

financial management and accounting, and equipment use and maintenance. The consultant’s reports have been posted to the DCCA website and current plans call for many of these recommendations to be incorporated into future contracts between the DCCA and PEG access organizations. CATV plans to continue with such reviews in the future. CATV and its consultant Merina and Company, completed inventory reviews for all PEG access organizations in 2008. These inventory reviews are an example of on-going activities that ensure the safety of assets purchased with funds paid by cable subscribers.

Direct Broadcast Satellite (DBS) Service – CATV continues to advocate for equivalent DBS service for Hawaii and maintains its on-going efforts before the Federal Communications Commission (“FCC”) to ensure that DBS service to Hawaii is equivalent in programming and pricing to the service found elsewhere in the continental United States. We will continue to lobby for and demand equal treatment by DBS providers such as DirecTV and DishNetwork.

Institutional Network (“INET”) – CATV continues its leadership role in the development, expansion and enhancement of the INET. Working with the INET Partners ((1) the CATV Division, (2) the Information, Communications and Services Division (“ICSD”) of the Department of Accounting and General Services, (3) the University of Hawaii (“UH”) and (4) the Department of Education (“DOE”)), CATV is actively participating in the upgrade and expansion of the INET that leverages current telecommunications technology. Continuing upgrades to the INET will dramatically improve its capacity and performance. The ability to efficiently and effectively provide broadband telecommunications services to government agencies will greatly improve the level of service to our residents. The interconnection of the islands of Oahu, Maui, Kauai and Hawaii via submarine fiber provides the INET Partners with seamless, broadband networking capabilities between these islands. The State, UH, and DOE now have access to a seamless, broadband telecommunications network that interconnects all our major islands. The State’s INET is currently one of the most sophisticated networks in the nation.

As of the end of FY08 (June 30, 2008), TWE held approximately \$1.2M in an interest bearing account on behalf of the DCCA for INET purposes. These funds held by TWE are the result of an agreement between the DCCA and Olelo regarding cable tv franchise fees that are collected from Oahu cable tv subscribers.

Federal Telecommunications Legislation and FCC Rulemaking – CATV continues to monitor and participate in recent developments in Congress and at the FCC. Although proposed comprehensive telecommunications legislation, which would have replaced the Telecommunications Act of 1996, is no longer currently expected, CATV continues its on-going work with Hawaii’s congressional delegation and the FCC. The CATV division actively monitors these issues and participates in matters affecting cable television consumers in Hawaii.

The CRF financial summary relating to CATV for FY-08 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$379,486	\$762,697	\$1,142,183	\$258,277

CONCLUSION

The year 2008 was a remarkable year for CATV, due in part to the rapid development of advanced technology by cable companies. The continued enhancement of the fiber to node architecture provided

increased bandwidth capacity for traditional services such as video programming as well as for new interactive and digital services. Thus, given the nascent nature of digital technology relative to cable, CATV had and presently has the continuing task of monitoring the public's present needs and future interests.

Because of the rapid advancements in telecommunications, CATV seized the opportunity to provide a more uniform standard of practice within the State, offer improved services to meet the needs of the public, and provide greater reliability and responsiveness without financially impairing the system operators. CATV will strive to ensure fairness to the public in the provision of cable television services.

DIVISION OF CONSUMER ADVOCACY (“DCA”)

website: www.hawaii.gov/dcca/dca/

e-mail address: consumeradvocate@dcca.hawaii.gov

OVERVIEW

The Division of Consumer Advocacy (“DCA”) represents, protects, and advances the interests of consumers of utility and transportation services before regulatory agencies, primarily the Hawaii Public Utilities Commission (“PUC”) and the Federal Communications Commission (“FCC”). The DCA reviews requests for rate and tariff changes, capital improvement projects, integrated resource plans, certificates for authority to operate, and other applications filed by public utility and transportation companies, in addition to other proceedings opened by regulatory agencies to investigate or review generic issues. In representing the consumer of utility and transportation services before the PUC, the DCA must analyze financial and statistical data, prior docketed material, industry standards, and the information provided by the utility and transportation companies to support their applications. After analyzing the information, DCA generally submits either written statements of position or testimonies explaining its analyses, findings, and recommendations to the PUC. Oral testimonies by DCA analysts, subject to utility company cross-examination, is required if an evidentiary hearing before the PUC is scheduled to resolve differences among the parties to a proceeding, including the DCA.

Composition

The DCA consists of 25 employees, ranging from an administrator, a secretary, a utilities/transportation officer, a utilities/transportation specialist, tariff analysts, researchers, engineers, attorneys, and clerical support. The DCA is located on the third floor of the King Kalakaua Building, 335 Merchant Street. Its contact information is as follows: mailing address, P.O. Box 541, Honolulu, HI 96809; phone number, 586-2800; internet address, www.hawaii.gov/dcca/dca/.

The majority of the DCA’s professional staff is divided among the Rate Analysis Branch, the Engineering Branch, the Research Branch, and the Legal Branch.

The *Rate Analysis Branch* reviews and analyzes economic conditions, investor requirements and returns, and other aspects relating to the capital structure of regulated public utilities and transportation companies. In addition, the Branch evaluates and develops recommendations relating to rate schedules, effects of rates, sales levels, and other pertinent considerations in establishing rates.

The *Engineering Branch* analyzes and makes recommendations on technical matters such as production capacity and efficiency, depreciation allowances, maintenance cost factors, engineering safety standards, plans for capital improvements, purchased power agreements, and quality of service standards.

The *Research Branch* analyzes and advises on matters imposed by regulated public utility and transportation industries, provides services and advice relating to the current operations of and evolving changes to regulated public utilities and transportation industries, conducts special studies on the changes in various regulatory areas, including energy and telecommunications, and assists and participates with other units in developing data on matters under examination.

The *Legal Branch* provides legal representation before regulatory agencies. The branch also provides general clerical support by updating and maintaining the DCA's docket, general office, and electronic data base files, formatting draft documents prepared by the technical staff and attorneys for filing with regulatory agencies and utility companies, and maintaining the office library, among other things.

Although the DCA is authorized to have up to ten exempt positions, under HRS § 269-52(1), there presently is funding for only five exempt staff positions – the Education Specialist and four utility research analysts. The DCA also has a staff level position – the Public Utilities/Transportation Specialist – that assists the Public Utilities/Transportation Officer in managing the overall workload pertaining to matters filed before the regulatory agencies such as the PUC and FCC. The Education Specialist is responsible for consumer education and outreach, which is accomplished by attending various community events throughout the State to gain public input about specific issues affecting consumers and to provide information on utility services. The Education Specialist is also responsible for updating and maintaining the DCA's web site and publishing a quarterly newsletter.

Given the DCA's historical difficulty in attracting and retaining staff, the DCA this year received authorization to reorganize, tailoring the position descriptions to that which are more aligned to the position duties and work of the DCA.

GOALS AND OBJECTIVES

The DCA's goals and objectives can be categorized generally in three broad areas: consumer advocacy, policy advancement, and consumer education and outreach. These areas are not mutually exclusive and often overlap; however, for purposes of describing the DCA's goals and how the DCA will reach them, the goals will be described separately.

Consumer Advocacy

Goal

The DCA's goal may involve some balance. Ensuring that Hawaii's consumers receive fairly priced rates for safe and reliable services, while ensuring customer and environmental protections and renewable resource use, is the DCA's responsibility and primary goal.

Planned Approach/Methods

The DCA has and will continue to achieve this goal by advocating for consumers of regulated utility and transportation services wherever their interests are at stake. Typically, this occurs before the PUC, but may also be before other federal, State or local agencies and legislative bodies.

A majority of the DCA's resources will continue to be focused on PUC proceedings. These proceedings often may affect the rates and the reliability of utility and transportation systems and services. The DCA's participation in PUC proceedings will typically involve some or all of the following:

1. Review of applications to ensure compliance with regulations;
2. Participation at PUC public hearings;

3. Procurement of consultant services to manage workload and for complex cases;
4. Completion of discovery;
5. Analysis of applications and supporting documents to determine the accuracy and the reasonableness of the requests;
6. Provision of recommendations to the PUC on the merits of the applications through statements of position or direct testimonies; provision of oral testimonies, which are subject to cross-examination in proceedings where evidentiary hearings are necessary; and
7. Completion of related legal actions, such as filings of legal briefs, motions, appeals, etc., where necessary.

The DCA also will remain flexible and willing to work with parties to proceedings to negotiate and settle proceedings or particular issues when they are in the consumers' best interest.

Measures

To measure the DCA's performance in advocating consumer interests, the DCA will continue to track various categories of information. Among others, the DCA monitors consumer savings due to its participation in PUC proceedings, the percentage of PUC decisions that agree with the DCA's recommendations, the number of service quality investigations it participates in, and the number of filings before the PUC reviewed by the DCA.

Only some of the significant impact that the DCA's participation may have upon consumers is easily measured. Some of the impacts that are not easily measured will generally be discussed below in the DCA's explanation of its policy advancement objectives.

Policy Advancement

Goal

The DCA will remain active in promoting policies to protect and advance the interests of utility and transportation consumers on the local, State, and national levels.

Planned Approach/Methods

In PUC generic, investigative, or policy proceedings, the DCA follows a similar approach to its review and analysis of applications. A typical investigative proceeding may involve the following steps:

- After the DCA and other parties to the proceeding state their initial positions on the issues, discovery and analyses are done to determine the reasonableness of the other parties' positions;
- Meetings between the parties are often held to discuss and educate each other on the issues and positions taken, and to determine where possible agreement may be reached; and
- The DCA then provides the PUC with a recommendation that it believes is in the best interest of consumers.

Specific ongoing investigative dockets are discussed later in this report.

The DCA has monitored and will continue to monitor Congressional activity in the energy and telecommunications areas. The DCA will continue to maintain contact with Hawaii's Congressional delegation, particularly those members sitting on committees that deal with energy and telecommunications, and will continue to provide input where appropriate.

The DCA will also continue to be actively involved and advocate for Hawaii consumers, through its membership in the National Association of State Utility Consumer Advocates ("NASUCA"). NASUCA is active before the FCC, Congress, and the federal courts in advancing consumer interests on national issues that impact consumers locally.

The DCA will also remain actively involved with the State Legislature, which sets policy at the State level. The DCA advised legislators through testimonies that detailed consumer benefits or detriments of specific proposals the legislators were considering. The DCA has attempted to take a more proactive approach by working with legislators and policy groups on the development of proposals, while maintaining a consistent policy position as advocated by the Governor's office.

Measures

Measuring performance of efforts to promote policy objectives is inexact. While the DCA tracks the percentage of its positions with which the PUC ultimately agrees, the measure does not capture the efforts throughout proceedings to educate and work with other parties to come to agreement on issues. The DCA can develop similar measures (e.g., whether its recommendations are ultimately agreed with by those setting the policy) for the State and federal agency and legislative bodies, but similar challenges with the imprecise nature of the measurement will result.

Education & Outreach

Goal

The DCA's goal is to encourage the public to be wiser consumers of public utility services by, among other things, emphasizing the possible effects that their consumption habits may have on utility rates and the environment. It is through the education and outreach process that the DCA aims to gather consumer input on utility issues and to encourage consumers to be more involved in utility proceedings.

Planned Approach/Methods

The DCA can accomplish its goal of positively affecting the habits of consumers on a statewide basis through the use of its web site and public outreach activities. The DCA established the following action plan to accomplish its goals and objectives:

1. update and improve its website with consumer-friendly and useful content;
2. establish information booths and provide presentations at community events, such as home shows and public fairs throughout the State and build positive relationships with both business and individual community members;

3. improve communications with consumers and the public through expanded distribution and publication of its newsletter; and
4. hold informational seminars or use public service announcements to highlight different utility issues and topics.

Measures

To measure the DCA's performance and progress of its education and outreach activities, it will track the number of people reached through education and outreach events, newsletters and other publications distributed, and consumers assisted with complaints and other issues.

ACCOMPLISHMENTS

In 2008, results of the DCA's efforts to protect and advance the interests of consumers were seen through its work on behalf of individual communities, as well as major utility issues that will have far-reaching impacts on people throughout the State. Several of these efforts are described below.

Rate Cases

Hawaiian Electric Company, Inc.'s ("HECO") 2007 Test Year Rate Case

On December 22, 2006, HECO filed an application for approval to increase its rates (by approximately \$99,556,000 or 7.1% over present rates) and to amend its rules. In fiscal year 2007-2008, the DCA, among other things, participated in a public hearing, conducted inspections and witness interviews, developed testimonies, and engaged in a negotiation process with HECO and the Department of the Navy to resolve the outstanding issues of this proceeding. On October 22, 2007, the PUC issued an interim decision and order, providing the company with a \$69,997,000 or 4.96% increase over present rates. The parties are awaiting the final disposition of this proceeding.

Maui Electric Company, Limited's ("MECO") 2007 Test Year Rate Case

On February 23, 2007, MECO, which provides electric service on the islands of Maui, Lanai, and Molokai, filed an application to increase its rates (by approximately \$18,977,000 or 5.3%) and to amend its rules. Similar to the HECO rate case proceeding, the DCA participated in a public hearing, conducted inspections and witness interviews, developed written testimonies, and participated in settlement discussions with MECO. On December 21, 2007, the PUC issued an interim decision and order, providing a \$13,222,000 or 3.7% increase over present rates. The parties are awaiting the final disposition of this proceeding.

Young Brothers, Limited's ("YB") 2007 Test Year Rate Case

On December 15, 2006, YB filed an application for general rate increase (an average, overall rate increase of 10.7%), rate restructuring, fuel adjustment clause, and other changes in its Local Freight Tariff No. 5-A. During fiscal year 2007 – 2008, the DCA participated in public hearings held statewide, conducted witness interviews, developed testimonies, and engaged in a negotiation process with YB to

resolve the outstanding issues in the proceeding. The PUC issued a decision and order on October 12, 2007, providing the company with an increase in intrastate freight revenues of \$4,391,105, or approximately 7.51% over intrastate revenues at present rates.

West Hawaii Utility Company's ("WHUC") 2007 Test Year Rate Case

On December 29, 2006, WHUC filed an application seeking the PUC's approval of general rate increases of: (1) \$1,594,313, or 52% over revenues at present rates for its water service; and (2) \$1,107,089, or 132% over revenues at present rates for its wastewater service. After objection as to the completeness of the application by the DCA, WHUC supplemented its application. The PUC determined that a completed application was filed effective January 26, 2007. Thereafter, the DCA participated in a public hearing, conducted discovery, prepared written direct testimonies, and negotiated with WHUC to resolve the outstanding issues of the proceeding. The PUC issued an interim decision and order on December 21, 2007 and a final decision and order on March 10, 2008.

Hawaii-American Water Company's ("HAWC") 2008 Test Year Rate Case

On October 29, 2007, HAWC filed an application for approval to increase its rates (by approximately \$1,324,488 or 15.9% over present rates) and to amend its rate schedules and rules for service. The DCA participated in public hearings, conducted witness interviews and discovery, prepared written direct testimonies, and negotiated with HAWC and the City and County of Honolulu to resolve the outstanding issues. On October 10, 2008, the PUC issued an interim decision and order in this proceeding, providing the company with a \$701,817 or 8.37% increase over present rates.

Generic and Other Proceedings

HECO Companies' Outage Proceeding

On October 27, 2006, in response to the DCA's request for the PUC to open an investigative proceeding, the PUC initiated a proceeding to examine the major power outages that occurred on the islands of Oahu, Maui, and Hawaii on October 15 and 16, 2006. During the fiscal year 2007 – 2008, the DCA hired an expert in utility operations who assisted in conducting witness interviews, site inspections, and discovery. On August 24, 2007, the DCA filed a statement of position developed with its expert consultant, finding, among other things, that:

(1) There were three underlying causes that contributed or may have contributed to the major power outages, including:

(a) the reaction of the Electro-Hydraulic Control System Low Fluid level mercury switches to the earthquake's seismic vibrations;

(b) the lack by the HECO Companies of formalized training, testing, practiced simulation, certification, re-qualification, and record keeping for plant and system operators; and

(c) the HECO specific generation mix and lack of quick-start combustion turbine generator capability;

(2) The HECO Companies' activities and performance prior to and during the major power outages were reasonable and in the public interest; and

(3) Given the mix of generating plants and level of staff preparedness training at the time, the Oahu island-wide outage was an understandable outcome and the island-wide outage on Maui was unavoidable, since generators were automatically and directly tripped off by their own protective controls due to seismic vibration.

In December 2007 and January 2008, the HECO Companies supplemented their filings by providing additional information relating to the training programs for their plant and system operators. After review of the voluminous information and additional discussions with the HECO Companies, the DCA responded in September 2008, again stating that HECO Companies lacked sufficient formalized training, testing, practiced simulation, certification for their plant and system operators. The parties to this proceeding are awaiting the final decision of the PUC on this proceeding.

Renewable Portfolio Standards (“RPS”) Proceeding

On January 11, 2007, the PUC initiated a proceeding to determine a ratemaking structure to provide the electric utilities with the incentives to comply with the State’s RPS requirement, including the treatment of penalties for non-compliance with the RPS. During fiscal year 2007 – 2008, the DCA participated in a number of technical meetings held by the parties to the docket and submitted a joint filing addressing the ratemaking structure for the PUC’s consideration. On December 20, 2007, the PUC adopted, in part, and denied, in part, the stipulation and joint proposal filed by the HECO Companies, Hawaii Renewable Energy Alliance, and the DCA. In particular, the PUC declined to adopt the proposed temporary renewable energy infrastructure surcharge mechanism, opening a separate proceeding to address that proposal.

Renewable Energy Infrastructure Surcharge Program Proceeding

By order filed on December 20, 2007, the PUC initiated this proceeding to review the proposal for temporary use of a renewable energy infrastructure mechanism in the RPS proceeding. The proposal was intended to provide the HECO Companies with a cost recovery mechanism for projects placed in service that would encourage the use of renewable energy resources. The DCA participated in public hearings held statewide, conducted discovery, and participated in meetings held by the parties to discuss the merits of the proposal. In June 2008, the parties to the proceeding filed a stipulation resolving the docket issues for the PUC’s consideration. The parties are awaiting a decision and order in the docket.

In addition to the above proceedings, during the fiscal year 2007-2008, the DCA reviewed approximately 193 motor carrier tariff change requests and non-rate applications, such as applications for capital improvement projects, purchase power agreements, and certificates of public convenience and necessity.

Advocacy through Participation on Committees and Boards

Enhanced Wireless 911 Services

The DCA has been an active participant in the State’s implementation of an order issued by the FCC mandating that enhanced 911 (“E-911”) services be provided by wireless telecommunication carriers. The passage of Act 159 in 2004 provided the framework to implement the State’s wireless E-911 system to route emergency calls to emergency responders along with the wireless callers’ identification and location.

Act 159 also established a Wireless Enhanced 911 Board that oversees the collection and distribution of money collected by the E-911 special fund. As a member of the board, the Executive Director of the DCA has continued to be an active participant in the implementation of this system which is critical to the public safety of both Hawaii residents and visitors.

One Call Center Advisory Committee

The Executive Director of the DCA is also a member of the One Call Center Advisory Committee, which makes recommendations to the PUC regarding the implementation of Chapter 269E, Hawaii Revised Statutes (Act 141, SLH 2004). This advisory committee was integral in developing the request for proposals for a vendor to operate this “call-before-you-dig” system. The system, which was operational on January 1, 2006, will reduce the risk of critical services being disrupted because utility systems were inadvertently damaged due to excavation work conducted in areas where the systems are placed in underground facilities. This will ensure greater public health and safety, and ultimately save excavators time and money.

Hawaii Energy Policy Forum

The University of Hawaii convened the Hawaii Energy Policy Forum in 2002 to help develop and promote a vision for Hawaii’s energy future. It is a collaborative effort that brings together interested stakeholders including representatives of electric utilities; oil and synthetic natural gas suppliers; environmental groups; the renewable energy industry; State legislature; federal, State, and county government agencies; the business community; and other major energy consumers. The Forum’s efforts focus on many different energy related issues, including social and cultural issues, energy conservation and efficiency, and regulatory reform. The DCA believes that as a participant in the forum it has and will continue to effectively represent consumers' views as major policy issues are discussed and as proposals are developed and implemented.

Hawaii Clean Energy Initiative

On January 31, 2008, the State of Hawaii and the United States Department of Energy (“U.S. DOE”) launched the Hawaii Clean Energy Initiative, an agreement, which among other things, established for the State a goal of 70% clean energy resource use by 2030. The State and the U.S. DOE formed various committees designed to examine differing aspects of the State’s energy use – transportation, electricity, energy efficiency, etc. The DCA is participating in the HCEI’s Integration Committee, which, with the aid of U.S. DOE experts, seeks to consolidate the themes and suggestions put forth by the remaining committees.

Education and Outreach

During the past year the DCA has focused a considerable amount of time and effort on expanding its education and outreach activities. This has allowed the DCA to increase its ability to educate consumers and extend its reach into communities throughout the State.

The DCA continued distributing its newsletter at public fairs and festivals throughout the State, and has vastly increased its electronic distribution list during the 2007 – 2008 fiscal year. While the DCA has

reduced the overall number of events attended, it has targeted those events most likely to produce consumers interested in utility and conservation matters, increasing the overall number of consumers reached. The DCA also used other communications tools such as press releases, its web site, and other in-house produced publications to reach the public. These tools were used to highlight various utility issues and to encourage greater participation in PUC public hearings, energy conservation and efficiency efforts, and to help consumers make wise choices when purchasing telecommunications services.

Document Management System

The DCA, in partnership with the PUC, is developing a new docket and document management system to improve internal efficiencies and to make documents filed with the PUC available to the public in electronic format. This new system may be implemented as early as the first quarter of 2009.

Financial Summary

The CRF financial summary relating to DCA for fiscal year 2007-2008 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,024,430	\$854,420	\$1,878,850	\$2,891,399

CONCLUSION

The DCA will continue to prioritize its caseload to target projects and consumer issues that have the greatest impact on the ratepayers of utility and transportation services in Hawaii. In addition, the DCA is expanding its education and outreach efforts. Together, this places the program in a better position to take a more proactive approach to address specific consumer issues and to gain greater public participation in decisions that affect their public utility and transportation services.

DIVISION OF FINANCIAL INSTITUTIONS (DFI)

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OVERVIEW

The Division of Financial Institutions' (DFI) Mission: To ensure the safety and soundness of state-chartered financial institutions by fairly administering applicable statutes and rules in order to protect the rights and funds of depositors, borrowers, consumers and other members of the community.

DFI is charged with the supervision and regulation of all Hawaii State-chartered and State-licensed financial institutions, including banks, foreign banking agencies and representative offices, savings and loan associations, trust companies, financial services loan companies (both depository and non-depository), and credit unions. DFI also licenses and regulates escrow depositories and money transmitters. In supervising financial institutions authorized to take deposits, DFI works closely with the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Bank of San Francisco, the Office of Thrift Supervision, and the National Credit Union Administration.

DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and re-accredited in 1995, 2000, and 2005. The CSBS accreditation program sets high standards for state banking regulators nationwide. DFI has continued to meet these high standards, with the support of the Legislature, the DCCA Director, and the Governor.

DFI is located at 335 Merchant Street, Room 221, Honolulu, Hawaii 96813. The public may call DFI at (808) 586-2820 or send e-mail to dfi@dcca.hawaii.gov.

Composition

DFI is headed by the Commissioner of Financial Institutions, assisted by an *Administrative Section* consisting of the Deputy Commissioner, two specialists, a regulation analyst, and a secretarial staff headed by the Secretary of the Division. This section coordinates and facilitates activities within DFI, with other divisions, and with other state and federal agencies regarding regulatory and supervisory issues.

Within DFI, there are two branches: (1) the Field Examination Branch and (2) the Licensing and Regulatory Analysis Branch, each composed of financial institution examiners and headed by its own Branch Manager. The *Field Examination Branch* is responsible for the on-site examination of financial institutions. Examinations, unlike accounting audits, are forward-looking reviews of factors underlying the safety and soundness of the financial institutions. For example, examiners not only evaluate existing and projected financial information, but also assess the effectiveness of management, its policies, and implementation of those policies in administering the institution's risk management programs and practices. The *Licensing and Regulatory Analysis Branch* is responsible for licensing activities and other regulatory approvals, the off-site monitoring program, and responding to complaints and inquiries. The Licensing and Regulatory Analysis Branch Manager also assists the Deputy Commissioner in administrative matters such as legislation, training, and budgetary items.

GOALS and OBJECTIVES

Division Goals. DFI's goals center on the orientation, training and effective deployment of its Examiners. Federal programs administered by the FDIC and the Federal Reserve are regularly used for this purpose as are web-based programs provided by CSBS and the Risk Management Association. On-the-job training is also a valuable component of the training plan. DFI's goals also focus on the recruitment of new staff that will be able to effectively work within the framework defining the future financial services industry. New financial service products (e.g. sub-prime mortgages, reverse mortgages, negative equity automobile loans etc.), delivery channels (e.g. gift cards), providers (e.g. Wal-Mart) and the attendant opportunities and risks associated with these developments, create a radically expanded regulatory environment in which the use of new experiences and skills (in addition to those currently required) will be necessary to successfully accomplish DFI's mission.

Objectives and Policies. As a part of the CSBS accreditation process, DFI is required to establish a strategic plan and develop policies and operating guidelines to achieve plan objectives. DFI's strategic plan calls for the Division to:

- Recognize the Continuing Need for Dramatic Change
- Broaden Division Focus
- Expand Skill Sets
- Identify the Client
- Become Totally Client Centric
- Improve the Speed of the Organization

DFI's objectives are defined by its strategic plan and the policies to accomplish those objectives are imbedded within the Division's policy and operating manuals.

Action Plan. DFI's action plan is built around its strategic plan. The timetable calls for realization of short term training related goals in a one to two year time frame with longer range goals relating to experience and recruitment in the five year time frame.

Performance Measurement. DFI currently measures performance in two ways. The first is empirical – that is, absolute measurements based on the fiscal health and regulatory compliance of the State's DFI regulated institutions using both regular financial and examination based measurements. The second is the measurement of throughput at the Division – that is, how many complaints have been answered, how many applications processed etc. The first measurement - empirical - is critical, especially in the current climate of global turmoil in the financial services industry, and demonstrates performance in DFI's key area of responsibility - to ensure the safety and soundness of Hawaii chartered financial institutions. The second measurement, while informative, is less useful, and in many ways does not accurately reflect either effort or results as it does not measure the complexity and changing nature of the work. It continues to be under review for possible modification or replacement.

ACCOMPLISHMENTS

Stability of the Banking Industry in Hawaii. The national mortgage crisis that began in 2007 evolved into a full-scale financial crisis in 2008 resulting in unprecedented economic disruptions both nationally and globally. In the U.S., it involved the failure, government take-over, government-assisted acquisition, or government assistance of some of the world's largest financial companies ranging from the government-sponsored enterprises Federal National Mortgage Association and Federal Home Loan Mortgage Corporation; AIG, the nation's largest insurance company; the investment banks Bear Stearns and Lehman Brothers; to a large number of depository institutions including IndyMac Bank and Washington Mutual. In response, Congress passed the Emergency Economic Stabilization Act which provided the Treasury Department broad authority to restore liquidity and stability to the U.S. financial system; authorized a \$700 billion financial rescue package; and, temporarily increased federal deposit insurance limits to \$250,000. In addition, the Federal Reserve Board, the Treasury Department, and the FDIC have taken extraordinary steps to provide additional liquidity to the economy and restore the operations of the credit markets by expanding or creating various liquidity facilities; coordinating measures with other central banks; providing guarantees to money-market mutual funds, non-interest bearing transaction deposit accounts, and senior debt of FDIC-insured institutions; and purchasing senior preferred shares in depository institutions. While Hawaii chartered banks remain well-capitalized and are prepared to make credit available to qualified borrowers, DFI continues to monitor the impact of the disruptions and of numerous federal initiatives on the overall industry and on individual institutions.

Implementation of New Federal Laws Continues to Expand DFI's Regulatory Role. As previously reported, Congress continues to enact laws that significantly impact the financial services industry. Laws such as the Gramm-Leach-Bliley Act, the USA Patriot Act, the Bank Secrecy Act, and the Sarbanes-Oxley Act are significant federal statutes which have an ongoing impact on the financial services industry. DFI manages its programs and trains its staff to ensure compliance with these federal laws relating to money laundering, privacy for consumer financial information, and corporate governance. The evolution of the industry, and the regular impact of key drivers such as corporate governance concerns, advances in financial service products (e.g. sub-prime and reverse mortgages, negative equity automobile loans etc.), delivery channels (e.g. gift cards), providers (e.g. Wal-Mart) and the attendant opportunities and risks associated with these developments, mandate that DFI's regulatory and supervisory roles must constantly adapt to meet the new regulatory challenges associated with the changing conditions.

Supervision of the Money Transmitter Industry in Hawaii. As noted in previous reports, with the passage of Act 153 of the 2006 Session Laws of Hawaii (SLH), money transmitters were required to be licensed by DFI on or before July 1, 2007. Upon passage of the bill, DFI conducted outreach to the money transmitter industry and drafted rules, application forms, licensing procedures, and examination procedures to implement the Act. DFI Licensing Branch staff worked long hours to ensure that all completed applications were processed within statutory deadlines, and then had to draft license renewal forms and procedures, and then renew money transmitter licenses for 2008.

There are currently 39 money transmitters, operating from over 1,200 locations, licensed to do business in Hawaii. This is a far larger and more diverse population than that contemplated during the passage of Act 153, attesting to the impact of this segment of the financial services industry on Hawaii's consumers. DFI completed a projected requirements staffing plan for the appropriate supervision and regulation of this important industry, and was successful in obtaining the necessary additional budget appropriation (including staffing) to implement the money transmitter program beginning in fiscal year

2009. However, due to the delayed effective date of Act 195, 2008 SLH, which was intended to provide the necessary revenues for the program, DFI has had to delay the hiring of additional examiners, and has only been able to partially implement the program using existing staff as and if available. In 2008, DFI Field Examination Branch staff performed an examination of one money transmitter and also did outreach to 8 other money transmitters to briefly review their program, policies and procedures, discuss the scope of future examinations, and answer any questions. Until the increased revenues generated by Act 195 are realized and additional examiners are hired, further money transmitter examinations will only be conducted as and if existing staff is available.

Mortgage Broker Regulation. While mortgage brokers and solicitors (aka mortgage originators) doing business in Hawaii continue to be registered with DCCA's Professional and Vocational Licensing Division, since 2003 many states, in recognition of the significant impact the mortgage broker industry was having on their consumers and their local economies, adopted laws to actively regulate and supervise those mortgage brokers instead of merely registering them. In order to develop an appropriate framework for regulation of mortgage brokers doing business in Hawaii, DFI solicited industry, consumer and related input on the concept of improved mortgage broker regulation through a Mortgage Broker Task Force (Task Force) composed of individuals representing the mortgage industry and various consumer organizations. DFI also drafted bills to provide for the regulation and supervision of local mortgage brokers and solicitors not otherwise overseen by existing State or federal programs. These bills were introduced in the 2005, 2006, 2007 and 2008 Legislative Sessions, however were not passed by the Legislature. Recent significant deterioration of the national mortgage lending and securitization industry, which has also impacted Hawaii, prompted the federal government to adopt *The Housing and Economic Recovery Act of 2008*, which, in Division A, Title V – *the S.A.F.E Mortgage Licensing Act of 2008* - provides for the robust regulation and supervision of mortgage originators by the federal government. The *S.A.F.E Mortgage Licensing Act of 2008* calls for many of the positive regulatory provisions advocated by DFI and the Task Force over the past five years - background checks, pre-licensing testing, periodic field examinations, continuing education - which will provide a solid framework for oversight of the important Hawaii mortgage broker community by improving mortgage broker supervision and regulation for the benefit of mortgage lenders, consumers and the entire Hawaii mortgage industry, while at the same time sparing the State the significant costs associated with the development, implementation and administration of a State program to accomplish these same objectives.

Continued Development of DFI's Emergency Preparedness Program. DFI continues to develop, implement, and rehearse multiple level Emergency Preparedness contingency plans. Maintaining and safeguarding the adequate supply of currency to the public as well as efficient access to deposit accounts is the main objective of these plans. As the overall State of Hawaii coordinator for financial institutions operating in Hawaii, DFI participates in HawaiiFIRST, a financial industry business continuity planning coalition established to address Homeland Security issues affecting the local financial industry, develop and maintain relationships with city, county, State and federal agencies, and private industries which have an impact on the local business community, and to enhance the financial industry's capability to respond to and recover from disastrous situations. DFI also continues to maintain and periodically test a statewide emergency communications plan which includes all Hawaii financial institutions, with particular emphasis on the depository companies.

As part of DFI's efforts to ensure that its staff has the ability to work remotely during emergencies, DFI has replaced most of its desktop computers with laptops. The laptops, when coupled with direct access to the Department's computer systems via a browser and the use of broadband cards, will provide for the

immediate establishment of remote work sites and/or telecommuting operations in the event of emergency, permitting the continuation of secure communication with city, county, State and federal agencies, and the private sector to facilitate the financial industry’s ability to respond to and recover from disastrous situations.

DFI will continue to work with the State’s financial institutions, State Civil Defense, federal regulators, the Federal Aviation Authority, the Hawaii Bankers Association, the Hawaii Credit Union League, HawaiiFIRST and others to ensure that robust and comprehensive emergency preparedness plans are developed, implemented and maintained going forward.

Reaccreditation. DFI is accredited by the Conference of State Bank Supervisors (CSBS), the industry association for all state financial service regulatory agencies in the United States. CSBS administers its national accreditation program for state financial service regulatory agencies to ensure that the management and staff of these agencies are knowledgeable, appropriately organized, staffed, funded and trained to carry out their responsibilities, which include the authorizing, regulating and supervising of state chartered financial institutions. DFI was originally accredited by CSBS in 1990. Each year thereafter, DFI has been required to file a comprehensive report on the Division’s activities, which is evaluated by CSBS, to retain the Division’s accredited status for another year. Every 5 years the CSBS staff visits DFI on site in Honolulu to conduct an exhaustive review of every facet of the Division’s operations; interview managers, supervisors and staff; and evaluate the overall effectiveness of the program. DFI underwent such an examination in March of 2005, and received reaccreditation in late 2005. In preparation for its reaccreditation which is scheduled for 2010, DFI has begun intensive efforts to streamline, enhance and document many of its internal processes. These efforts will continue in 2009.

Bank, Financial Services Loan Company, and Escrow Depository Examination Programs. DFI has continued to expand its role in conducting examinations. This expanded role is necessitated not only by cutbacks in federal agency examination staffing and the addition of new State-chartered and intra-Pacific banks to the Hawaii market, but is also a critical element in the CSBS reaccreditation review. DFI continues to work closely with the Federal Reserve Bank of San Francisco and with the FDIC in developing and coordinating the year-round examination program for Hawaii’s two largest banks. DFI examiners increasingly take lead roles during safety and soundness examinations and maintain a vigorous Bank Secrecy Act/Anti-Money Laundering (“BSA/AML”) Examination Program in accordance with federal laws, resulting in dramatic improvements in the examination of the BSA/AML compliance programs of DFI-regulated institutions. In 2008 DFI also continued its efforts to participate in compliance examinations conducted by the Federal Reserve Bank of San Francisco.

The CRF financial summary relating to DFI for FY 07-08 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,823,811	\$280,882	\$2,104,693	\$2,620,852

CONCLUSION

During 2008, while DFI maintained its established regulatory, supervisory, and licensing programs, and developed and implemented new programs to respond to changes in federal legislation impacting regulated industries, increasing emphasis was directed towards responses to continued deterioration across all aspects of the global financial services sector.

Hawaii chartered and licensed financial institutions have, to date, been more fortunate than those chartered and licensed in other states, but the impact of the “sub-prime mortgage crisis” followed by the “credit market crisis”, with its attendant disruption of the normal pattern of deposit taking and lending prevailing over past years, has now affected both our local economy and the financial institutions operating in the State. All of these factors now require DFI to increase its efforts to aggressively and effectively respond to rapidly changing global and local economic conditions in the pursuit of the active regulation and supervision of our Hawaii chartered financial institutions to preserve their safety and soundness and protect the rights of depositors, borrowers, consumers and other members of the community. The DFI staff looks forward to the challenge.

INSURANCE DIVISION (ID)

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OVERVIEW

Insurance Division's (ID) goal and mission is to ensure that commercial and individual consumers are provided with insurance services meeting acceptable standards of quality, equity, and dependability at fair rates by establishing and enforcing appropriate service standards and fairly administering the Insurance Code.

The primary goals are for all insurance licensees to comply with the letter and spirit of the law through appropriate oversight, and to maintain insurers' solvency by monitoring their financial condition.

The following were the number of active insurance licensees at the end of the last two fiscal years.

<u>Type of License</u>	<u>Licenses as of June 30, 2008</u>	<u>Licenses as of June 30, 2007</u>
Adjuster	746	622
Captives	165	163
Certificate of Authority (Insurer)	973	961
Fraternal Benefit Society	6	6
Fraternal Benefit Society Producers	0*	61
HMO (Health Maintenance Organizations)	2	2
Independent Bill Reviewer	15	15
Limited Lines Motor Vehicle Rental Co. Producer	29	20
Limited Lines Producers	842	1,814
Managing General Agent	13	12
Mutual Benefit Society	6	6
Nonresident Producers	28,148	22,954
Producers	6,083	5,863
Reinsurance Intermediary Broker	4	5
Reinsurance Intermediary Manager	0	1
Service Contract Provider	116	115
Surplus Lines Broker	1,006	803
Vehicle Protection Product Warrantor	<u>10</u>	<u>11</u>
TOTAL:	38,164	33,433

* Act 154 Listed as Producers

ID administers chapters 431, 431K, 431L, 431M, 431P, 432, 432C, 432D, 432E, 435C, 435E, 448D, 481R, 481X and 488, Hawaii Revised Statutes, relating to licensing, supervision, and regulation of all insurance transacted in the state by all insurance entities.

ID is located at 335 Merchant Street, Room 213, Honolulu, Hawaii 96813. The public can call ID at (808) 586-2790, and send e-mail to insurance@dcca.hawaii.gov.

COMPOSITION

The Insurance Commissioner heads the ID and is assisted by the Chief Deputy Insurance Commissioner and the Branch Chiefs. The branches of the ID are:

Captive Insurance Branch. The Captive Insurance Branch (CIB) is currently led by the Deputy Insurance Commissioner and includes a secretary and 7 captive insurance examiners. The CIB reports directly to the Insurance Commissioner and is responsible for all aspects of licensing, regulating, and developing the captive insurance industry for the State of Hawaii. The size and scope of Hawaii's captive insurance industry surpasses the size and scope of Hawaii's domestic insurance companies.

The captive program cost is not funded from the CRF. Pursuant to Act 1, SSLH 2005, funds expended for the ID's captive insurance program are defrayed from the Captive Insurance Administrative Fund.

Compliance and Enforcement Branch. When a complaint is filed with the ID, the Compliance and Enforcement Branch (C&E) conducts an investigation to assure compliance with the applicable statutes and rules. Appropriate disciplinary actions are taken by the C&E when necessary. In addition, the C&E is responsible for processing administrative hearing requests, qualifying applicants to the Hawaii Joint Underwriting Plan Assigned Claims program, qualifying no-fault challenges on medical care and treatments to peer review organizations, and coordinating and qualifying Applications for Written Consent received by the Commissioner pursuant to 18 U.S.C. § 1033 and HRS §431:2-201.3. The C&E is comprised of a chief investigator and 3 investigators.

Financial Surveillance and Examination Branch. The Financial Surveillance and Examination Branch (FS&E) conducts a continuous program of financial analysis and examination of Hawaii-domiciled insurance companies, including captive risk retention groups and mutual benefit societies, to assure compliance with laws, regulations and financial solvency in an effort to safeguard consumer interests and maintain integrity in the industry. The work of the FS&E is subject to review by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Program (Accreditation Program). The NAIC Accreditation Program requires that insurance departments have adequate statutory and administrative authority to regulate an insurer's corporate and financial affairs, and that they have the necessary resources to carry out that authority. Accredited insurance departments undergo a comprehensive review every five years by an independent review team to ensure they continue to meet NAIC standards. The Hawaii ID was first accredited by the NAIC in 1996 and re-accredited in 2001 and 2006. The FS&E is comprised of a manager, 9 examiners, a certification specialist, and an office assistant.

In addition to financial surveillance, FS&E also licenses or registers foreign insurers, risk purchasing groups, foreign risk retention groups and self insurers; reviews mergers, acquisitions and service contract provider submissions; reviews and maintains applications and filings by reinsurers; conducts agency financial examinations; reviews more than 6,000 quarterly and annual premium tax returns; and collects and processes more than \$100 million in premium taxes.

Health Insurance Branch. The Health Insurance Branch (HI) is responsible for regulating health insurers, including health maintenance organizations and mutual benefit societies. The HI's primary responsibilities are: to receive inquiries and complaints pertaining to health insurance, including long-term care insurance; to receive requests from consumers for external reviews of a health plan's coverage decisions under the Hawaii Patients' Bill of Rights and Responsibilities Act and to administer the external review process; and to conduct financial surveillance of health insurers. The HI also reviews advertising materials of long term care insurers. The HI is headed by the Program Administrator and has eight other authorized positions.

Legal Branch. The Legal Branch advises the Commissioner, the Chief Deputy, the Branch Chiefs, and the ID on all legal matters and is the interface between the ID and the Department of the Attorney General. The Legal Branch function includes serving as hearings officers for administrative hearings as assigned by the Commissioner; researches insurance issues, provides interpretations of the laws and rules, and reviews and analyzes administrative decisions and rulings; prepares legislative bills, legislative testimonies, administrative rules, and requests for formal and informal legal opinions; assists the branches in enforcing compliance provisions within Title 24, HRS; and provides assistance to the Financial Surveillance and Examination, Health Insurance, and Captive branches in regards to supervision, rehabilitation, and liquidation proceedings. The Legal Branch is comprised of a supervising attorney, 3 staff attorneys, and a legal assistant.

Licensing Branch. The Licensing Branch (LB) oversees the examination process and issues licenses to qualified applicants for various insurance licensees. The major license types are producers, nonresident producer, and adjuster licenses; and the LB maintains records of the licensees. The LB is responsible for continuing education deficiency notices, license renewal notifications, processing of remittance checks, confirmation & cancellation of these insurance licenses. The LB also works with the Commissioner's advisory board on continuing education requirements for producers. The LB is comprised of a licensing assistant, 7 licensing clerks, and an office assistant.

Motor Vehicle Insurance Fraud Investigations Branch. The Insurance Fraud Investigations Branch (IFIB) conducts a statewide program for the prevention, investigation, and prosecution of motor vehicle insurance fraud cases and complaints relating to motor vehicle insurance fraud. The IFIB reviews referrals submitted by the insurance industry, other agencies, and members of the public and initiates an investigation in all cases where there is reason to believe that a crime may have been or is currently being committed. State law requires any insurer or insurer's employee or agent who believes that a fraudulent claim is being made to refer the case to the IFIB within 60 days.

The IFIB consists of an administrator, a staff attorney, 5 investigators, 2 forensic investigators, and a legal clerk. The IFIB also employs two contract attorneys to assist in criminal prosecutions. The administrator, the staff attorney, and the contract attorneys are designated as Special Deputy Attorneys General and are responsible for initiating criminal prosecutions. By employing deputies who are trained in insurance fraud, all cases receive prompt attention and representation in the criminal justice system.

Office Services Branch. The Office Services Branch (OS) provides general reception; answers and screens telephone calls; provides clerical, stenographic, typing, duplicating and other administrative services for the ID. OS also maintains the ID's central administrative files, including ID's memorandum, newspaper articles, documents, reports, etc.; orders office supplies and equipment for the ID, and maintains

its inventory; and handles the receiving and distribution of ID's general mail. The OS is comprised of a clerical supervisor, a clerk-steno, and 4 office assistants.

Rate and Policy Analysis Branch. The Rate and Policy Analysis Branch (RPA) provides systems and procedures for the conduct and analyses of rate and policy filings of domestic, foreign and alien insurance companies for compliance with State insurance laws. The RPA analyzes and approves or disapproves rate filings for casualty, property, motor vehicle, inland marine, surety, credit life and disability, and medicare supplement insurance. The RPA also reviews policy form filings for workers' compensation, motor vehicle, credit life and disability, long term care, medicare supplement, temporary disability, and title insurance. The RPA is comprised of a manager and 9 rate & policy analysts.

ACCOMPLISHMENTS

Compliance and Enforcement Branch. During 2007, consumers saved or recovered more than \$2,199,466.56 from insurance companies and agents with the assistance of the Insurance Division. A total of 567 complaints were received for the following classes of insurance:

Motor Vehicle Insurance: Received the largest number of complaints with 302 or 53% of the total. Of this amount, complaints involving personal injury protection coverage for medical and other related benefits accounted for 153 cases. One hundred eight cases involved claims handling in the following categories: 20 for material damage claims, 24 for claim payment or settlement delays, 18 concerning coverage and liability disputes, 17 involving resolution delays, and 29 for claim denials and other miscellaneous claim issues. Complaints other than claims total 41 in the following categories: 28 in the area of premiums and underwriting, 9 for policy cancellations or non-renewals, and 4 miscellaneous ones. A total of 293 cases were resolved or referred to the appropriate agency for resolution; 9 cases remain pending.

Life Insurance/Annuities: There were 112 complaints received or 20% of the total. Of this amount, 62 involved misrepresentations, 23 involved policy servicing, 12 involved claims handling, 6 involved underwriting issues, 5 involved surrender values and 4 involved the inappropriate replacement of existing policies. A total of 87 cases were resolved or referred to the appropriate agency for resolution; 25 cases remain pending.

Workers' Compensation: There were 24 complaints received or 5% of the total. Of this amount, 21 involved claim handling and payment delays and 3 involved underwriting or premium billings. A total of 22 cases were resolved or referred to the appropriate agency for resolution. Two cases remain pending.

Fire/Homeowners Insurance: There were 36 complaints received or 6% of the total. Of this amount, 25 involved underwriting, rating, cancellations, or nonrenewals, and 11 involved claims. 33 cases were resolved or referred to the appropriate agency for resolution. Three cases remain pending.

General Liability: There were 8 complaints received or 1% of the total. Of this amount, 2 involved underwriting and policyholder service. The remaining 6 involved claims. Seven cases were resolved or referred to the appropriate agency for resolution. One case remains pending.

Miscellaneous: In addition to the above categories, there were 85 complaints received or 15% of the total, relating to other classes of insurance (disability, marine, surety, and miscellaneous). 78 cases were resolved or referred to the appropriate agency for resolution. Seven cases remain pending.

Assigned Claims Program: There were 76 applications for benefits under the assigned claims program that were received and reviewed. Of this amount, 66 applications were assigned to servicing carriers for further handling; 4 applicants did not meet eligibility requirements. Six applications remain under review.

Review of Licensee’s Criminal and Regulatory History: A total of 2,906 applications and renewal applications for Producer Licenses were reviewed by C&E to screen for prior felony convictions or administrative action histories.

Disciplinary Action: There were 46 formal actions involving C&E. Of this amount, 32 were letters of caution, 2 were license suspensions, 3 were reprimands, 1 was a certificate of authority suspension, 3 were license revocations, 2 were consent orders, 1 was a supervision order, and 2 were cease and desist orders. A total of \$71,500.00 was levied in fines.

Financial Surveillance and Examination Branch. To protect policyholders, domestic insurance organizations, including insurers and captive risk retention groups, are regularly examined for solvency and compliance with the Hawaii Revised Statutes.

Financial statements and reports submitted by 21 domestic insurers, 15 captive risk retention groups, and two mutual benefit societies are subject to in-depth analytical procedures on a quarterly basis and financial examinations are conducted at least once every five years. Analytical procedures and examinations provide a means to detect early warning signs of financial difficulty and allow for the introduction of remedial measures and prevention of future insolvencies. Analytical and examination procedures are subject to an accreditation review by the National Association of Insurance Commissioners (“NAIC”).

The following is a summary of other activities of FS&E during 2007 and 2006 (dollar amounts are rounded to the nearest thousand):

	<u>2007*</u>	<u>2006*</u>
Number of Active Licensees	966	967
Direct Premiums Written in Hawaii**	\$4,562,850,000	\$4,306,266,000
Surplus Lines Premiums Written in Hawaii	\$ 311,707,000	\$ 323,215,000
Premium Tax Returns Processed	6,400+	6,400+
Premium Taxes & Levies Collected***	\$ 105,675,000	\$ 100,733,000
Total Hawaii Investments by:		
Domestic Insurers****	\$ 248,911,000	\$ 229,843,000
Foreign & Alien Insurers****	\$5,702,566,000	\$5,220,030,000

* Includes domestic, foreign, alien, and surplus lines companies.

** Includes annuities.

*** Net of credits.

**** Includes bank balances.

Health Insurance Branch. The Health Insurance Branch receives inquires and complaints pertaining to federal and state laws governing health insurance, including long-term care insurance. From July 1, 2007 to June 30, 2008, 135 complaints were received. Of the 135 complaints, 106 were resolved and seven are still pending. Of the remaining 22 complaints, the Health Insurance Branch had no jurisdiction for 13 complaints, eight were referred to the appropriate agency for resolution, and one was referred for a formal resolution. Of the total cases, 26 involved claims appeals; 22 involved reimbursement timeliness; nine involved policy coverage; eight involved unfair marketing; six involved termination of coverage; five involved participating provider benefits; three involved denial coverage; and the remaining 56 involved miscellaneous issues. The complaints during this period resulted in consumers saving over \$262,000 and \$1,000 in fines being levied.

During the same period, the Health Insurance Branch responded to 118 formal inquiries. Thirty-one were questions regarding health claims and reimbursements; 35 were regarding health insurance coverage; seven were questions regarding marketing practices; three were questions regarding provider networks; five others were regarding health insurance premiums; and the remaining 37 were miscellaneous general health insurance questions.

In addition, the Health Insurance Branch reviews premium rate filings of managed care plans pursuant to HRS chapter 431:14G. The Health Insurance Branch received 36 rate filings during the period July 1, 2007 through June 30, 2008.

The Health Insurance Branch also reviews long-term care advertising issued by long-term care insurers licensed in the state. The filings are reviewed for compliance with HRS chapter 431:10H (Long-Term Care Insurance). The Health Insurance Branch received and reviewed 80 long-term care advertising filings during the period July 1, 2007 through June 30, 2008.

The Health Insurance Branch also conducts independent external reviews of managed care plan coverage decisions that are appealed by the plan member pursuant to HRS chapter 432E. From July 1, 2007 to June 30, 2008, 15 requests for an external review were received.

Motor Vehicle Insurance Fraud Investigations Branch. The Insurance Fraud Investigations Unit conducts a statewide program for the prevention, investigation, and prosecution of motor vehicle insurance fraud cases and complaints relating to motor vehicle insurance fraud. The Fraud Unit reviews referrals submitted by the insurance industry, other agencies, and members of the public and initiates an investigation in all cases where there is reason to believe that a crime may have been or is currently being committed. State law requires any insurer or insurer's employee or agent who believes that a fraudulent claim is being made to refer the case to the Fraud Unit within 60 days. The Fraud Unit also employs special deputy attorneys general to initiate criminal prosecutions. By employing deputies who are trained in criminal prosecution, all cases receive prompt attention and representation in the criminal justice system.

During fiscal year 2007-2008, the Fraud Unit received 212 referrals. Of the referrals accepted for prosecution, there were a total of 91 criminal indictments and convictions. This year the Fraud Unit experienced an increase in referrals, indictments and convictions of fraud activity occurring on the neighbor islands. Successful prosecution resulted in the conviction of individuals from Hilo, Kona, Kauai and Maui.

The Fraud Unit obtained restitution orders totaling \$177,808.09 on behalf of the victims of fraud and theft in cases that reached final disposition. The Fraud Unit also requested the courts to order fines

payable to the State of Hawaii totaling \$24,850.00, and payments in the amount of \$8,265.00 to the Crime Victim Compensation Fund. Defendants paid probation services fees totaling \$2700.00 and performed a total of 1600 hours of community service.

In an effort to meet statutory requirements to prevent insurance fraud, new informational brochures on the topic of auto insurance fraud were made available to the public. In addition, the Fraud Unit met with various insurance companies to further educate and inform the industry of current trends, investigative concerns and provide them with a general update. The Fraud Unit participated in the "Live-Burn: Vehicle Fire Investigation" hosted by the Hawaii Chapter of International Association of Arson Investigators. Investigators also attended and the Fraud Unit prosecutors were guest speakers at the Hawaii Chapter Western States Auto Theft Investigators (WSATI) "Vehicle Theft and Investigations" training. Investigators were also treated by the Securities Enforcement Branch of the Business Registration Division, DCCA to presentations featuring speakers from the Association of Certified Fraud Examiners. The Fraud Unit continued joint task force efforts with members of the National Insurance Crime Bureau (NICB) and the Auto Theft Detail of the Honolulu Police Department with the unified goal of fraud prevention.

Rate and Policy Analysis Branch. During fiscal year 2007-2008, 3,720 rate filings and 4,553 policy filings were reviewed; in the preceding year (fiscal year 2006-2007), 3,320 rate filings and 2,965 policy filings were reviewed. RPA also reviewed and analyzed approximately 7,300 motor vehicle reports and statements.

In July 2007, Hawaii began receiving electronic rate and form filings for several property and casualty lines of business through the National Association of Insurance Commissioners' filing process known as SERFF or the System for Electronic Rate and Form Filing. Hawaii has been receiving life insurance products since 2001 via SERFF. A total of 1,458 electronic filings were processed through SERFF during the fiscal year.

During the fiscal year, the rating organizations and insurers participating in the ID E-Transmittal filing system submitted 172 filings for approval or acceptance.

Act 104, SLH 2004, established Article 30, Chapter 431, HRS, which permits Hawaii to join with other states to regulate designated insurance products through an interstate insurance product regulation compact (IIPRC). The Commission for the IIPRC became effective May 2006 when 26 states representing a total exceeding forty percent of the premium volume for life, annuities, disability income and long-term care insurance products established similar statutes. Bylaws, operating procedures and 44 product standards on life and annuity products have since been adopted and the IIPRC received 68 filings this fiscal year.

The significant filings approved or impacting the rates or the policies issued during the fiscal year were as follows:

Terrorism Coverage: As a result of the events that transpired on September 11, 2001, many reinsurers did not provide coverage for catastrophic losses resulting from acts of war and terrorism. On November 26, 2002, the President signed the Terrorism Risk Insurance Act of 2002 (TRIA), a federal reinsurance program for acts of war and terrorism by foreign persons impacting commercial policyholders. On December 22, 2005, TRIA was extended by the Terrorism Risk Insurance Extension Act of 2005 (TRIEA) with several changes to the program. On December 26, 2007, TRIA was extended to 2014 by the

Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA) and amended by eliminating the requirement that the act of war and terrorism be committed by foreign persons. Nationwide, commercial policyholders have the option to purchase coverage for a federally declared act of terrorism as reinsured by the federal government.

Hurricane Coverage: As a result of the discontinuation of policies through the Hawaii Hurricane Relief Fund, catastrophe modelers have developed hurricane models to be reflective of Hawaii projected hurricane losses for the purposes of insurance ratemaking. Specific Hawaii models of two nationwide catastrophe modeling firms have been reviewed and accepted for use. Following the southeastern states devastating hurricane losses of 2005, hurricane models utilized by reinsurance intermediaries for the purchase of reinsurance have been significantly altered resulting in substantial increase in the cost of reinsurance for all property insurers with hurricane exposures throughout the United States and globally. While most major insurers of homeowners with the peril of hurricane and those insurers writing property policies limited to the peril of hurricane adjusted their rates and underwriting of new business, several new insurers have entered the Hawaii marketplace.

Long-Term Care Insurance: Pursuant to Act 233, SLH 2007, insurers transacting long term care insurance business on or after January 1, 2008 were required to comply with new and amended disclosure standards and actuarial ratemaking standards. There are 33 licensed insurers that have certified their compliance with Act 233, SLH 2007.

2001 CSO Mortality Tables: Pursuant to Hawaii Administrative Rules §16-171-403, as amended March 28, 2008, insurers shall use the 2001 CSO Mortality Tables in determining minimum standards for policies issued on and after January 1, 2009. This compliance requirement has resulted in a significant increase in life policy and endorsement filings being received during 2008.

Medicare Supplement Insurance: Pursuant to the Medicare Prescription Drug, Improvement and Modernization Act ("MMA") of 2003, enacted December 8, 2003, Medicare supplement plans no longer offer prescription drug coverage. Amendments to the Hawaii Administrative Rules were implemented in 2005 in accordance with Federal requirements under the MMA. As of January 2006, Medicare eligibles were able to enroll in federal Medicare Part D. There are 22 licensed issuers of Medicare supplement insurance in Hawaii with one or more approved standardized plans.

Commercial Multiperil: Hawaii Insurance Bureau, Inc. introduced multiperil policies tailored to six business classes: apartment building owners, funeral homes, hotels/motels, personal care services, restaurants and supermarkets which were approved October 19, 2007.

Crime: On January 7, 2008, Insurance Services Office, Inc. crime program for financial institutions was substantially revised and loss cost revisions ranging from -30.0% to -5.0% were approved. On February 21, 2008, Hawaii Insurance Bureau, Inc. crime and fidelity loss costs were approved with impacts of -25.0% and -6.2%, respectively.

Earthquake: On January 14, 2008, revisions to Hawaii Insurance Bureau, Inc. commercial property earthquake peril loss costs were approved with an overall impact of -64.1%.

Fidelity & Forgery: On April 29, 2008, fidelity and forgery loss costs under the Hawaii Insurance Bureau, Inc./Surety & Fidelity Association of America program were approved with an overall impact of +4.2%.

General Liability: On February 28, 2008, Hawaii Insurance Bureau, Inc. commercial general liability program updates to business classes were approved as having no overall impact on loss costs. On May 7, 2008, revisions to Hawaii Insurance Bureau, Inc. commercial general liability loss costs for premises and for products were approved with impacts of -14.1% and +13.5%, respectively.

Homeowners: On August 15, 2007, revisions to Hawaii Insurance Bureau Inc. homeowners' loss costs excluding the peril of hurricane were approved with an overall impact of -4.2%. On January 11, 2008, further revisions to the Hawaii Insurance Bureau, Inc. homeowners loss costs excluding the peril of hurricane were approved with an overall impact of -12.8%.

The Hawaii Property Insurance Association amended the maximum limit of insurance available for dwellings from \$250,000 to \$350,000 in response to the rising values of insured property. Based on reinsurance costs for such property exposures, HPIA homeowner rates were approved effective June 1, 2008 with an overall impact of +21.6%. HPIA dwelling only rates were also approved effective June 1, 2008 with an overall impact of +24.2%.

Inland Marine: American Association of Insurance Services introduced a farm inland marine program which was approved October 8, 2007. On February 20, 2008, revisions to Insurance Services Office, Inc. commercial inland marine loss costs were approved with an overall impact of -23.0%.

Medical Malpractice: Nationwide, the number of insurers specializing in writing medical malpractice insurance for physicians and surgeons remains limited. However, during fiscal year 2007-2008, four insurers initiated and received approval for other healthcare specialty classification rates related to chiropractic and optometrist services and hospitals. On July 31, 2007, revisions to Hawaii Insurance Bureau, Inc. medical malpractice increased limit rating factors and deductible rating factors were approved with impacts on medical specialties ranging from -20.7% to +14.3%.

Workers' Compensation: On October 15, 2007, revisions to the National Council on Compensation Insurance, Inc. workers' compensation loss costs, to reflect experience and statutory benefits as of January 1, 2008, were approved with an overall impact of -19.3%.

Act 261, SLH 1996, authorized the establishment of a domestic mutual insurer to be the residual market plan for workers' compensation. The domestic mutual, Hawaii Employers' Mutual Insurance Company ("HEMIC"), issued its first policy effective July 20, 1997. Act 300, SLH 1997, permits HEMIC to make multiple rate filings. HEMIC introduced Tiers I, II, and III on November 1, 1997, Tier IV on May 1, 2001, Tier V on July 15, 2002 and two additional high risks tiers on May 1, 2006. As a competitive residual market plan for workers' compensation, HEMIC continues to redefine the underwriting of its rating tiers. HEMIC is the leader in workers' compensation premium volume.

Motor Vehicle: Pursuant to Act 251, SLH 1997, all authorized insurers were required to implement at least a 20 to 35% reduction on the premiums approved for policies effective on July 1, 1996, for those insureds with only the mandatory minimum coverages required under the Act. As a result of Act 251, SLH

1997, Hawaii went from state rank of second highest in average premiums in 1997 to twenty-second in 2004 based on the National Association of Insurance Commissioners 2007 report.

Eleven insurance companies write more than 95% of the **private passenger** insurance market. During this fiscal period, five major insurers filed and received approvals for overall rate revisions ranging from -15.0% to -0.3%.

Private passenger automobile insurers have introduced alternate rating systems that take into consideration anticipated losses for mandatory coverages: bodily injury liability, property damage liability and personal injury protection based on vehicle make and model.

On May 15, 2008, revisions to the **commercial automobile** loss costs filed by Hawaii Insurance Bureau, Inc. were approved with an overall impact of +2.4%.

GOALS, OBJECTIVES, AND POLICIES

ID's goal is to ensure that consumers are provided with insurance services meeting acceptable standards of quality, equity, and dependability at fair rates by establishing and enforcing appropriate service standards and fairly administering the Insurance Code.

Short and Long Term Goals the Division Hopes to Accomplish: (1) Meet its statutorily mandated requirement; (2) Retain the ID's accreditation by the National Association of Insurance Commissioners (NAIC); (3) Protect policyholders by examining insurers/captive insurers to ensure financial compliance with statutory requirement and strive for early detection of any potentially hazardous financial conditions to preserve the assets of the insurer; (4) Increase the efficiency of the ID's operations. (5) Address national insurance issues by working with other state regulators and the NAIC; and (6) Provide and improve Internet access by the public for insurance licensees' public data and provide on-line processing, rate & policy form filings, information on licensing and filing requirements, electronic payments of fees and premium taxes, and forms for licensees.

Objectives and Policies Setting Forth How Goals Can and Will be Accomplished.

1. Through proper personnel and case load management the ID will strive to meet the mandated statutory requirements for the insurance code.

2. This accreditation of state insurance regulators is administered by the NAIC and requires state insurance departments/divisions to have and maintain adequate statutory and administrative authority as well as sufficient resources to effectively regulate the financial solvency of insurance companies. In order to maintain the accreditation, the ID will ensure the required level of funding in the budget for its financial surveillance resources. Also, introduce legislation for the adoption of NAIC model laws required for accreditation.

3. Protect policyholders from insolvent insurers by continuing the timely review and detailed analysis of financial statements filed by insurers to assure their compliance with the statutory financial requirements. Perform on site financial examination at least once every five years or more frequently as necessary as required by statute. Incorporate risk assessment methodology into the examiner's financial analysis work product.

4. To increase efficiency of operations, the ID has moved to computerization and the use of the Internet. The ID developed a database named the Hawaii Insurance Division System (HIDS), which is an integrated system with the licensing module at its core and subsystems to support the other functions of the ID. HIDS provides better management of the large volume of transactions handled by the ID. It has greatly reduced the manual processes and has allowed for the dissemination of information to the public through the Internet. The ID has completed its HIDS enhancement project which modified existing applications and developed an Examination application. The Examination application allows for the electronic submittal and collection of premium tax returns and payments. With these modifications to HIDS, continued interfaces with the NAIC and the Hawaii Information Consortium (they provide the Internet portal for the State of Hawaii's web site), databases can be built. These interfaces will continue to improve the efficiency of the ID and provide better services and information via the web to consumers & insurance licensees.

5. The ID participates in the proceedings of the NAIC by attending its meetings to address regulatory, market place, and national issues. The members of NAIC are all of the state insurance regulators. The ID is actively involved with NAIC by its membership on various committees and currently is vice chair of a committee.

6. The ID's web site allows the public to access general information on insurance, information on licensees, comparative auto & homeowners premiums, information on how to file a complaint. Producers can now apply for a license, renew their licenses and submit appointments on-line. The ID has several projects which have created additional interfaces from HIDS to the NAIC and the Hawaii Information Consortium databases. The current interface enhancement projects include allowing producers to update contact information, continuing education providers can submit completed course credits on-line and course schedules, time and locations will be able to be found on the website. Also, the ID completed implementing homeowners, motor vehicle, and workers' compensation SERFF rate and form filings as a start in accepting property and casualty filings. The ID is working with the NAIC to implement additional lines of filing through SERFF.

Action Plan & Timetable to Implement Established Objectives and Policies in One, Two and Five Years.

Hawaii is one of thirty member states of the Interstate Insurance Product Regulation Compact which was triggered in May 2006. The compact adopted bylaws and rulemaking rules in September 2006. In 2007, the Interstate Compact began accepting electronic form filings for life insurance products and approved its first filings, which permitted the insurers to offer coverage in all participating compact states upon approval of the product. Continuing improvements to the HIDS, web site and interfaces with the NAIC and eHawaii.gov will take place.

Process to Measure the Performance of Programs and Services in Meeting the Stated Goals, Objectives and Policies.

The following are specific performance goals set for each fiscal year and the results are measured against the goals at the end of each fiscal year:

- Resolve 90% of complaints within 30 days.
- Complete 100% of financial examinations of insurers within statutory time requirement.

- Review 90% of rate and policy filings within statutory time requirement.
- Resolve 80% of motor vehicle fraud cases in favor of the State.

The CRF financial summary relating to INS for FY 07-08 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,628,771	\$1,365,893	\$5,994,664	\$5,517,385

CONCLUSION

The ID has met and continues to meet its mission and goals to maintain a secure and competitive insurance market place for the consumers.

OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

website: www.hawaii.gov/dcca/areas/oah/

e-mail address: OAH@dcca.hawaii.gov

OVERVIEW

As a support office under the Director's Office, the Office of Administrative Hearings (OAH) is responsible for conducting administrative hearings and issuing recommended decisions, for all divisions within DCCA that are required by law to provide contested case hearings under the provisions of HRS Chapter 91. The primary CRF caseload of OAH is composed of cases originating from: 1) the Regulated Industries Complaints Office (RICO) and boards, commissions, and programs attached to the Professional and Vocational Licensing Division (PVL) on licensee disciplinary action and declaratory relief petitions; 2) citations issued to persons or businesses engaged in unlicensed activities; 3) trade name/trademark revocation and securities cases from the Business Registration Division (BREG); 4) denials of no-fault and personal injury protection benefits; and 5) other matters from other divisions.

OAH also is responsible for conducting non-CRF administrative hearings for a) procurement cases from all agencies and divisions of the State and the four counties that arise under the State's procurement code, HRS Chapter 103D; and b) due process hearings from the Special Education Program of the Department of Education under a memorandum of agreement with the Department of Education.

Lastly, OAH also provides administrative support to the Medical Claims Conciliation Panel (MCCP) and the Design Claims Conciliation Panel. The MCCP program is responsible for conducting informal conciliation hearings on claims against health care providers before such claims can be filed as lawsuits. Similarly, the DCCP program is responsible for conducting informal conciliation hearings on claims against design professionals (engineers, architects, surveyors, and landscape architects) before such claims can be filed as lawsuits. The decisions of the MCCP and DCCP panels are advisory in nature and are not binding on the parties, in the event that any party still wishes to pursue the matter via the courts. An annual report is separately produced of MCCP and DCCP activities.

Composition

The OAH staff responsible for CRF related activities are: Senior Hearings Officer, division secretary, two hearings officers and three legal stenos. The office is physically located in the King Kalakaua Building, 335 Merchant Street, Suite 100. The OAH mailing address is: Office of Administrative Hearings, 335 Merchant Street, Suite 100, Honolulu, Hawai'i 96813; phone number: 586-2828; fax number: 586-3097; internet address: www.hawaii.gov/dcca/areas/oah/; and e-mail address: oah@dcca.hawaii.gov.

ACCOMPLISHMENTS

The following table summarizes the CRF-related activities conducted by OAH for the 2007-2008 fiscal year:

Type of Proceeding Conducted	Number
Pre-hearing conferences	132
Status conference	114
Motions	23
Hearings	118
Oral arguments on written exceptions	9

The following table summarizes the number of cases and the relative percentage of CRF-related activities conducted by OAH for the 2007-2008 fiscal year, by referring Division of OAH

DCCA Divisions Referring Matters to OAH	Cases Filed	%
Insurance Division (denial of personal injury protection benefits)	128	45%
Regulated Industries Complaints Office (disciplinary proceedings and citations for unlicensed activities)	94	33%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, violations of securities laws)	17	6%
Professional and Vocational Licensing (license denials)	15	5%
Office of Administrative Hearings (condominium disputes)	14	5%
Office of Administrative Hearings (procurement protests condominium disputes)	15	5%
Other CRF-related hearings	3	1%

Additional statistical data pertaining to CRF-related activities conducted by OAH can be found in the statistical tables presented by the Regulated Industries Complaints Office.

GOALS and OBJECTIVES

The primary goal and objective of the Office of Administrative Hearings has always been to conduct contested case hearings and issue recommended decisions, in a fair and impartial manner, as expeditiously as possible.

In order to track the processing of cases from the date of filing to the issuance of a final order, pursuant to directives from the Director's Office, as of July 1, 2005, the Office of Administrative Hearings has implemented additional processes and procedures to ensure that all cases are timely processed:

1. Revising the Office of Administrative Hearings data base to include additional data fields so that all pending cases can be tracked for timeliness throughout the entire hearings process;

2. Physical inventories of all Office of Administrative Hearings cases in February and July of each year;
3. Specific procedures for the disposition of cases in which no action has been taken by the parties; and
4. Monthly reports to the Director of all cases pending the issuance of decisions.

The secondary goal and objective of the Office of Administrative Hearings is to make all of the decisions issued by the Boards, Commissions, Programs, and Divisions that are part of the CRF, available to the public. To accomplish this objective, since January 2005, the Office of Administrative Hearings has posted redacted decisions online on the DCCA/Office of Administrative Hearings web site: www.hawaii.gov/dcca/areas/oah/oah_decisions/

CONCLUSION

The Office of Administrative Hearings will continue to work closely with all of the Boards, Commissions, and Programs that are part of the CRF, as well as with the other DCCA divisions that are also integral parts of the professional and vocational licensing system, to ensure that cases are processed as expeditiously as possible, and that all participating entities will have access to the OAH case data base and archives of past decisions.

OFFICE OF CONSUMER PROTECTION (OCP)

website: www.hawaii.gov/dcca/ocp

e-mail address: ocp@dcca.hawaii.gov

OVERVIEW

The Office of Consumer Protection (OCP) is the primary governmental agency in the State of Hawaii responsible for reviewing and investigating allegations of unfair or deceptive trade practices in consumer transactions.

OCP is empowered by statute to enforce the state's consumer protection laws. Functionally, this means that OCP has jurisdiction over a wide range of businesses and activities, including both regulated and unregulated industries. OCP handles many different types of complaints, such as those involving: advertising violations, door-to-door sales, solar energy devices, gift certificates, offers of gifts and prizes, going out of business sales, charitable solicitations, refunds and exchanges, collection practices, credit sales, health clubs, towing, fine prints and motor vehicle rentals. See Table 1, Laws Enforced by OCP. OCP also provides extensive information on the Landlord-Tenant Code.

OCP has adopted a number of different strategies to ensure that its mission is achieved in a meaningful and cost-effective manner. First, the staff tries to prioritize cases according to the seriousness of the violation. To help achieve this goal, investigations of actions that present significant consumer harm are "fast-tracked" for immediate legal intervention. Second, in an effort to proactively address perceived consumer problems, the office initiates investigations of problematic commercial practices. Third, staff persons attempt to provide as much assistance by telephone as possible, enabling a consumer to resolve their concern(s) without government intervention. Fourth, emphasis is placed on consumer and business education, through public service announcements, Consumer Dial messages, public informational forums, speaking engagements, media releases, and the dissemination of brochures. Finally, OCP partners with numerous public and private agencies to promote consumer protection throughout the State of Hawaii. In view of the successful implementation of these goals during the past few years, OCP will continue to focus on them throughout the foreseeable future, including during the next five years.

OCP's main office is in Honolulu at the Leiopapa A Kamehameha Building (State Office Tower), 235 South Beretania Street, Suite 801, Honolulu, Hawaii 96813. It shares offices with the Regulated Industries Complaints Office (RICO) in Wailuku, Maui at 1063 Lower Main Street, Suite C-216 and in Hilo, Hawaii at 345 Kekuanaoa Street, Suite 12. OCP's website address is www.hawaii.gov/dcca/ocp. Its functions are divided into four basic sections: intake, investigation, landlord-tenant, and legal.

Composition

The Consumer Resource Center Intake Section - phone: (808) 587-3222

The Consumer Resource Center (CRC) handles the intake of complaints for OCP. CRC is staffed by investigators who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to OCP for review, closing or further investigation. In addition, a division within CRC answers telephonic requests for prior complaint history. If circumstances permit, consumers also have the opportunity to visit OCP's Honolulu office to view the actual case files.

Prior to the release of any file, OCP's staff reviews its contents to ensure that legally protected private information is not disclosed. See Table 2, statistics on OCP Information Requests.

The Investigation Section – phone: (808) 586-2630

OCP's investigation section receives cases from CRC and gathers evidence to determine whether violations of consumer laws have occurred. Investigators' tasks include site inspections, witness interviews, document collection, evidentiary analysis, report writing and the service of subpoenas. See Table 3, Number of OCP Complaints Filed, Table 4, Numerical Breakdown of Dispositions of All OCP Cases, and Table 5, OCP Complaints by Subject Matter for FY 2006-2007 statistics.

The Landlord-Tenant Section - phone: (808) 586-2634; Consumer Dial (808) 587-1234; website www.hawaii.gov/dcca/ocp

OCP operates the Landlord-Tenant Volunteer Center. The Center is supervised by an investigator and is staffed by trained volunteers who answer questions about landlord-tenant issues. The Landlord-Tenant Volunteer Center does not represent landlords or tenants in court or provide legal advice; its role is limited to providing information regarding the particular laws relating to landlords and tenants. The office supplements this function by making available additional information on the department's 24-hour Consumer Dial Information Service, and on its website. The office also disseminates information to interested parties through its very popular landlord-tenant handbook, of which thousands are distributed each year.

The Legal Section - phone: (808) 586-2636

The Legal Section consists of staff attorneys who file civil actions against consumer law violators. Attorneys also engage in informal and formal resolution of cases prior to filing lawsuits.

OCP also provides the following services:

Consumer Education

In an effort to enhance consumer awareness of various consumer problems, OCP continuously strives to promote consumer education. The office issues press releases on a variety of consumer topics, and prepares and distributes written materials to provide specific consumer information. OCP also offers a series of Consumer Dial messages dealing with a variety of landlord-tenant and general consumer protection issues. Interested parties can call 24 hours a day and receive information on a variety of topics. In addition, OCP staff has participated in numerous educational forums in which hundreds of consumers and business persons have received extensive information about consumer protection in Hawaii.

Neighbor Island Assistance Requests

OCP staff offers assistance to neighbor islanders in DCCA related matters or other areas, as is reflected in the attached Table 6.

In addition, the office's neighbor island staffs have been trained in the technical operation of the state's Video Conference Center equipment and provide technical assistance to the department's hearings office so that neighbor island administrative hearings can be conducted through video conferencing.

GOALS AND OBJECTIVES

During the next five years, OCP will strive to fulfill its statutory mandate by fostering a fair and safe marketplace for consumers and businesses alike. In this regard, it will continue to investigate

allegations relating to unfair or deceptive trade practices, enforce Hawaii's consumer laws, and educate consumers and businesses on their respective rights and responsibilities. The specific goals and objectives will include:

- Maintain fiscal responsibility on behalf of DCCA/OCP;
- Prepare innovative legislation designed to protect the citizens of the State of Hawaii;
- Proactively initiate cases against problematic business practices before there is widespread consumer harm;
- Disseminate consumer education to the largest possible populace;
- Facilitate the exchange of information to a wide array of law enforcement;
- Develop access to investigative data bases; and
- Provide in-house training to OCP investigators and attorneys.

ACCOMPLISHMENTS

Consumer Education

During the past year, OCP has educated thousands of citizens by conducting workshops for senior care providers, speaking to business leaders and consumers regarding consumer protection and training Hawaii attorneys and military legal assistance personnel on consumer protection law.

In particular, OCP focused on the growing problem of identity theft and mortgage fraud in which it provided important information to thousands of Hawaii residents regarding how to avoid being victimized.

Cases

OCP handled significant cases in 2008 involving nearly every area of consumer protection. It filed and resolved numerous cases relating to alleged violations of Hawaii's laws governing mortgage fraud, unaccredited degree granting institutions, identity theft, gift certificates, car rentals, credit practices, living trusts, door-to-door sales, refund and exchanges, and unfair or deceptive trade practices. OCP's involvement successfully resulted in recovering more than 2 million dollars from respondents for having engaged in alleged unfair or deceptive trade practices and hundreds of thousands of dollars in restitution for Hawaii consumers as well as obtaining injunctive relief and fines against violators. In several cases, OCP secured temporary restraining orders against violators of Hawaii's consumer protection laws, successfully preventing them from continuing to harm and exploit Hawaii consumers.

LEGISLATION

OCP successfully lobbied for the Mortgage Rescue Fraud Prevention Act, which will facilitate prosecution of individuals and companies that attempt to strip equity out of homeowners' property.

Additionally, OCP testified on numerous other measures relating to consumer protection, including several enacted into law, including, bills concerning towing and charities.

The CRF financial summary relating to OCP for fiscal year 2007 - 2008 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,198,969	\$189,678	\$1,388,647	\$1,706,590

CONCLUSION

OCP continues to receive a large number of requests for assistance. Consumer complaints are diverse in nature and range from an isolated case to problems that affect every Hawaii citizen. Through regular training and information exchange, OCP's staff attempts to keep abreast of the latest consumer problems and "rip-offs," in order to prevent them from occurring and to limit their impact. Through its efforts in taking proactive measures to prevent wide-scale consumer problems before they occur, and through its enforcement actions and consumer and business education, OCP strives to meet the consumer protection needs of this community, and fulfill its mission.

Table 1: Laws Enforced by OCP

HRS §209-9	Price Gouging
HRS §290-11	Towing
HRS §437	Motor Vehicle Sales – Spot Delivery
HRS Chapter 437D	Motor Vehicle Rental
HRS Chapter 446	Debt Adjusting
HRS Chapter 446E	Unaccredited Degree Granting Institutions
HRS Chapter 457G	Occupational Therapists
HRS Chapter 467B	Charitable Solicitations
HRS Chapter 476	Credit Sales ⁵
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices ⁶
HRS Chapter 480D	Collection Practices ⁷
HRS Chapter 480F	Check Cashing
HRS Chapter 481A	Uniform Deceptive Trade Practice Act
HRS Chapter 481B	Unfair and Deceptive Practices, including Unsolicited Goods; Commercial Mail Order Buying Clubs; Offers of Gifts or Prizes; Aid to Handicapped; Refunds and Exchanges; Solar Energy Devices; Sales of Computers; Sensitivity Awareness Group Seminar; Credit Repair Organizations; Gift Certificates; Ticket Sales
HRS Chapter 481C	Door-to-door Sales
HRS Chapter 481D	Going Out of Business Sales
HRS Chapter 481F	Sale of Fine Prints
HRS Chapter 481H	Water Treatment Units
HRS Chapter 481K	Assistive Technology Warranty Act
HRS Chapter 481L	Motor Vehicle Lease Transactions
HRS Chapter 481M	Rent-to-Own
HRS Chapter 481P	Telemarketing Fraud Prevention Act
HRS Chapter 481 X	Service Contracts
HRS Chapter 486N	Health Clubs
HRS §487-5	Laws Enacted and Rules Adopted for the purpose of consumer protection ⁸
HRS Chapter 487A	Plain Language Law
HRS 487J	Social Security Number Protection
HRS 487H	Notification of Security Breaches
HRS 487R	Destruction of Personal Information Records

⁵ HRS §476-31. OCP has also filed cases based upon the Federal Truth in Lending Act and the State's usury statute, HRS Chapter 478.

⁶ OCP also has enforcement power over certain Lemon Law agreements (HRS §481I-4), and has filed lawsuits based upon HRS §486-119, "Made in Hawai'i" law. Also HRS Chapter 514E sets forth a comprehensive regulatory scheme for time-share development, sales and maintenance. However, there is a section which makes thirteen specific types of conduct *per se* violations of HRS §480-2. Under HRS §490:2A-104, UCC leases are explicitly subject to state consumer protection statutes and case law.

⁷ See also, Collection Agencies HRS §443B-20.

⁸ E.g. Motor vehicle advertising, HRS §437-4.

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HRS Chapter 506	Reverse Mortgage Loan
HRS Chapter 521	Landlord Tenant Code ⁹
Act 137 (2008)	Mortgage Rescue Fraud Prevention Act
Act 282 (1997)	Assistive Device Warranty Act
Act 222 (2000)	Service Contracts

Table 2: OCP Information Requests

REQUEST AND INQUIRIES	FY 05-06	FY 06-07	FY 07-08
Requests for Prior Complaint History	3,776	4,649	5,494
Requests for Landlord/Tenant Information	9,574	8,710	7,722
Complaint Inquiries	12,508	12,020	10,833
Requests for Records Review	43	11	12
TOTAL	25,901	25,390	24,061

Table 3: Number of OCP Complaints Filed

COMPLAINANT	FY 05-06	FY 06-07	FY 07-08
Public	1,657	1,830	1,479
OCP	36	25	76
TOTAL	1,690	1,855	1,555

Table 4: Numerical Breakdown of Dispositions of All OCP

DISPOSITIONS	FY 05-06	FY 06-07	FY 07-08
Complaint Withdrawn	6	2	10
Legal Action & Referrals to Legal	497	301	372
Advisory Contact	24	38	18
Civil Dispute/Personal Matter	38	50	38
Monetary Threshold	1	0	0
Complainant Uncooperative	25	20	38
Consumer Complaint Resolved	19	98	92
Respondent Died or Bankrupt	57	34	61
Business vs. Business	15	40	28

⁹ HRS §521-74.5 provides that a landlord who recovers possession of a dwelling unit by willful interruption of utilities or other essential services violates HRS §480-2. In addition, HRS §521-77 provides that OCP may receive, investigate and attempt to resolve any dispute arising under HRS Chapter 521.

Office of Consumer Protection (OCP)

DISPOSITIONS	FY 05-06	FY 06-07	FY 07-08
No Jurisdiction	23	11	12
Refer to Investigation	92	192	260
Other	4	30	2
Warning Letter	56	54	38
Insufficient Evidence	517	373	434
Transferred to Other Gov't. Agency	594	695	481
No Violation	14	20	26
Information Only/Inquiry	155	131	118
Total	2,137	2,089	2,028

Table 5: OCP Complaints by Subject Matter

A complaint may cover multiple subject matters

SUBJECT	FY 05-06	FY 06-07	FY 07-08
Animals	10	7	3
Breeders	0	3	1
Pet Grooming	0	1	0
Pet Shops	1	1	1
Kennels/Boarding	0	1	0
Refund Law – Refunds/Exchanges/Merchandise Credit	30	26	40
Gift Certificates	14	29	189
Rebate	0	1	10
Apparel/Accessories	16	6	9
Laundry/Dry Cleaning/Laundromats	2	1	6
Dressmaker/Tailors	0	1	0
Fabric/Notions/Etc.	0	1	1
Shoes/Etc.	1	1	2
Clothes	9	5	5
Appliances	12	11	8
Refrigerator/Freezer/Stove/Range	11	10	11
Water Heaters/Air Conditioners	2	3	1
Washer/Dryer	4	4	5
Radio/Stereo/Tape Deck/CD Player	7	5	1
TV/VCR	8	6	13

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SUBJECT	FY 05-06	FY 06-07	FY 07-08
Sewing Machine	0	0	0
Vacuum Cleaner	10	21	8
CB Radios	0	0	0
Computers/Software	36	26	19
Health Services/Products	16	19	19
Exercise Devices	1	6	2
Exercise/Health Clubs/Clinics	68	31	19
Health Foods	0	0	1
Weight Reduction	2	0	0
Cosmetics/Beauty Products	6	8	5
Wigs/Hairpieces	1	1	2
Entertainment/Music	4	4	5
Concerts/Events	4	4	6
Ticket Sellers/Promoters	1	1	4
Theaters	0	0	1
Night Clubs/Discotheques	0	0	0
Musical Instruments/Lessons	2	2	2
Audio Records/Tapes/CD/Etc.	1	0	0
Buying Clubs - Record/Tape/CD/Video	1	2	0
Video Records/Tapes/CD/Etc.	8	4	3
Florists/Nurseries	4	5	2
Food/Drink	19	13	17
Food Stores/Markets	10	4	7
Drive Inns	0	0	1
Caters/Deli	0	0	1
Bakery	1	0	0
Restaurants	10	14	12
Banquet Halls	0	0	2
Bars/Cocktail Lounges	1	0	1
Energy/Fuels	1	2	0
Solar Energy	2	0	1
Gas, Propane, Etc.	2	3	2
Energy Saving Devices	1	0	0

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SUBJECT	FY 05-06	FY 06-07	FY 07-08
Identity Theft	-	9	8
Identity Theft – Security Breach Notification	-	8	42
Identity Theft – Social Security Theft	-	0	1
Identity Theft – Destruction of Personal Information/Records	-	1	2
Identity Theft – Security Freeze	-	1	0
House Materials/Goods/Services	20	20	17
Beds & Mattresses	4	4	9
Furniture	18	136	25
Cookware	1	1	0
Draperies	0	1	0
Carpet/Rugs	5	1	1
Clocks	0	1	0
House Hardware/Fixtures	11	10	12
Woodwork/Metal craft/Glass/Etc.	6	3	5
Interior Decorators	0	2	3
Lawn Care Products/Yard Service	2	5	3
Upholsters	0	2	1
Water Purifiers/Filters	1	2	1
Cleaning Services	4	6	6
House Construction/Remodeling	5	5	4
Vermin/Bug Extermination	1	0	0
Tools	4	0	3
Insurance	16	11	17
Extended Warranties	4	14	30
Service Agreements/Contracts	67	22	57
Jewelry	24	18	11
Precious Stone & Metals	0	0	0
Watches	1	3	1
Medical	8	8	8
Hospitals/Clinics	6	3	14
Pharmacies	3	2	0
Convalescent/Nursing Homes	0	0	1
Medical Equipment	2	4	3

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SUBJECT	FY 05-06	FY 06-07	FY 07-08
Medical Service Companies	2	0	0
Medical Laboratories	0	1	1
Home Care Facilities	4	2	1
Psychiatric Counseling/Group Therapy	0	2	1
Other Counseling/Group Therapy	0	0	2
Occupational Therapists (457G)	0	1	0
Morticians, Cemeteries & Other	4	0	1
Moving & Storage	9	12	4
Private Storage Company	0	0	0
Bill of Lading	0	1	0
In-transit Storage	0	0	0
Delivery Service	5	2	4
Air Cargo Service	0	1	0
Multi-Product Retailer/Wholesalers	4	4	4
Buying Clubs	1	4	0
Department Stores	5	1	1
Photography	4	3	2
Photo Studios	1	0	0
Film Processing	0	0	0
Camera/Equipment	4	5	0
Photographic Services	5	5	1
Professional Services	15	10	1
Attorneys/Legal Services	3	3	2
Accountants/Bookkeeping	0	0	0
Tax Services	6	3	5
Medical Professional	4	4	1
Adoption Agencies	0	0	0
Printers	1	4	1
Regulated Services (Trade & VO Caption)	6	4	5
Protection Devices	0	1	0
Fire/Burglar Alarms	2	1	1
Heat/Smoke Detectors	0	0	0
Locks (Windows, Doors, Etc.)	2	2	2

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SUBJECT	FY 05-06	FY 06-07	FY 07-08
Fire Extinguisher	0	0	0
Recreation/Toys/Game/Etc.	18	5	6
Arts & Crafts	4	2	1
Boats & Airplanes	5	6	12
Toys	2	3	0
Surfboards	0	2	1
Video Games	4	3	1
Camping Equipment	0	0	0
Sporting Goods	7	6	0
Recreational Rentals	3	4	5
Transportation	4	3	4
Cabs	1	2	1
Moving Companies/Storage	2	3	2
Pedi-Cabs	0	0	0
Tour Buses and Limos	1	1	1
Automobiles	34	18	19
Car/Truck Rental	15	32	37
Car/Truck Lease	1	0	1
Moped Rentals	0	5	2
Other Transportation Rentals	1	0	1
Towing	14	24	28
Parking	9	7	5
Body/Paint Shops	10	5	9
Auto Parts/Repair	28	17	16
Rust proofing/Undercoating	1	0	0
Glass Tinting	2	2	1
Vehicle (Incl Mopeds) New & Used Sales	9	4	4
Warranties	11	6	32
Travel/Vacations	10	11	7
Air Travel Services (Airlines, Etc.)	11	18	35
Ocean Travel Services (Cruises & Ships)	7	10	6
Discounted Tickets - Travel/Entertainment	0	2	1
Hotels & Motels	13	15	16

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Office of Consumer Protection (OCP)

SUBJECT	FY 05-06	FY 06-07	FY 07-08
Bed & Breakfast	3	4	5
Tour Services	9	5	7
Travel Clubs	0	0	0
Passports & Visas	0	1	0
Utilities	0	1	3
Gas Provider	1	3	2
Electric	0	4	2
Telephone/Cellular/Pagers	70	124	70
Water	1	1	2
Cable	10	5	4
Telecommunications/Electronic Devices	7	7	8
Dating Services	2	6	2
Investment/Financial	20	15	11
Chain Letter	0	0	0
Consumer Credit	5	7	5
Credit Card	50	49	34
Checking Accounts	3	5	1
Debit Accounts	1	1	1
Promissory Notes	1	0	2
Buying on Account	1	0	0
Information to Obtain Credit/Credit Cards	1	0	0
Discount Coupons/Books	3	6	2
Financial Institutions	11	8	1
Credit Reporting Agency	2	1	1
Credit Repair	1	2	2
Collection of Debts	6	9	5
Advance Fee Loans	1	4	0
Bank/Savings & Loan/Industrial Loan Companies	4	4	2
Escrow Services	0	1	0
Loan/Mortgages	20	12	52
Investment/Opportunity Scheme	5	6	7
MLM/Pyramids/Endless Chain Schemes	0	1	4
Referral Sales	0	0	0

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Office of Consumer Protection (OCP)

SUBJECT	FY 05-06	FY 06-07	FY 07-08
Get Rich Programs	2	0	3
Work-at-Home Programs	3	3	1
Coins/Currency	4	5	5
Stocks & Bonds	8	0	3
Oil/Gas Lottery	1	0	0
Art	2	3	2
Securities	0	0	2
Tax Planning/Devices	0	0	0
Contract Sellers	0	1	0
Pawn Shops	2	1	3
Auctioneers	3	1	1
Second Hand Dealers	0	0	0
Real Estate	9	7	11
Sweepstakes/Lottery/Games of Chance	27	68	31
Contests	0	1	1
Gambling	0	0	0
Education/Information	7	4	2
Schools (Elementary, High)	7	2	0
Degree Granting Schools	2	6	54
Unaccredited Degree Schools	252	88	9
Trade/Vocational Schools	3	2	3
Home Study	0	0	0
Correspondence Schools	0	0	0
Dance Schools	0	0	0
Modeling Schools	4	2	6
Day Care Centers	1	1	0
Employment	1	2	9
Resume Preparation	0	0	0
Modeling Agency	3	3	1
Regular Periodic Information Service	0	0	1
Magazine	9	13	9
Subscription Services	7	18	13
Newspaper	1	4	1

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Office of Consumer Protection (OCP)

SUBJECT	FY 05-06	FY 06-07	FY 07-08
TV Broadcasting	1	2	0
Radio Broadcasting	1	1	0
Computer Information Services	15	10	10
Internet Transactions	344	427	173
Internet Fraud Complaint Center	339	432	143
Books/Encyclopedia	3	4	2
Self-Improvement Seminars	0	1	1
Encounter Group Therapy	0	0	0
Charitable Solicitations	4	7	3
Environmental Claims	3	1	0
Religious	0	0	1
Emergency: Prize/Freeze/Gouging/Rent Termination	0	1	0
Rent to Own	1	0	1
Elderly Issues	12	10	34
Civil Procedures/Statutory Constructions	0	0	0
Multistate Projects	9	6	16
Spamming	0	3	0
MS – Newspaper Advertisement	7	5	6
MS – Other Regular Printed Media Ad (Magazine, Etc.)	13	10	9
MS – Television/Cable	2	3	0
MS – Info Commercial	3	3	3
MS – Telemarketing	11	15	8
MS - 1-900 Numbers	0	0	0
MS – Direct Mail	11	4	3
MS – Information Brochure	0	0	0
MS – Response Card/Letter	0	1	0
MS – Home Presentation (Door-to-Door)	2	2	0
MS – Radio	0	0	0
MS – Product Show	0	0	0
MS – Information/"How To" Seminar	5	2	0
MS – Mail Order	22	15	10
TOTAL COUNT	2,275	2,380	1,856

Table 6: OCP Neighbor Island Assistance FY 2008

DIVISION	HILO	MAUI	TOTAL
Division of Financial Institutions	2	3	5
Business Registration	29	25	54
Cable Television	0	3	3
Insurance Division	15	3	18
Division of Consumer Advocacy	0	0	0
Professional & Vocational Licensing	24	22	46
Regulated Industries Complaints Office	122	117	239
Non-Departmental Related	173	138	311
Other DCCA Divisions	7	11	18
TOTAL	372	322	694

PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

website: www.hawaii.gov/dcca/areas/pvl

e-mail address: pvl@dcca.hawaii.gov

OVERVIEW

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations for 46 different professions and vocations. Twenty-five (25) licensing regulatory boards and commissions are administratively attached to DCCA/PVL, as well as twenty-one (21) licensing programs (those without a board or commission). The division provides staff support to the licensing regulatory boards, handles applications, licenses, reviews and processes renewals, and maintains license records. The division provides guidance for proper implementation of the licensing laws and administrative rules for the 46 licensing areas. Additionally, PVL responds to phone inquiries on whether a person or entity is properly licensed, a service that can assist consumers in making a decision on whether or not to utilize the services of the person or entity.

PVL's projects to promote accessibility for licensing information on the Internet are very user friendly. PVL continues to explore ways to enhance public accessibility to licensing information, the licensing process, and the licensee roster. PVL's web page, a site that provides general licensing information for all 46 licensing areas, features downloadable license applications, publications, links to Hawaii Revised Statutes and Hawaii Administrative Rules, as well as a means to request an application or contact the board or program staff via e-mail. The website address is <http://www.hawaii.gov/dcca/areas/pvl>. The website also includes a Geographical Report of current licensees by licensee type, by island, and by type of entity. It is updated regularly to reflect the number of current licensees who have been issued licenses by PVL. It is a useful tool for those who are interested in the breakdown of licensees by their professions and their geographic locations.

Public accessibility to licensee information is enhanced by the PVL's License Search and List Builder sites, both of which are fully interactive sites. The License Search site enables the public to obtain basic information about businesses and individuals that hold professional and vocational licenses issued by PVL including license ID number, whether the license is active or inactive, current status, original date of licensure, expiration date of licensure, current and former persons/businesses/tradenames, and any formal disciplinary action information against the licensee. The List Builder site enables the public to access and order a licensee roster online. The roster may be ordered by license name, license number, and other identifying public information. Updates to the online information to both sites occur within 30 minutes of the update to the PVL licensing database. Feedback received on these sites indicates that the sites benefit a wide range of users, including consumers, licensees, employers, and government agencies, both in Hawaii and out-of-state. Links to other DCCA sites provide easy access to additional useful consumer information, such as a licensee's complaints history. The website address for PVL's Online Services is http://www.hawaii.gov/dcca/areas/pvl/e_services.

This is the eighth year that online renewals are being made available to licensees. This entirely paperless process enables licensees to complete, file, and pay for their license renewal electronically. A fair share of renewals were still mailed in by licensees and manually processed by PVL, but a majority of the renewals were done online. Online renewals are available at http://www.hawaii.gov/dcca/areas/pvl/e_services.

Finally, with regard to fiscal matters, PVL's goal is to maintain the division as a special-funded and entirely self-sufficient program. Through careful budgeting of PVL revenues and expenditures, PVL endeavors to maintain self-sufficiency, while expanding and improving services to the public. Internally, PVL continues to evaluate and reengineer its processes for efficiency and streamlining, and to develop alternative means of delivery of licensing information to the public.

PVL is located at 335 Merchant Street, on the third floor of the King Kalakaua Building, Honolulu, Hawaii 96813.

Composition

PVL is divided into four branches: **Licensing Branch (Phone 586-3000)** is comprised of the Applications Section and the Records Section. The Applications Section reviews, processes, and issues all applications for licensure and maintains records of licensing applications. The Applications Section staff conducts highly intensive reviews of all initial licensing applications, determines the status of such applications, and makes the final determination to either issue or deny licenses. The Records Section is responsible for renewing licenses and maintaining records of all licensees. The Records Section staff is also involved with performing customer service duties by assisting the public with licensing information at the walk-in counter and over the telephone. Further, the Licensing Branch accesses the computerized licensing database to provide immediate information. Inquirers may obtain information on whether a person or entity is licensed, the original date of licensure, the current status of licensure, the expiration date of the license, Hawaii disciplinary sanctions imposed on the licensee, and, if applicable, whether mandatory insurance (e.g., workers compensation, liability insurance) is current and in effect.

Examination Branch (Phone 586-2711) arranges for the administration of all the licensing examinations, confirms the validity and reliability of exams, revises board constructed examinations to ensure their continued validity and reliability, and advises boards, when necessary, on the technical aspects of examinations.

Administration Branch serves as the liaison between the director of the department and the 25 boards, commissions, and 21 regulatory programs administratively attached to DCCA. On a daily basis, the Administration Branch handles board affairs such as the coordinating, preparing, facilitating, and recording of board meetings; ensuring board compliance with applicable laws that guide and direct their conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The Administration Branch also responds to requests for interpretation of the licensing laws and rules; oversees licensing and examination activity; and guides and assists with regulatory compliance issues. The same activities are done for the 21 programs (absent the necessity of board meetings) on behalf of the director of the department. There are also substantial coordination and facilitation activities performed by the Administration Branch with other state, county, and federal agencies involved with licensing and regulatory issues.

Real Estate Branch (Phone 586-2643) serves as the liaison between the director of the department and the Real Estate Commission, and performs the same functions as the Administration Branch for real estate licensing and regulation and condominium property regimes. With the largest volume of applicants, licensees, and registrations, the Branch administers the Real Estate Recovery Fund, Real Estate Education Trust Fund, and the Condominium Education Trust Fund. The Branch also administers education and research programs in the field of real estate and condominiums. Information on the programs, financial

reports, and the Commission's annual report may be reviewed at the Branch's website: <http://www.hawaii.gov/dcca/areas/real>.

In summary, all Branches within PVL work toward efficient and expedient processing of applications, licenses, and renewals to ensure the public has choices amongst competent and licensed practitioners. For a statistical summary of PVL key activities, see Table 1: PVL Statistical Overview; Table 2: Total number of Current PVL Licensees; Table 3: Total number and (Percentages) of License Renewals Online; Table 4: Total Number of Email Inquiries.

GOALS, OBJECTIVES, ACCOMPLISHMENTS, and PERFORMANCE MEASURES

Goals and Objectives

The division remains committed to providing the best possible customer service that PVL can provide to the public.

Our list of goals includes further enhancements to our website and the online renewal system and its use; through an online system, enable licensees to provide change in contact information; design and implement a 24/7 online system to allow surety companies to submit insurance updates for contractor and pest control licenses; improve the PVL List Builder online service; improve the PVL License Search online service; and increase the number of online renewals.

Examination Branch's goal is to continue to provide accurate and efficient assistance in all aspects regarding the licensure examinations. Licensing Branch's goal is to increase the percentage for the timely processing of new licenses.

One of PVL's objectives is to improve the Real Estate Branch's (REB) offering and delivery of preclicensing and continuing education courses. On the condominium side, to enhance on-line public access to condominium projects and AOA registrations, and for the newly enacted condominium law, the development and implementation of a new registration program for condominium projects and a comprehensive education program for the condominium community and developers. For a comprehensive report on the tasks associated with the goals and objectives of the Real Estate Branch and the Real Estate Commission (REC), please refer to <http://www.hawaii.gov/dcca/areas/real/main/reports> to view their Annual Report for fiscal year ending June 30, 2008.

Other PVL goals: successful legislative session by ensuring that we carefully monitor bills that significantly impact PVL; and amending Chapter 53, Hawaii Administrative Rules (Fees), to provide for reasonable fee structures for the inactivation and reactivation of PVL licenses.

One of PVL's major undertakings is the scanning and imaging project of licensee files. There were approximately 246,000 files stored in the basement of our building. Licensing documentation retention periods, as mandated by law, have caused on-site storage areas to approach full capacity, thus, necessitating alternative means of storing and retrieving documents. We are estimating that approximately 193,000 files will be scanned.

Accomplishments and Performance Measures

This year, additional enhancements were made to the existing PVL website and online renewal system as follows:

With the new online renewals for Optometrists in December 2007, the first time user rate was a responsive 78.9%. When renewing their licenses online, Optometrists could also submit notification of changes in their business addresses;

With the online renewals for Barber Shops, Beauty Shops, and Pharmacies in December 2007, and for Massage Establishments in June 2008, licensees who are required to have a principal employee were able to view a list of their principals on record. They were also informed that their license renewals are dependent upon the renewals of their principals;

With the online renewals for Physicians in December 2007, PVL assisted the University of Hawaii's School of Medicine by incorporating an automatic link at the end of the online renewal process, which opened up to the School's website and a workforce survey to assist with the School's data gathering requirements; and

PVL continued its Customer Appreciation Credit (CAC) by offering licensees a 25% CAC discount for the FY 08 online renewals. The CAC savings to licensees jumped significantly in FY 08, as this was the first year of a two year program where we offered a 25% CAC discount for online renewals. At the end of FY 08, total savings to licensees was \$689,983. At the end of FY 07, total savings to licensees was \$109,024 (with a 10% CAC discount) and at the end of FY 06, total savings to licensees was \$188,140 (also with a 10% CAC discount). The CAC discount was designed to serve as an appreciation to PVL licensees who used the online system and as an incentive for more licensees to adopt the online renewal process. The performance of this project will continue to be measured by the ability to afford the CAC discount to all licensees and by seeing an increase in our online renewal user rate.

PVL continued to explore the possibility of developing an online system for all professions and vocations to allow individuals to change their contact information online. In 2008, PVL was successful in implementing an online system so that Optometrists could make address changes with their online renewals. PVL had incorporated address changes into the online renewal process which has made things easier for licensees. There are, however, licensing areas which still cannot renew online, therefore, a separate online system for address changes could still be warranted. PVL will continue to examine this issue.

With regard to the 24/7 online system that will allow surety companies the ability to submit insurance updates on contractor and pest control licensees, we are still designing the system to ensure it processes and tracks all necessary steps. The difficulty is not only in the complexity with the requirements but in designing a system that sureties will use. We are targeting the end of FY 09 as the completion date for the design phase.

PVL continued to improve the PVL List Builder online service. The usage of PVL's List Builder online service continued during the past year with 222 lists built at the request of users, as compared to 303 lists built in FY 07. This decrease in lists built was probably due to the fact that the list builder did not

provide addresses for the majority of the licensees, since this is not public information. Most users that sought to purchase the list builder lists were interested in addresses so that they could do mailouts. This being the case, the requestors decided not to obtain such lists. Nevertheless, enhancements to the List Builder Service is an on-going activity. The performance of this project will be measured by user feedback and hopefully continual growth of lists built in upcoming years.

Enhancements were also done to the PVL License Search online service. We added the ability to search for current and former "other business/person names"; added the ability to search for current and former "other dba and tradenames"; added the ability to view all current and former business/person names, dbas and tradenames associated with the license on a single screen including the effective date and term date for the name; and made available for the first time "Conditional License" information as part of the license search feature for a licensee. There were 20,486,470 "hits" to the PVL License Search online service during FY 08 as compared to 7,453,898 during FY 07.

In pursuing the division's objective of improving and expanding customer online services, PVL saw the number of online renewals increase for businesses and professionals. The December 2007 online renewal user rate was 73.87%, while the prior corresponding December 2005 biennial online user rate was 58.09%, resulting in a 15.77% increase of those who renewed online. The April 2008 online renewal user rate was 96.21%, while the corresponding April 2006 online renewal user rate was 94.35%, resulting in a 1.86% increase of those who renewed online. Also, the June 2008 online renewal user rate was 80.56%, while the prior corresponding June 2006 online biennial renewal user rate was 57.83%, resulting in a 22.73% increase for those who renewed online. Overall, FY 08 online renewal user rate was 79.27%, while the corresponding biennial FY 06 renewal user rate was 64.10%, resulting in a 15.16% increase in the user rate.

The Examination Branch worked with various testing agencies as well as internal staff to ensure the compliance of protecting the security of the applicant's personal information (e.g., social security number). While working with the applicants, the test agencies, and other staff members within the PVL, the Examination Branch helped to ensure that the examination phase of the licensure process was completed in as smooth and proficient a manner as possible. For example, the examination results were processed in a timely manner which supported applicants in obtaining licensure. In addition, the Examination Branch provided valuable information to the schools to assist them in their assessment of their educational programs.

PVL showed a slight decrease in the percentage for the timely processing of new licenses in the Licensing Branch. The percentage of new licenses issued in an appropriate and timely manner in FY 08 was 92%, down 3% from processing time in FY 07. Unfortunately, staff vacancies attributed to the decrease in percentage of the timely processing. We are, however, actively seeking to fill all of the vacancies to improve the processing time. On the other hand, our processing time for licenses renewed was 98%, a 7.9% increase from the previous fiscal year. Online renewals have contributed to such a high success rate in the timely processing of renewals.

In line with PVL's objectives of improving and expanding the division's online services, the REB implemented an online continuing education (CE) system which provided real estate licensees with the ability to view the number of CE hours required and earned for the current licensing period, their CE history, and the ability to search for future CE courses being offered by approved CE providers. Real estate

licensees could also access and reprint their own course completion certificates for the current and previous bienniums, whereas in the past this was done by the CE providers. Additionally, real estate principal brokers and brokers-in-charge could monitor and view the current CE hours, CE history, and license status of all licensees associated with the brokerage. The system is updated daily and is simple to use.

The REC still continues to administer the Consumer-Broker Relationships Ad Hoc Committee (CBRAHC) to review and study Hawaii's current laws and rules on this topic. In addition, the REC is beginning to review and study the potential impact on mandatory criminal history and background checks on future and current licensees. Further, the REC continues to enhance its website to provide real estate related consumer resources.

Legislative Initiatives

July 1, 2008 was the start date for the new regulation of uniform athlete agents. Act 284, SLH 2007, now codified as Chapter 481E, HRS, requires athlete agents to register with the DCCA. The law protects student-athletes and educational institutions from potentially unscrupulous practices of athlete agents.

PVL had a successful 2008 Legislative Session. The Legislature overwhelmingly supported changes proposed by the PVL Administration. The three proposals were relating to osteopathic physicians, foreign acupuncture programs, and mixed martial arts.

Act 5, SLH 2008, relating to osteopathy, amended Chapter 453, HRS, to bring consistency to the laws governing osteopathic and medical doctors by including osteopathic doctors in the regulation of medical doctors under Chapter 453, HRS. The Hawaii Medical Board used to regulate medical doctors through Chapter 453, HRS, and osteopathic doctors through Chapter 460, HRS. Because both professions share similarities in education, training, and licensure requirements, and are considered equivalents in many respects, combining the regulation of both professions into a single statutory chapter promotes the endeavor of the Board. Act 5 took effect on April 23, 2008, and the section on continuing medical education requirements for osteopathic physicians shall take effect with the June 2010 license renewal period.

Act 21, SLH 2008, relating to graduates of foreign acupuncture programs, amended section 436E-5, HRS, to require applicants for acupuncture licensure who graduated from foreign institutes to have their educational information evaluated by a professional crediting evaluator as a prerequisite for taking an examination and getting a license in Hawaii. Act 21 took effect on April 18, 2008.

Act 238, SLH 2008, relating to mixed martial arts, amends section 440E-7, HRS, to implement properly and effectively the regulation, licensing, and oversight of mixed martial arts contests by amending the fee structure to fund the regulation of mixed martial arts. Act 238 shall take effect on July 1, 2009.

Other proposals that became law which impact PVL were relating to the board of medical examiners, nurses, condominiums, dentistry, dispensing opticians, time share plans, mental health counselors, and remote dispensing pharmacies.

Act 9, SLH 2008, relating to health, amended section 453-5, HRS, where the name of the Board of Medical Examiners had been changed to the Hawaii Medical Board. This change will bring the Board's

name in line with similar state boards of medicine across the nation. Act 9 took effect on April 11, 2008.

Act 23, SLH 2008, relating to nursing, amended section 457-7, HRS, where a master's degree candidate in a nursing program, who has completed the pre-licensure component of the program at an accredited and Board of Nursing - qualified school of nursing, can apply for a license by examination to practice as a registered nurse. Act 23 took effect on April 22, 2008.

Act 28, SLH 2008, relating to condominiums, amended various sections of the Hawaii Revised Statutes to reflect the existence of the two chapters on condominiums, Chapter 514A and Chapter 514B, where various technical amendments were made to the Hawaii Revised Statutes for the purpose of correcting errors and references, and clarifying language. Act 28, upon its approval on April 22, 2008, took effect retroactive to July 1, 2006, provided that: (1) Section 3(2) was repealed on June 30, 2008; (2) Sections 3(3) and (23) took effect on July 1, 2008; and (3) The amendments to section 237-24.3, HRS, by section 26 of the Act shall not be repealed when that section is reenacted on December 31, 2009, by section 4 of Act 239, SLH 2007.

Act 44, SLH 2008, relating to dentistry, added a new section to Chapter 448, HRS, where it ensures that licensed dentists act in the best interest of their patients by prohibiting the interference of the practice of dentistry by an unlicensed person. Act 44 took effect on April 29, 2008.

Act 63, SLH 2008, relating to dispensing opticians, amended section 458-1, HRS, where it provides further protections to consumers by clarifying the Regulated Industries Complaints Office's ability to investigate and prosecute cases involving the sale of non-corrective contact lenses. Act 63 took effect on May 7, 2008.

Act 181, SLH 2008, relating to time share plans, added a new section to Chapter 514E, HRS, where it allows limited permits for offers or sales relating to certain time share plans. Act 181 took effect on June 16, 2008.

Act 206, SLH 2008, relating to professions, repealed the sunset provision for the mental health counselor licensing program under Chapter 453D, HRS, where it allows for the continuation of the mental health counselor licensing program established under Act 209, SLH 2004. Act 206 took effect on June 27, 2008.

Act 212, SLH 2008, relating to remote dispensing, added a new section to Chapter 461, HRS, where it permits the operation of remote dispensing pharmacies to improve access to medications and pharmacy services by authorizing the operation of remote dispensing pharmacies to dispense prescription medications. Act 212 took effect on July 3, 2008, and shall be repealed on January 1, 2013.

Amending Chapter 53 (Fees), Hawaii Administrative Rules

Amendments to Chapter 53 were done in FY 08 and the rules were subsequently adopted on July 21, 2008. With the rule change, application of the new fee structure for seven licensing areas which already provided for inactive status had decreased the inactive fees due to the new fee structure. The rule change also allowed for an additional 18 licensing areas to offer the inactive status.

Scanning of PVL Licensee Files Project

In May 2008, PVL implemented scanning and imaging services to convert its existing licensing document files into electronic format. The conversion of the documents into electronic format protects and preserves historical documentation from damage or destruction. The conversion also allows staff to retrieve and review documents in a more expeditious manner at their desktops, thus allowing for more effective and productive service to the general public. The term of the contract for this project is one year, with the option to extend for not more than five additional one-year periods. The initial one-year period is for scanning/imaging existing documents and subsequent one-year periods is for scanning/imaging documents accumulated within the period.

Financial Overview

The CRF financial summary relating to PVL for FY 07-08 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,531, 921	\$994, 028	\$4,525,949	\$5,024,023

CONCLUSION

PVL continues to forge ahead with its initiatives to improve accessibility to licensing services and information, and to deregulate and streamline the licensing process without compromising consumer protection. PVL is committed to working with licensees and the public to achieve the optimum balance between thoughtful and fair regulation, and consumer protection. PVL is mindful of the strain on Hawaii’s businesses and seeks to integrate licensing measures and procedures that will facilitate business. Ultimately, PVL’s objective is to achieve and facilitate a fair marketplace for the State of Hawaii.

The PVL staff and the regulatory licensing boards of PVL continued to maintain high performance standards, upheld consumer protection, worked well as a team, and were responsive to increased demands.

Table 1: PVL Statistical Overview

	FY 06-07	FY 07-08
No. of applications received	17, 042	14,503
No. of applicants licensed	13,158	13,083
No. of licenses renewed	58,424	56,128
No. of changes processed	227,796	203,463
No. of calls received by Licensing Branch	111,043	76,255
No. of current licensees	130,954	126,222
Total licensee population (all statuses - i.e. Current, forfeited, delinquent)	303,237	315,630

Table 2: Total Number of Current PVL Licensees

Boards and Commissions (shown by asterisk *), and Programs	FY 06-07	FY 07-08
Accountants*	2,622	2,582
Activity Desks	737	704
Acupuncturists*	621	610
Barbering and Cosmetology*		

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Barbers	1,260	1,234
Barber Shops	214	184
Beauty Operator*	7,539	7,455
Beauty Instructor	91	83
Beauty School	10	13
Beauty Shops	1,268	1,173
Boxing (all categories)*	19	28
Cemeteries and Pre-Need Funeral Authorities	25	27
Chiropractors*	622	593
Collection Agencies	489	580
Contractors*	11,198	12,222
Dentists*	1,494	1,457
Dental Hygienists	855	851
Dispensing Opticians	167	179
Electricians (all categories)*	2,584	2,774
Plumbers (all categories)*	1,001	1,082
Electrologists	15	18
Elevator Mechanics*	206	217
Employment Agencies	104	112
Engineers, Architects, Surveyors, and Landscape Architects:*		
Engineers	5,110	5,146
Architects	2,230	2,070
Surveyors	189	200
Landscape Architects	143	148
Hearing Aid Dealers & Fitters	105	99
Marriage and Family Therapists	160	160
Massage Therapists*	6,691	7,324
Massage Establishments	689	808
Medical and Osteopathy*		
Physicians	7,789	7,737
Podiatrists	82	72
Osteopaths	538	609
Physician Assistants	148	145
Emergency Medical Technicians	516	534
Mobile Intensive Care Technicians	359	401
Mental Health Counselors	171	184
Mortgage Brokers	616	684
Mortgage Broker Branch Offices	131	116
Mortgage Solicitors	5,161	6,030
Motor Vehicle Dealers*	280	304
Motor Vehicle Salespersons	1,956	1,842
Motor Vehicle Repair Dealers*	986	859
Motor Vehicle Mechanics	2,228	1,961
Naturopaths*	89	91
Nursing*		
Registered Nurses (RN)	18,830	18,149
Licensed Practical Nurses (LPN)	3,002	2,682
Advanced Practice Registered Nurse (APRN)	852	867
APRN with Prescriptive Authority	163	168
Nurse Aides	8,083	7,605
Nursing Home Administrators	123	130
Occupational Therapists	462	573
Optometrists*	362	354
Pest Control Operators*	181	199
Pest Control Field Representatives	211	234
Pharmacists*	1,807	1,827
Pharmacies	245	239
Wholesale Prescription Drug Distributors	61	59

Miscellaneous Permit	291	266
Physical Therapists*	1,059	1,235
Port Pilots	8	10
Deputy Port Pilots	2	0
Private Detective Agencies*	38	43
Private Detectives	114	116
Guard Agencies	71	78
Guards	92	97
Psychologists*	747	799
Real Estate Appraisers	504	544
Real Estate Brokers*	6,065	6,429
Real Estate Salespersons	13,750	15,326
Real Estate Branch Offices	111	113
Condominium Hotel Operators	19	24
Social Workers	1,677	1,450
Speech Pathologists*	497	472
Audiologists	65	63
Travel Agencies	1,456	1,277
Veterinarians*	383	418
TOTAL	130,866	133,548

Table 3: Total Number and (Percentage) of Licenses Renewed Online

License Types	FY 04-05	FY 05-06	FY 06-07	FY 07-08
Accountant		1,755 (75.1%)		2,029 (84.8%)
Activity Desk		60 (26.3%)		129 (69.5%)
Acupuncturist	202 (40.97%)		309 (58.97%)	
Architect		1,778 (93.73%)		1,888 (95.98%)
Audiologist		23 (46%)		50 (83.3%)
Barber		341 (32.1%)		627 (55.5%)
Barber Shop		45 (25.1%)		87 (52.1%)
Beauty Operator		2,697 (46%)		4,198 (64.2%)
Beauty Instructor		42 (60.9%)		62 (91.2%)
Beauty Shop		401 (40.8%)		599 (63.3%)
Chiropractor		279 (54.6%)		407 (75.9%)
Contractor			3,003 (34.55%)	
Dental Hygienist		507 (70.2%)		635 (81.5%)
Dentist		828 (62.5%)		1,090 (79%)
Dispensing Optician		86 (60.14%)		133 (83.65%)
Electrologist	4 (23.53%)		6 (54.55%)	
Elevator Mechanic		70 (38.67%)		128 (72.32%)
Emergency Medical Technician (basic)		356 (86.2%)		414 (90.2%)
Emergency Medical Technician (paramedic)		271 (79.2%)		319 (83.7%)
Hearing Aid Dealer and Fitter		29 (37.7%)		70 (84.3%)
Landscape Architect		122 (92.42%)		135 (94.41%)
Land Surveyor		170 (94.97%)		180 (96.77%)
Marriage and Family Therapist	38 (40%)			120 (83.9%)
Massage Establishment		323 (59.48%)		442 (77%)
Massage Therapist		3,581 (65.86%)		4,943 (80.24%)
Mental Health Counselor				133 (88.67%)
Mortgage Branch Office			35 (39.33%)	
Mortgage Broker	142 (44.24%)		284 (60.17%)	
Mortgage Solicitor	861 (49.63%)		1,853 (67.88%)	
Motor Vehicle Auction				2 (66.67%)
Motor Vehicle Broker				1 (100%)
Motor Vehicle Branch				30 (85.71%)
Motor Vehicle Consumer Consultant		1 (20%)		5 (71.43%)

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Motor Vehicle Dealer				150 (73.89%)
Motor Vehicle Salesperson		590 (44.56%)		1,049 (81.57%)
Naturopath		62 (83.8%)		71 (85.5%)
Nurse, Advanced Practice Registered (APRN)	354 (57.1%)		455 (63.02%)	
Nurse, Licensed Practical (LPN)	1,250 (55.04%)		1,330 (60.37%)	
Nurse, Registered (RN)	8,420 (62.26%)		10,440 (70.28%)	
Nursing Home Administrator		53 (45.69%)		94 (78.33%)
Occupational Therapist	135 (41.8%)		204 (54.69%)	
Osteopath		307 (73.44%)		418 (83.1%)
Pest Control Field Representative		106 (72.6%)		123 (86.62%)
Pest Control Operator (inactive status only)		1 (12.5%)		6 (75%)
Pharmacist		1,296 (79.7%)		1,540 (88.8%)
Pharmacy		109 (50.9%)		166 (73.1%)
Pharmacy – Misc. Permit		57 (30.2%)		149 (63.4%)
Pharmacy – Wholesale Prescription Drug Dist.		21 (40.4%)		34 (72.3%)
Physical Therapist	378 (43%)		569 (59.02%)	
Physician		4,130 (64%)		5,191 (76.6%)
Plumber		239 (26.41%)		
Podiatrist		33 (46.5%)		41 (63.1%)
Professional Engineer		4,276 (94.64%)		4,751 (96.33%)
Psychologist		312 (46.49%)		608 (82.14%)
Real Estate Branch Office			85 (80.95%)	
Real Estate Broker	1,982 (39.34%)		4,626 (81.47%)	
Real Estate Salesperson	4,441 (44.08%)		10,695 (86.49%)	
Social Worker			658 (52.68%)	
Speech Pathologist		137 (38.1%)		340 (79.8%)
Veterinarian		228 (68.06%)		312 (82.32%)
TOTAL	18,207 (52.07%)	25,722 (64.1%)	34,552 (67.71%)	34,160 (79.27%)

Table 4: Total Number of Email Inquiries

Boards and Programs	FY 06-07	FY 07-08
Accountancy	566	518
Activity Desk	22	39
Acupuncture	159	152
Barbering and Cosmetology	449	442
Boxing	0	0
Cemetery and Pre-Need Funeral Authority	13	45
Chiropractor	169	161
Collection Agency	181	385
Contractor	939	972
Dentist and Dental Hygienist	281	259
Dispensing Optician	9	11
Electrician and Plumber	146	150
Electrologist	4	4
Elevator Mechanic	8	2
Employment Agency	12	9
Engineer, Architect, Surveyor, and Landscape Architect	667	637
Exam Branch	28	34
Hearing Aid Dealer and Fitter	23	22
Marriage and Family Therapist	150	196
Massage Therapy	686	831
Medical and Osteopathy	1,134	1,008
Mental Health Counselor	158	239

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Mortgage Broker and Solicitor	445	825
Motor Vehicle Industry	126	148
Motor Vehicle Repair	100	73
Naturopathy	56	114
Nurse Aide	77	47
Nursing	1,853	1,547
Nursing Home Administrator	25	9
Occupational Therapist	218	92
Optometry	212	453
Pest Control	20	19
Pharmacy and Pharmacist	798	1,070
Physical Therapy	637	548
Private Detective and Guard	88	55
Psychology	293	289
Professional Vocational Licensing (PVL)	446	342
Real Estate	7,784	9,016
Real Estate Appraiser	544	622
Social Worker	263	222
Speech Pathology and Audiology	64	93
Time Share	418	473
Travel Agency	82	117
Veterinary	85	68
TOTAL	20,428	22,358

REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

website: www.hawaii.gov/dcca/rico

e-mail address: rico@dcca.hawaii.gov

OVERVIEW

The Regulated Industries Complaints Office (RICO) assists the public through education, complaints processing, and the enforcement of licensing laws.

As the enforcement arm of the Department's professional and vocational boards, commissions and programs, RICO handles complaints, investigations and prosecutions of forty-six (46) different professions and vocations. In addition, the office administers the state's State Certified Arbitration Program, commonly referred to as "lemon law" by providing an arbitration forum for consumers with warranty-related disputes with motor vehicle manufacturers.

RICO's main office is located on Oahu at the Leiopapa A Kamehameha Building (State Office Tower), 235 South Beretania Street (8th and 9th Floors), Honolulu, Hawaii 96813. The division operates four neighbor island offices at Hilo, Kona, Wailuku and Lihue.

RICO's functions can be divided into two main categories: (1) education, information, complaint intake and alternative dispute resolution functions are performed by the division's Consumer Resource Center, and (2) investigation and prosecution functions for the licensing boards, commissions and programs within the Professional and Vocational Licensing Division which are performed by the division's field investigation and legal branches.¹⁰ RICO staff consists of intake investigators, field investigators, attorneys and support staff. Approximately one-fifth of RICO's full-time positions are located in the four neighbor island offices. The primary functions of the RICO branches are generally described as follows:

Consumer Resource Center (Education, Information, and Intake)

The Consumer Resource Center ("CRC") handles all intake functions for RICO and the Office of Consumer Protection ("OCP"). With the easy to remember 587-3222 telephone number, CRC provides an efficient means for the public to make complaint-related inquiries and submit formal complaints. Information and assistance to the public is available through telephone, facsimile and walk in contact, and through the RICO website at www.hawaii.gov/dcca/rico. CRC investigators spend much of their time answering questions and educating the public about governmental services, RICO's and OCP's jurisdictional areas, and RICO's and OCP's complaint processes. CRC staff also conducts preliminary investigations and forwards only those cases appropriate for further investigations or prosecution to the other sections of RICO.

Consumer-initiated complaints comprise the majority of RICO's cases. Upon receipt of a complaint, CRC will determine whether an actionable violation is involved. If so, the complaint is handled through mediation, further investigation or prosecution, or other resolution.

Another important aspect of CRC's work is the service provided by CRC's Licensing & Business Information Section (LBIS). The LBIS is a consolidated service operated by RICO for the Office of

¹⁰ See, Section 26-9, and 26H-4, Hawaii Revised Statutes.

Consumer Protection, the Business Registration Division, the Professional and Vocational Licensing Division, and RICO. The service allows callers to use just one telephone number (587-3222) to find out (1) basic business registration information; (2) whether a business holds a professional license; and (3) complaints history on file with RICO and OCP. Through LBIS' service, callers are able to gather important information about a particular licensee or business without having to call multiple state offices.

Public access to complaints information has been significantly enhanced with the availability of the interactive Business and Licensee Complaints History search site at <http://businesscheck.hawaii.gov>. Consumers and businesses now have 24-hour access to current information about an individual's or business' complaints history. The site provides information about complaints that were filed as well as administrative or civil legal actions that were taken. The site is widely used by consumers, businesses, licensees, and credentialing organizations in Hawaii as well as in other states, and is designed to provide the inquirer with a printable complaints history report.

See Table 1 for more specific information about the Consumer Resource Center.

Field Investigation Branch

The Investigation Branch, consisting of field investigators and clerical support staff, contains the largest concentration of RICO personnel statewide. With enforcement responsibility over the licensing laws of 46 different boards, commissions and programs, investigators evaluate a wide range of licensing violations within a diverse population of licensees. See Table 2 for an overview of the number of cases by board, commission or program. In addition, both CRC and Field staff investigate many tips, anonymous reports and other complaints from consumers, businesses and other interested parties.

Field investigators are responsible for gathering evidence in RICO cases to determine whether licensing law violations have occurred. RICO's investigators also take an active part in resolving cases, and in issuing administrative citations where unlicensed activity is observed.

In many cases, field investigators will seek an independent evaluation of the case by appointed member of a board's advisory committee. Advisory committee members provide opinions about the particular practice being investigated and are helpful in determining industry standards. Once the field investigator has gathered the evidence in a particular case, the case may be referred to the Legal Section for evaluation and disposition.

In addition to handling RICO complaints, the neighbor island offices within RICO's investigative section serve as liaison for the Department of Commerce and Consumer Affairs. This responsibility requires the neighbor island staff members to know a little bit about everything concerning the department. As illustrated in Table 3, neighbor island RICO offices provide the most information in areas concerning the Professional and Vocational Licensing Division and the Business Registration Division. Neighbor island staff provides information, forms, educational brochures, technical assistance for hearings, and assistance in the facilitation of professional and vocational licensing examinations.

Legal Branch

The Legal Branch has the principal responsibility of taking disciplinary or civil action against violators of the statutes and rules within RICO's jurisdiction.

Upon receipt of a case, the Legal Branch will determine the appropriate course of action based upon the information contained in the investigative file. Formal action may be taken by either the filing of a Petition for Disciplinary Action with the Office of Administrative Hearings (for cases involving licensees), a hearing related to the issuance of a citation, or a Complaint for Injunctive and Other Relief in circuit court (for cases involving unlicensed activity).

State Certified Arbitration Program The State Certified Arbitration Program (SCAP), more commonly known as the lemon law program, provides an arbitration forum for a consumer to resolve a warranty-related dispute with a motor vehicle manufacturer without having to hire an attorney. SCAP handled 66 cases and helped consumers recover over \$490,000 during the year.

RICO's Legal Branch handles the administration of the State's lemon law program. Staff is actively involved in arbitrator training and in overseeing the actual arbitrations, and provides educational information to the public about the lemon law and the arbitration process. The SCAP administrator is also actively involved in representing Hawaii in the International Association of Lemon Law Administrators.

See Table 4 for more specific information about SCAP case outcomes.

GOALS, OBJECTIVES & POLICIES

RICO has three main operational goals: to uphold a fair and safe marketplace, to provide excellent customer service, and to optimize operational efficiency.

In upholding a fair and safe marketplace, RICO activities are directed toward addressing license violations and complaints and inquiries through appropriate referral, investigation, resolution and/or prosecution and toward making regulation more effective. The division is doing this proactively through sweeps, stings and compliance checks. The division gauges performance by, among other things, the number of enforcement actions it brings and the number it completes.

In providing excellent customer service, RICO activities are directed toward enabling members of the public to become knowledgeable participants in transactions with licensed professionals, fostering an awareness of the importance of licensure, and providing meaningful assistance and support to the public in a user-friendly manner. The division is doing this through participation in relevant consumer fairs and shows, especially on the neighbor islands, and through additional information available online. The division gauges performance by, among other things, the amount of consumer outreach conducted (educational, fairs, neighbor island assistance, speaking engagements and telephone assistance) and by the amount of Internet usage on its website.

In optimizing operational efficiency, RICO activities are directed toward promoting internal case handling systems and related tools and systems that aid in fair, timely and effective enforcement, and enabling (training) and assisting staff in fulfilling RICO objectives and policies. The division is doing this through increased training for staff, increased staffing, database enhancements, and streamlined report writing. The division evaluates performance by monitoring the amount of time a case is handled by each branch.

ACCOMPLISHMENTS

Legislation: RICO recommended a revision to the state's Dispensing Optician law to address concerns about the marketing and sale of noncorrective contact lenses. These lenses were frequently marketed during the Halloween season and were sold without professional oversight, resulting in the potential for harm to consumers. The changes in the law meant that noncorrective lenses are sold by licensed professionals only.

Increased Medical Enforcement. RICO continued to focus on bringing legal actions involving medical licensees (26), resulting in Hawaii moving from 33 to 21 in national rankings.

Consumer and Licensee Outreach: RICO continues to work with the building industry to provide contracting law information to consumers as part of a series of Building Industry Association presentations about remodeling issues and has participated in a number of home shows and industry group presentations. At the same time, in response to questions from the public, RICO prepared and placed online detailed tips on what information to provide when reporting unlicensed activity and has placed its Quarterly List of Unlicensed Activity Judgments online. In addition, RICO's website now includes a link to the Department's monthly press release of professional disciplinary orders.

Enforcement Action:

RICO Proceedings Filed FY08	
Petitions for Disciplinary Action	60
Prepetition Settlement Agreements	88
Citations (Unlicensed Activity)	121
Complaints (Unlicensed Activity)	68
Consent Judgments (Unlicensed Activity)	56
Assurance of Voluntary Compliance	20
Total	417

RICO Proceedings Outcomes FY08		
Board, Commission, and Program Orders (total)		167
Revocation Orders	28	
Suspension Orders	4	
Voluntary Surrender	8	
Probation	6	
Reprimand	1	
Circuit Court Judgments (Unlicensed Activity)		209
Director Final Order (Unlicensed Activity)		50
Assurance of Voluntary Compliance		26
Consent Judgments (Unlicensed Activity)		60
Fines Assessed	\$1,541,000	
Restitution Assessed	\$520,000	
Total Proceeding Outcomes		512

The CRF financial summary relating to RICO for FY 07-08 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,950,211	\$565,189	\$4,515,400	\$4,669,546

CONCLUSION

With responsibility for the enforcement of the licensing laws of over 46 boards, commissions and programs, RICO continues to receive a large number of inquiries, complaints and other requests for assistance. Rapid changes and increased complexity in the way many of the licensed professionals conduct business, as well as changes in state law have spawned new enforcement issues and new challenges for RICO. Through strategic initiatives, enhanced training, and a commitment to continual improvement, the division will continue its efforts to provide a fair and safe marketplace for the consumers, businesses and professionals it serves.

Table 1: RICO Consumer Resource Center

	2006	2007	2008
Telephone Requests for Complaints History	60,700	75,931	60,473*
Complaint Inquiries & Forms issued by CRC	16,287	14,363	11,926*
TOTAL	76,987	104,657	72,399

*Reflects continuing efforts to shift information requests to the RICO website.

Table 2: Complaints Filed With RICO (Sorted by Board, Commission or Program)

	2006F	2007FY	2008FY
Accountants	5	20	8
Activity Desks	10	83	23
Acupuncturists	3	2	3
Barbers & Cosmetologists	85	74	72
Boxing	6	0	0
Cemeteries and Pre-Need Funeral Authorities	5	4	1
Chiropractors	7	3	4
Collection Agencies	14	17	14
Contractors	457	387	366
Dentists and Dental Hygienists	14	14	21
Dispensing Opticians	2	0	0
Electricians & Plumbers	34	13	21
Electrologists	0	0	0
Elevator Mechanics	0	0	0
Employment Agencies	1	0	1
Engineers, Architects, Surveyors and Landscape Architects	30	12	15
Hearing Aid Dealers & Fitters	4	3	0
Marriage and Family Therapists (established 12/31/98)	0	1	0
Massage Therapists	81	78	84
Medical (including Osteopathy)	135	87	63
Mental Health Counselors	n/a	0	1
Mortgage Brokers & Solicitors	29	36	43

Motor Vehicle Industry	51	59	23
Motor Vehicle Repair	43	55	45
Naturopaths	2	4	1
Nursing	25	19	39
Nursing Home Administrators	2	1	1
Occupational Therapist	0	0	0
Optometrists	1	4	2
Pest Control	5	10	8
Pharmacy	22	5	25
Physical Therapists	4	3	2
Pilotage	0	0	0
Private Detectives & Guards	4	2	3
Psychologists	6	9	5
Real Estate Appraisers	6	4	3
Real Estate (including Condominiums)	127	142	123
Social Workers	0	3	3
Speech Pathologists & Audiologists	0	0	0
Subdivision	0	0	0
Time Share	4	3	1
Travel Agencies	32	11	13
No Rules Combat	29	29	40**
Veterinarians	7	5	3
	1292*	1202*	1080*

*Does not include investigations closed or referred at intake level. **Includes compliance checks.

Table 3: Assistance by Neighbor Island RICO Offices in FY 2008

AGENCY	HILO	KAUAI	KONA	MAUI	TOTAL
Division of Financial Institutions	16	5	1	1	23
Business Registration	403	520	1363	323	2619
Cable Television	1	0	1	1	3
Insurance Division	48	22	19	3	92
Division of Consumer Advocacy	62	10	3	5	80
Professional & Vocational Licensing	493	442	1151	393	2479
Office of Consumer Protection	227	379	144	220	970
Non-Department Related	415	577	636	214	1842

Totals	1665	1965	3318	1160	8108
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Table 4: RICO State Certified Arbitration Program (“SCAP”) Activity

TOTAL NO. OF COMPLAINTS January-December 2007	
AUDI	1
BMW	2
CHRYSLER	8
Chrysler	2
Dodge	5
Jeep	1
FORD	12
Ford	10
Lincoln	2
GM	12
Chevrolet	9
Cadillac	2
Saturn	1
HONDA	5
Honda	4
Acura	1
HYUNDAI	3
ISUZU	1
JAGUAR	1
KIA	1
LAND ROVER	2
MAZDA	1
MERCEDES-BENZ	2
MINI	1
NISSAN	9
TOYOTA	5
VOLVO	1
TOTALS	66
Cases arbitrated	37
Cases settled	22
Cases withdrawn/dismissed	7

*Approximately \$490,000 was recovered by consumers.

*Of the cases arbitrated, 11 arbitrations were in favor of the manufacturer and 26 were in favor of the consumer.