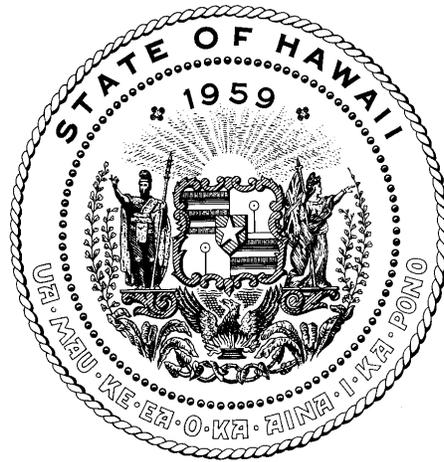


**2001 Annual
Compliance Resolution Fund Report
to the Legislature**



**DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS**

STATE OF HAWAII

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INTRODUCTION

website: www.state.hi.us/dcca

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

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.

The CRF, in existence since July 1, 1996, has 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 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 Division¹, 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.² Act 129 SLH 1999, effective July 1, 1999, expanded the

¹ In addition, PVL administers a number of trust funds, such as the real estate education fund, real estate recovery fund, condominium management education fund, contractors education fund, and contractors recovery fund. These funds are not included in the CRF.

² The Director's Office provides general policy and administrative leadership in supervising and coordinating the various department activities. Administrative Services provides the department 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. The CRF financial summary for the Director's Office, Administrative Services, Information Systems and Communications, and Administrative Hearings for FY 00-01 is: Personnel Expenses \$1,946,138, Operating Expenses \$523,836, Total Expenses \$2,469,974, with Revenues Received of \$105,688.

CRF to include the Division of Consumer Advocacy, Division of Financial Institutions, and the Cable Television Division. Only one DCCA program is not apart of the CRF, and that is the Insurance Division, which is funded through a combination of trust funds and an insurance regulation special fund.³ Effectively, the CRF provides for the sole source of funding for most of DCCA at fiscal year end 2000-2001.

ACCOMPLISHMENTS

The financial summary for the entire CRF for FY 00-01 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$13,092,496	\$5,474,750	\$18,566,946	\$29,068,641

Our financial strategy requires that revenues by division cover all expenses of that division for the fiscal year as well as a reserve to cover major improvements and anticipated operating expenses. This ensures solvency of the fund and continuation of mandatory services to the public. From the onset of the CRF, the primary goal was to fulfill this strategy and as a result, we were very conservative in our spending and reduced expenses by the elimination of offices.⁴ In addition, we no longer made any requests for general funds. Accordingly, our financial planning has taken into account current fiscal year expenses, and planning for future major projects and expenditures. We met fiscal year 2001 expenses and continued to build towards our reserve, which for the first time since 1996, we were able to achieve.⁵

In fiscal year 2001, we were able to expand our services to the public through many information technology projects including the expansion of our website to place all licensing and business registration applications on-line, electronic filing of business registration applications and license renewals, electronic filing for administrative hearings, databases for the public to check if a business is registered or if a person is licensed as well as the complaint history of licensees and business, e-mail boxes for all divisions within DCCA to improve access, and placing all administrative rules of DCCA on-line. To view these programs, we encourage you to search the following websites of the department:

Website Address

- www.state.hi.us/dcca
- www.BusinessRegistrations.com
- www.state.hi.us/dcca/catv
- www.state.hi.us/dcca/dca
- www.state.hi.us/dcca/dfi
- www.state.hi.us/dcca/ocp
- www.state.hi.us/dcca/pvl
- www.state.hi.us/dcca/rico

E-mail Address

- dcca@dcca.state.hi.us
- breg@dcca.state.hi.us
- cabletv@dcca.state.hi.us
- consumeradvocate@dcca.state.hi.us
- dfi@dcca.state.hi.us
- ocp@dcca.state.hi.us
- pvl@dcca.state.hi.us
- RICO@dcca.state.hi.us

³ While the Hawaii Hurricane Relief Fund is administratively attached to DCCA, their Board of Directors (rather than the director of DCCA) manages and controls the Fund.

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.

⁵ The financial strategy for the reserve is to have, at minimum, a year end balance that will fund the succeeding biennium operating budgets for all CRF funded divisions and offices. The biennium budget for FY's 02-03 is \$49,366,135. The reserve at fiscal year end 2001 is \$54,026,810.

Website Address

www.state.hi.us/dcca/oah

www.state.hi.us/dcca/ins

E-mail Address

OAH@dcca.state.hi.us

Insurance@dcca.state.hi.us

Other information technology projects to improve internal efficiency included expanding our Office of Information System and Communication with additional staffing to support all divisions in system and program needs; having all employees within DCCA computerized and with e-mail capability; streamlining fiscal and personnel document processing; and linkage to a national enforcement databases for our enforcement divisions.

Additional information technology projects to improve internal efficiency are already underway, to be completed in the next fiscal year, including the long awaited conversion of the WANG system to Oracle for the databases of the divisions of Business Registration, Professional and Vocational Licensing, and the Regulated Industries Complaints Office; integrated complaints tracking system spanning all our enforcement divisions; master calendaring of public meetings and hearings; hardware and software stability to ensure continuous computer operations; and fiscal and personnel improvements. For the benefit of our clients, the Business Registration Division will have on-line renewals for registered businesses; and for the public, final orders of the department and its administratively attached boards and commissions will be posted on-line, as well as the Hawaii Revised Statutes publications.

CONCLUSION

The department has made a concerted effort to expand and improve its information technology foundation as a means to improve efficiency and effectiveness of our programs. Considerable financial resources were needed as well as dedicated employees willing to re-invent government to better serve its clients and the public. We continue on this mission.

BUSINESS REGISTRATION DIVISION (BREG)

website: www.BusinessRegistrations.com

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

OVERVIEW

The Business Registration Division of the Department of Commerce and Consumer Affairs (DCCA) has two primary functions. Its ministerial duties include the processing and maintaining for public access registrations of corporations, general and limited partnerships, limited liability partnerships, limited liability companies, trade names, trademarks and service marks. Its regulatory function includes substantive regulatory oversight of the securities industry in the State of Hawaii in the following areas: (1) licensing and registration of broker-dealers, securities salespersons, investment advisors, investment advisor representatives, securities and franchises offered for sale in the State, (2) examination of the books and records of broker-dealers, securities salespersons, investment advisors, investment advisor representatives, (3) examination of securities and franchises offered for sale in the State, and (4) the enforcement of the uniform securities act.

Composition

The division occupies offices located at 1010 Richards Street, Honolulu, HI 96813 in the basement, on the first, second and fourth floors. In order to carry out the division's two primary missions, the division is segregated into three separate branches: (1) the Documents Registration Branch, (2) the Securities Compliance Branch, and (3) the Securities Enforcement Branch. The division's staff includes attorneys, investigators, securities examiners, auditors, business registration assistants and clerk-typists, legal stenographers, licensing clerical staff, clerical support staff and administrative staff.

The **Documents Registration Branch** maintains the business registry for all corporations, limited liability companies, general partnerships, 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.

The **Securities Compliance Branch** handles the registration and licensing activities for the securities industry operating in the State. This includes the licensing of securities broker-dealers, securities salespersons, investment advisers, investment adviser representatives, and the registration of securities offerings and franchise circulars in the State. The branch is also responsible for conducting field examinations of the books and records of securities broker-dealers and their salespersons, investment advisers and their representatives.

The **Securities Enforcement Branch** enforces the uniform securities act in the State by taking action against those persons and/or firms both licensed and unlicensed who violate securities laws or purposely evade them. The branch also works in conjunction with other enforcement agencies such as the Office of Consumer Protection and the Regulated Industries Complaints Office in DCCA, the Honolulu Police Department's White Collar Crime Unit, the Honolulu Prosecutor's Office, the U.S. Bankruptcy Trustee, and other federal and state securities and law enforcement agencies.

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 the free flow of commerce within the State. Without the availability of this information to the business community, commercial activity in the State would be substantially impaired, since the business community often relies 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 98,000 active business entities. 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.

To meet the increasing number of requests for services from the branch, the updating of the branch's computerized processing and data storage infrastructure will continue as part of a comprehensive information systems plan to improve public access to records on file with the branch and allow for electronic filing of documents. The new system includes a state-of-the-art imaging workflow system with public access to the record and for document filing and certification services via the internet.

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 management identified and studied the "best practice" states in the country renowned for business registration services. Based on that study, the branch's objectives are to: (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 the "best practice" states, (2) Review and where appropriate modernize the business law by making it track as closely as possible the most current versions of the uniform or model law, and (3) Implement an information system based on state-of-the-art imaging work-flow technologies that will also allow public access to records and electronic filing of documents over the internet.

Accomplishments

The Documents Registration Branch went live with a number of technological improvements this year. The Registration Documents Processing Management System (RDPMS), a computerized processing system utilizing state-of-the-art imaging workflow technology re-engineered initial documents reception, capture and active processing of data, and provides for new electronic solutions for document storage compression and security.

The branch is also working with the Hawaii Information Consortium to develop and implement electronic filing solutions for business filers in Hawaii. Currently, name searches and certificates of good standing requests can be done online. Initial business registration can also be done through the internet

portal, providing business filers with the ability for online incorporation or organization of a business entity. Online filing of annual reports/statements is planned to begin during the next annual filing cycle starting in January 2002.

The legislation passed by the 2000 Legislature and signed into law by the governor updates and modernizes the business law in Hawaii and continues the modernization process begun under this administration five years ago. The administration bills submitted for consideration by the 2002 Legislature will complete the process and make the business law as a whole the most modern in the history of the State.

The branch continues to improve upon its web site that can be found at www.BusinessRegistrations.com and includes business registration information, forms, instructions, rules, and answers to frequently asked questions. We are the only State business registry that is seeking to create a brand identity through a URL.

Securities Compliance Branch

The Securities Compliance Branch of the division is supervised by a Specialist who is responsible for the work of five examiners, five licensing clerical staff, one franchise clerical staff, and one secretary. The branch currently has approximately 56,000 securities salespersons and over 1,400 broker/dealer firms on record licensed to sell securities. In addition, the branch has over 290 registered investment adviser firms and 1,000 registered investment adviser representatives on record. The branch also processes nearly 600 franchise registrations and approximately 300 filings for the private placement of securities this year.

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 management identified state agencies renowned for effectiveness and respect as securities regulators based on input from industry organizations, the United States Securities and Exchange Commission, and the North American Securities Administrators Association.

Based on that study, the Securities Compliance Branch's objectives are to: (1) Complete the establishment of new positions in the branch to provide more human resources to handle and supervise the workload and manage the licensing of broker/dealers and their salespersons, investment advisers and their representatives, and registration of securities, franchise offering circulars and professional fund raising counsel/solicitors, (2) Develop and implement a tracking system to monitor operations, (3) Implement a regular field examination cycle for registered broker/dealers and state registered investment advisers, and (4) Develop comprehensive investor education programs to improve investor awareness of and increase investor self-protection against investment fraud and abuse.

Accomplishments

The establishment of new supervisory positions continues. In addition, we were able to fill all vacancies for licensing clerks. The additional staff has contributed to maintaining an end to the broker/dealer salesperson application backlog for the first time in over ten (10) years. In addition, the recently added personnel continued to keep other backlogs low in pending applications for broker/dealers and investment advisers and their representatives.

The branch also extended implementation of the new web-based Investment Adviser Registration Depository ("IARD") to state-registered advisers, which allows investment advisers and their representatives to file and renew applications electronically the same way that broker/dealers and their salespersons currently do over the CRD. The IARD was implemented simultaneously nationwide with all other state securities regulators and is designed to facilitate the registration process. Last year, the IARD was only operating by sending notice filings to the state for federal-covered advisers.

A field exam program cycle continued throughout the year to provide examinations of broker/dealers and state-registered investment advisers in Hawaii. Regular examinations are being conducted of businesses located on all islands throughout the State on a regular basis to provide on sight review of compliance with the books and records requirements under Hawaii law.

Investor education continues to be another important mission, and substantial progress was made over the last year. The division implemented several investor education outreach projects that resulted in a number of radio, senior fair, and consumer group appearances by our staff. The division also partnered with the local chapter of the Securities Industry Association in sponsoring "Facts of Savings and Investment Week" and with the AARP to co-sponsor an Investor Town Hall meeting with the Lieutenant Governor and officials from the U.S. Securities and Exchange Commission and the National Association of Securities Dealers Registration, Inc.

The division started work on a joint project with the Department of Education, Office of Information & Telecommunication Services, Teleschool Branch to produce an investor education talk-show series following in the footsteps of our highly successful six-part documentary series called "Financing Your Future". The new series will be broadcast during 2002.

The division continued its highly successful partnership with UH-Hilo to provide financial support and sponsorship of the Stock Market Game (SMG) in Hawaii. The SMG is a game played in schools whereby students are given hypothetical funds to manage and invest in a portfolio of stocks. The student team that realizes the most appreciation in their hypothetical portfolio at the end of the quarter wins. The SMG is an excellent teaching tool that teaches the basics of investing, sharpens math skills, and how to read and understand reporting statements and terminology.

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, and five clerical staff. The 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.

Based on the above-referenced study of the most effective state securities regulatory agencies in the country, 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 Commission, (2) Develop closer working relationships with other law enforcement agencies like local police departments, local prosecutor's offices, the Federal Bureau of Investigations, and the Internal Revenue Service and coordinate law enforcement activities and programs in securities enforcement cases where appropriate, (3) Develop closer relationships with the media to engage their assistance in raising public awareness of and increase self-protection against potential securities fraud and abuse by reporting on enforcement issues and cases, and (4) Develop and implement a more useful case tracking system that will monitor progress of cases more effectively and measure the impact of the training and development program.

Accomplishments

As a result of the enforcement work of the branch, the division issued four (4) Orders to Cease and Desist, obtained three (3) final orders, three (3) consent orders, and three (3) judgement, and entered into three (3) consent agreements in fiscal year 2001. The staff was required to prepare for and attend numerous hearings and court appearances. These appearances took place both before the Administrative Hearings Office of the Department of Commerce and Consumer Affairs and in the Circuit Courts of State of Hawaii and U.S. Federal Court.

The Securities Enforcement Branch and the Securities Compliance Branch continued to implement an extensive comprehensive training program that includes: (1) Cross-training with personnel from each branch teaching personnel in the other branch about what they do and how, (2) Outside training in the form of seminars and conferences specifically aimed at improving skills and achieving more effective regulatory actions, and (3) Frequent interaction and peer review with regulators in other states noted for effective regulatory oversight. The training and interaction continued to result in more focused enforcement with attention on more effective regulatory impact to improve the integrity of the marketplace through the use of remedies.

The branch continues to issue more press releases and work more with media relationships in order to publicize regulatory actions and raise public awareness of and increase investor self-protection against potential investment fraud and abuse. The result has been more visibility in the community for enforcement efforts as represented by the Senior Enforcement Attorney.

The branch continues to monitor the progress of its cases. The result has enabled more efficient and effective control of the caseload overall. The additional training, modification of procedures and approach, and more media exposure with its intended deterrent effect is enabling the branch to experience faster investigations and swifter legal actions while the "trail is still hot", tougher sanctions but greater fairness and sensibility in application and appropriateness, and greater impact on deterring potential financial con

Business Registration Division (BREG)

artists and scammers through more highly visible enforcement actions. During the past fiscal year, the branch assessed and collected approximately \$500,000 in fines and penalties.

Finally, the branch is in the process of implementing access to more criminal enforcement databases to assist with investigations. In addition, the branch is pursuing extension of the Tax Intercept Program with the Department of Taxation to garnish state tax refunds for delinquent fines and penalties assessed as a result of securities law enforcement actions.

The CRF financial summary relating to BREG for FY 00-01 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,966,942	\$1,473,583	\$4,440,525	\$12,419,296

CONCLUSION

The Business Registration Division continues to receive an increasing number of applications, registrations, and/or complaints resulting in a growing demand for the essential government services involving the business registry, securities law enforcement, and licensing. It is necessitating increases in personnel and improved information systems to handle the workload, 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.state.hi.us/dcca/catv

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

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, transfer, or refranchise 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 franchise and ensure compliance with rules and regulations relating to operators' practices and procedures. CATV will continue to monitor the franchisee to ensure 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, but 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 numerous inquiries, concerns, and complaints daily. Staff is competently trained to assist, provide answers, refer the problem 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 addressed 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 examine the degree of customer satisfaction by reviewing surveys and reports, and additionally, require operators to ascertain the feasibility of providing local help desk support for high speed Internet access service. 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.

Composition

The staff of CATV currently consists of an administrator, attorney, program specialist, and secretary. The office is physically located on the second floor of the Princess Kamamalu Building at 1010 Richards Street. Mailing address: P.O. Box 541, Honolulu, HI 96809; phone number: 586-2620; internet address: www.state.hi.us/dcca/catv.

ACCOMPLISHMENTS

Direct Broadcast Satellite (DBS) Service – CATV continues its on-going efforts in lobbying the Federal Communications Commission (“FCC”) for DBS service to Hawaii that is equivalent in programming and pricing as found elsewhere in the continental United States. Due to our efforts and those of Senator Daniel Inouye, DBS service is currently available in Hawaii but not at levels found on the mainland. We will continue to lobby for and demand equal treatment by DBS providers. The proposed merger of DirecTV and Echostar will provide additional opportunities for the State to articulate its concerns.

Institutional Network (“INET”) – CATV continues its leadership role in the development, expansion and enhancement of the INET. Working with the Information, Communications and Services Division (“ICSD”) of the Department of Accounting and General Services, the University of Hawaii (“UH”) and the Department of Education (“DOE”), CATV is actively participating in the upgrade of the INET that will leverage Dense Wave Division Multiplexing (“DWDM”) technology. This upgrade will dramatically improve the capacity and performance of the INET. The ability to efficiently and effectively provide broadband telecommunications services to government agencies will greatly improve the level of service to our residents. The upgrade of the fiber/coax infrastructure on Maui is soon to be completed which will allow Maui County as well as the UH, DOE and State, access to state-of-the-art telecommunications capabilities. In addition, planning is under way to integrate the INETs on all islands into one cohesive telecommunications network.

Hawaii Educational Network Consortium (HENC) – HENC is the governing body of a consortium of representatives from public and accredited private educational institutions in Hawaii including the University of Hawaii, Department of Education, and Hawaii Association of Independent Schools. HENC facilitates the development of educational programs and services for the purpose of distance learning aimed to assist elementary through post-secondary students via cable television. HENC and ICSD continue to actively participate in the long term planning and implementation of strategic INET infrastructure.

Upgrade to 750 Mhz – Upgrades are currently underway that will result in a consistent, statewide 750 Mhz bandwidth infrastructure design with digital headroom using two-way fiber-to-node architecture. These upgrades are being implemented without the passing on of costs or charges to subscribers.

The CRF financial summary relating to CATV for FY 00-01 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$226,926	\$689,075	\$916,001	\$1,249,722

CONCLUSION

The year 2001 was a remarkable year for CATV, due in part by the rapid development of advanced technology by cable companies. The continued deployment of fiber to node architecture provided increased bandwidth capacity for traditional services such as video programming as well as for new interactive and digital services. Oceanic Cable will soon be making available to subscribers the option of multiple ISPs. In addition to Roadrunner, consumers will be able to select high speed cable modem service from AOL as well as Earthlink. Thus given the nascent nature of digital technology relative to cable, CATV had and presently has the continuous task of monitoring the public's present needs and future interests.

Because of the rapid advancements in telecommunications, CATV seized the opportunity in 2001 to modify terms and commitments to provide a more uniform standard of practice within the State, offer improved services to meet the needs of the public, and to provide greater reliability and responsiveness without financially impairing the system operators. CATV will strive to ensure fairness both to the public and to the cable operators.

DIVISION OF CONSUMER ADVOCACY (DCA)

website: www.state.hi.us/dcca/dca

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

OVERVIEW

The Division of Consumer Advocacy (Consumer Advocate or DCA) represents the interests of consumers of utility, communication, and transportation services before regulatory agencies, primarily the Hawaii Public Utilities Commission (PUC), and also the Federal Communications Commission (FCC), and the Federal Surface Transportation Board. DCA reviews requests for rate increases, capital improvement projects, integrated resource plans, issues regarding competition in the telecommunications and electric power industries, certificates to operate, and other applications filed with regulatory bodies by utilities and transportation companies. In representing the consumer before the PUC, DCA must analyze volumes of financial and statistical data, as well as the written testimonies of the utility and transportation companies in support of their applications. After analyzing the data, DCA must submit written testimony explaining its analysis, make recommendations to the PUC, and is subject to cross-examination by attorneys hired by a utility or transportation company in an evidentiary hearing before the Commission.

Composition

The DCA consists of 17 employees, ranging from executive director, secretary, utilities/transportation administrator, utilities/transportation specialist, IRP specialist, economist, statistician, tariff analyst, auditors, engineers, attorney and clerk typists. DCA is located on the eighth floor of the Princess Kamamalu Building, 1010 Richards Street. Mailing address is P.O. Box 541, Honolulu, HI 96809; phone number: 586-2772; internet address: www.state.hi.us/dcca/dca.

DCA is comprised of the Financial Analysis Branch, the Economics and Pricing Branch, the Engineering Branch, the Office Services Branch, and a Legal Branch.

The *Financial Analysis Branch* examines and analyzes the financial accounts, records and transactions of public utility and transportation companies under differing financial and operational assumptions. This data is utilized in developing projections of companies' operating expenses and rate base for rate-setting purposes. The Branch also evaluates the allocation of common costs by analyzing the operational expenses of the regulated operations to detect discriminatory allocation practices of expenses common to both the regulated and non-regulated operations.

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

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

The *Office Services Branch* provides not only general clerical duties, but is also charged with the responsibility of updating and maintaining the Division's various data base files. These files provide quick access to historical data which, in the past, required days of manual research by technical staff and attorneys. In addition, statistical and financial data can now be analyzed in a more comprehensive manner.

DCA also has on staff, an attorney to represent the DCA before the PUC and plans to hire a community liaison person responsible for educating the consumer about his/her rights and help the consumer in filing complaints with the PUC, attend public hearings and neighborhood board meetings to gain public input about specific issues, but, more importantly, to be the lead person in obtaining public feedback about generic issues that would affect consumers on a state-wide basis such as the undergrounding of utility power lines.

ACCOMPLISHMENTS

In 2001, the Division's primary focus was on the application filed by The Gas Company for a rate increase. The Company requested an increase of \$8,894,875, while the Division recommended to the Public Utilities Commission that the Company be allowed an increase of \$5,546,451. This rate case was successfully settled by the Division and approved by the Public Utilities Commission at the Division's suggested amount of increase, thereby saving the consumer \$3,348,424. Three rate applications, representing a request for a combined total of \$8,083,649 in increased allowed revenue, were tendered during the last fiscal year by Western Motor Tariff Bureau, and negotiated down by the Division to a combined increase of \$5,476,082, representing a savings to consumers of \$2,607,567. The Division also worked on 2 rate increase applications for private sewer and water companies on the island of Hawaii.

The Public Utilities Commission also issued final decisions and orders this year on two dockets pending resolution from last fiscal year which were reported in our previous submission: Laie Water Company and HELCO. The Commission granted HELCO only an additional \$8,354,000 of the \$15,538,000 requested, resulting in a savings to Hawaii consumers of \$7,184,000. Laie Water Company was held to the amount of increase recommended by the Division (\$189,465) thus effecting a savings of \$179,867.

Since 1995, the Division has also been involved in what is known as "Docket No. 7702—the communications infrastructure proceeding." The early stages of this proceeding set the framework for competition in the telecommunications industry. Continuing phases of this docket are still being litigated. There are approximately 350 telecommunications providers with certificates to operate in the State. Each of these providers must file their tariffs and a description of their services with the Public Utilities Commission and the Consumer Advocate. Any requests for changes to their rates and service offerings would have to be approved by the Commission.

In addition, the Consumer Advocate continues to be involved in the integrated resource planning process of each of the energy utilities. It was hoped, and continues to be our goal, that consumers realize savings through careful planning and analysis of the actual need for costly generation plants and effective demand-side management

programs.

In addition to the above proceedings, the Consumer Advocate has reviewed 113 tariff change requests and 155 non-rate applications, such as applications for capital improvement projects, purchase power agreements, and certificates of public convenience and necessity.

The CRF financial summary relating to DCA for FY 00-01 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$819,050	\$910,261	\$1,729,311	\$2,380,404

CONCLUSION

The Consumer Advocate will continue to prioritize its caseload to target projects and consumer issues that have the greatest impact on the ratepayers of utility, communication and transportation services in Hawaii. In addition, however, the program is now in a position to take a more proactive approach to specific consumer issues and expects to gain greater public participation in decisions that are made that affect their utility and transportation services.

DIVISION OF FINANCIAL INSTITUTIONS (DFI)

website: www.state.hi.us/dcca/dfi

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

OVERVIEW

DFI's 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 overall supervision and regulation of all state-chartered and state-licensed financial institutions in the State of Hawaii, 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. In supervising financial institutions authorized to take deposits, DFI works closely with the Federal Deposit Insurance Corporation, 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 and 2000. 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, DCCA Director, and Governor.

DFI is located at 1010 Richards Street, Room 602A, Honolulu, Hawaii 96813. The public can call DFI at (808) 586-2820, send e-mail to dfi@dcca.state.hi.us, or visit the website address of www.state.hi.us/dcca/dfi.

Composition

DFI is headed by the Commissioner of Financial Institutions and assisted by an *Administrative Section* consisting of the Deputy Commissioner, a specialist, a regulation analyst, and 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 Examination Branch and (2) the Licensing and Regulatory Analysis Branch, each composed of financial institution examiners and headed by its own Branch Manager. The *Examination Branch* is responsible for the on-site examination of financial institutions. Examinations, unlike audits by CPAs, 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 the areas of interest risk management, lending, and investment. 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.

ACCOMPLISHMENTS

De Novo Interstate Branching Established. Effective January 1, 2001, Act 283, 1999 Session Laws of Hawaii (SLH), removed the existing restrictions on interstate branching, both for domestic and international banks, in Hawaii. DFI attained its goal of fostering a more open interstate branching scheme without undue restrictions or conditions.

Administrative Rule Revisions. After more than two years of work, revision of four of the chapters of DFI's administrative rules [Chapters 25, 26, 27, and 28 of Title 16 of the Hawaii Administrative Rules (HAR)] was finally completed in early 2001. The revision to the last chapter on credit unions, HAR Title 16 Chapter 31, is currently being drafted and DFI is hopeful that this revision will be completed by the end of 2002.

Federal Financial Services Modernization Law Expanded DFI's Regulatory Role. The Gramm-Leach-Bliley Financial Services Modernization Act of 1999 (GLBA) removed legal barriers between the banking, securities and insurance industries, necessitating increased communication and cooperation between DFI and other state and federal agencies. GLBA generated a plethora of federal regulations that have required DFI's action on the legislative front, as well as on regulatory programs that are discussed in more detail below. Over the next three to five years, DFI anticipates that it will need to enhance its programs on privacy and safeguards for consumer financial information, and to introduce legislation, as necessary, to address additional and revised federal regulations resulting from GLBA.

Sustained Increase in DFI Workload. Continuing a trend that began in FY 99-00, DFI's workload has continued at an increased level in both Branches. During FY 00-01, DFI has had to implement several new Examination Branch programs and to re-design a core Licensing Branch program, in addition to handling a large number of applications, as described below:

1. To encourage compliance with GLBA, DFI's Privacy Compliance Program began with a detailed questionnaire and informal meetings to educate escrow depositories and nondepository financial services loan companies on compliance requirements, followed by preliminary examinations for compliance with the complex Federal Trade Commission's Rule on Privacy of Consumer Financial Information.
2. In response to questions regarding compliance with statutory provisions as well as to federal privacy requirements, DFI's Escrow Depository Examination Program was implemented to conduct on-site reviews of escrow depository account records, deposit practices, and privacy policies and practices, to examine for compliance with Chapter 449, HRS.
3. In conjunction with the Federal Deposit Insurance Corporation's newly established Large Bank Examination Program, DFI had to modify its examination program for Hawaii's two largest banks. The new program requires DFI's examination staff to be available for on-site reviews and examinations throughout the year rather than once a year, for those two major banks.
4. Implementing recommendations from the 2000 CSBS accreditation review, DFI's Off-Site Monitoring program was re-modeled and reinforced to enhance DFI's ability to detect significant trends or deviations in the safety and soundness components of its depository financial institutions.

5. DFI has had to process a large number of applications due to the expansion of financial activities permitted by GLBA, the continuing consolidation within the financial institutions industry, and institutional downsizing through closing of branches and offices.

DFI's Self-Sufficiency Dependent on Positive Franchise Tax Collections. Since 1995, one of the long-term goals of DFI was to become self-sufficient. DFI believed this goal to be achieved during the past fiscal year when it received \$2.5 million on June 30, 2000 from the franchise tax collected under HRS Chapter 241 pursuant to Act 182, 1999 SLH. Act 182 mandates an annual deposit of \$2.5 million each fiscal year from the franchise tax to the Compliance Resolution Fund (CRF) for the support of DFI's program. Unfortunately, the franchise tax collected was less than the franchise tax refunded resulting in a negative amount for the net franchise tax for fiscal year 2000-01. DFI immediately froze all vacant positions, and reduced its budgeted expenses by suspending the development of software for a DFI integrated database and information tracking system and cutting spending on other budgeted items. As DFI collects less than one-fourth of its total payroll and operating expense budget directly from examination, application, and licensing fees, the \$2.5 million from the franchise tax covered three-fourths or the bulk of DFI's budget. DFI is reviewing alternatives for financing its operation, and is also analyzing its current operation and mission to see if restructuring and streamlining its organization can reduce its operating costs.

DFI's Integrated Database/Information Tracking System Development Replaced With Smaller In-house Projects. Upgrading and connecting all DFI laptops and desktops to the DCCA server, the first phase of improving DFI efficiency through computer technology, was implemented. The next phase to develop and implement an integrated database and tracking system software was suspended due to the above described budget situation. DFI intends to find a way to use technology to improve its efficiency and has begun to explore alternative ways to achieve its database/tracking system goal through smaller in-house projects.

Post-Fiscal Year But of Significance for Year 2001:

DFI's Emergency Preparedness Program. The tragic events of September 11 and its aftermath have had, and will continue to have, a major impact on DFI's operations. DFI must plan and implement a three-prong approach to Emergency Preparedness. One prong of DFI's plan is similar to the intensive Y2K Readiness Program to ensure that its regulated institutions implement adequate emergency preparedness and disaster recovery programs to address the novel situations posed by terrorism in its many possible manifestations. One September 11 situation which all of Hawaii's depository institutions experienced first-hand is the total disruption of commercial air transportation that is crucial for financial institution item processing and currency/cash supply between the Hawaiian islands and with the mainland. Public confidence in the financial payment systems is crucial in times of emergencies and disaster. Maintaining and safeguarding the adequate supply of currency to the public as well as efficient access to deposit accounts is a main support of this public confidence.

Thus, the second prong of DFI's approach is the development by DFI, together with the depository financial institutions industry and Hawaii State Civil Defense, of a comprehensive plan and procedure to address transportation of items and currency. This plan can automatically be implemented should a major emergency occur where commercial air and/or sea transportation is suspended for a period of time.

The last prong of this approach is the expansion of DFI's own emergency preparedness plan and

coordinated post emergency follow up plan with all the federal regulators and financial institutions and escrow depositories.

The CRF financial summary relating to DFI for FY 00-01 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,240,713	\$116,592	\$1,357,305	\$2,970,669

CONCLUSION

During FY 00-01, in addition to its established regulatory and licensing programs, DFI successfully developed and implemented new examination programs necessitated by GLBA, and revised its Off-site Monitoring program to maintain standards essential for the Division’s continued accreditation.

As the fiscal year began, DFI appeared to have reached its long-term goal of financial stability through special funding that DFI had hoped would permit the flexibility needed to supervise the rapidly changing and increasing complex financial services industry. However, the end of the fiscal year brought the unanticipated news of negative net franchise tax amount as of June 30, 2001. DFI is re-evaluating and seeking remedies to its unpredictable funding situation through alternative revenue source legislation and analysis of potential and strategic changes in operations.

In the post-September 11 environment, DFI and the financial institutions it regulates face additional challenges that will exceed efforts required in prior preparation for the Y2K situation. This and the certainty of further federal regulations emanating from both GLBA and anti-terrorist legislation, as well as the rapidly evolving technologies and products of a sophisticated financial services industry and the severe economic woes of the State, will all require DFI to find innovative ways to utilize its resources and manpower to responsibly and nimbly make regulatory adjustments that will promote the safety and soundness of our State-chartered financial institutions.

OFFICE OF CONSUMER PROTECTION (OCP)

website: www.state.hi.us/dcca/ocp

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

OVERVIEW

The Office of Consumer Protection (OCP) is the primary government agency that consumers contact with questions or complaints about general business transactions, specifically unfair or deceptive trade practices.

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 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, with fewer resources. First, the staff tries to prioritize cases according to the seriousness of the violation. Certain cases are "fast-tracked" for immediate legal intervention as the circumstances warrant. Second, the office has continued the use of staff-initiated "projects" to deal with perceived consumer problems on a proactive basis. Third, staff persons attempt to provide as much assistance by telephone as possible, thereby avoiding the need to file a formal complaint. This helps the consumer resolve the issue without government intervention. Fourth, a greater emphasis is placed on consumer and business education, through educational materials, Consumer Dial messages, speaking engagements, media releases, and direct discussion with the affected consumer or business. Finally, OCP is working with a number of different enforcement and private entities to create partnerships that will result in better protection for the consumer.

OCP's main office is in Honolulu at 235 South Beretania Street, Leiopapa A Kamehameha Building, Suite 801. 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 web site address is www.state.hi.us/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 newly formed unit within CRC answers telephonic requests for prior complaint history for OCP. In addition to prior complaint history information, consumers have the opportunity to visit OCP's Honolulu office to view the actual case files, if the files are available for viewing. OCP's staff reviews each file before public viewing to ensure that

personal information about the complainant such as credit card numbers and checking account numbers, are protected. 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 on-site inspection, witness interviews, document collection, collaboration with the legal section to prepare evidence for trial, and the subpoena of testimonial and documentary evidence from various sources. 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 2000-2001 statistics.

The Landlord-Tenant Section - phone: (808) 586-2634; Consumer Dial (808) 587-1234; web site www.state.hi.us/dcca/ocp

In addition, OCP runs 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 give legal advice; its role is limited to informing the parties what their rights and obligations are under the existing law. The office has enhanced its landlord-tenant services by placing frequently asked questions on the department's 24-hour Consumer Dial Information Service, and on its web site. The office has also revised and updated its landlord-tenant handbook. This is a publication that is widely used by landlords and tenants.

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 a number of speaking engagements to inform consumers and businesses about various aspects of consumer protection.

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

ACCOMPLISHMENTS

Consumer Education

During the past year OCP has been involved in numerous educational efforts, including conducting workshops for seniors on telemarketing fraud, speaking to business leaders regarding consumer protection and training Hawaii attorneys on consumer protection law.

Cases

OCP handled several significant cases in 2001 involving nearly every area of consumer protection. It filed and resolved numerous cases relating to alleged violations of Hawaii's laws governing unaccredited degree granting institutions, car rentals, motor vehicle sales, advance fee loans, sweepstakes and prizes, door to door sales, going out of business sales, refund and exchanges and unfair or deceptive trade practices. Many of these cases successfully resulted in OCP obtaining injunctive relief and fines as well as recovering hundreds of thousands of dollars in consumer restitution. During the next year, OCP will continue to seek the implementation of alternative dispute resolution (ADR) to resolve those consumer complaints that do not justify formal enforcement. Shifting those complaints to ADR will expedite their resolution while conserving valuable governmental resources. Additionally, OCP will focus on cases offering the broadest protection for Hawaii consumers.

Statutory Changes

It is anticipated that new legislation criminalizing telemarketing fraud will provide an effective tool in combating this criminal activity.

The CRF financial summary relating to OCP for FY 00-01 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$765,657	\$79,030	\$844,687	\$334,081

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 each 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 ⁶
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices ⁷
HRS Chapter 480D	Collection Practices ⁸
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
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 486N	Health Clubs
HRS §487-5	Laws Enacted and Rules Adopted for the purpose of consumer protection ⁹
HRS Chapter 487A	Plain Language Law
HRS Chapter 506	Reverse Mortgage Loan
HRS Chapter 521	Landlord Tenant Code ¹⁰
ACT 146 (1999)	Check Cashing
Act 282 (1997)	Assistive Device Warranty Act

⁶ 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.

⁷ 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.

⁸ See also, Collection Agencies HRS §443B-20.

⁹ E.g. Motor vehicle advertising, HRS §437-4.

¹⁰ 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.

Act 222 (2000)

Service Contracts

Table 2: OCP Information Requests

REQUEST AND INQUIRIES	FY 99-00	FY 00-01
Requests for Prior Complaint History	6,794	8,120
Requests for Landlord/Tenant Information	8,469	7,818
Complaint Inquiries	17,431	14,841
Requests for Records Review	300	135
TOTAL	32,994	30,914

Table 3: Number of OCP Complaints Filed

COMPLAINANT	FY 99-00	FY 00-01
Public	1,238	1,278
OCP	237	90
TOTAL	1,475	1,368

Table 4: Numerical Breakdown of Dispositions of All OCP Cases

DISPOSITIONS	FY 99-00	FY 00-01
Complaint Withdrawn	4	6
Legal Action & Referrals to Legal	116	87
Advisory Contact	35	42
Civil Dispute/Personal Matter	77	75
Monetary Threshold	27	9
Complainant Uncooperative	8	5
Consumer Complaint Resolved	13	10
Respondent Died or Bankrupt	177	32
Business vs. Business	29	24
No Jurisdiction	3	2
Refer to Investigation	356	283
Other	13	6
Warning Letter	112	61
Insufficient Evidence	367	297

Transferred to Other Gov't. Agency	462	477
No Violation	41	24
Information Only/Inquiry	20	52
Total	1,860	1,492

Table 5: OCP Complaints by Subject Matter

A complaint may cover multiple subject matters

SUBJECT	FY 99-00	FY 00-01
Animals	2	4
Breeders	1	1
Pet Grooming	0	0
Pet Shops	0	1
Kennels/Boarding	0	0
Apparel/Accessories	47	18
Laundry/Dry Cleaning/Laundromats	12	3
Dressmaker/Tailors	2	1
Fabric/Notions/Etc.	0	4
Shoes/Etc.	2	0
Clothes	11	5
Appliances	13	13
Refrigerator/Freezer/Stove/Range	6	5
Water Heaters/Air Conditioners	2	3
Washer/Dryer	3	2
Radio/Stereo/Tape Deck/CD Player	9	9
TV/VCR	18	6
Sewing Machine	3	1
Vacuum Cleaner	11	12
CB Radios	0	0
Computers/Software	82	92
Health Services/Products	14	21
Exercise Devices	3	7
Exercise/Health Clubs/Clinics	10	12
Health Foods	0	2

SUBJECT	FY 99-00	FY 00-01
Weight Reduction	3	1
Cosmetics/Beauty Products	5	8
Wigs/Hairpieces	0	1
Entertainment/Music	15	1
Concerts/Events	3	0
Ticket Sellers/Promoters	2	1
Theaters	5	1
Night Clubs/Discotheques	1	2
Musical Instruments/Lessons	2	2
Audio Records/Tapes/CD/Etc.	3	2
Buying Clubs - Record/Tape/CD/Video	2	2
Video Records/Tapes/CD/Etc.	4	4
Florists/Nurseries	3	2
Food/Drink	11	8
Food Stores/Markets	7	10
Drive Inns	0	0
Caters/Deli	0	1
Bakery	0	0
Restaurants	12	15
Banquet Halls	0	2
Bars/Cocktail Lounges	1	2
Energy/Fuels	0	0
Solar Energy	2	2
Gas, Propane, Etc.	0	3
Energy Saving Devices	0	0
House Materials/Goods/Services	21	20
Beds & Mattresses	2	4
Furniture	9	20
Cookware	4	2
Draperies	0	0
Carpet/Rugs	3	7

SUBJECT	FY 99-00	FY 00-01
Clocks	0	0
House Hardware/Fixtures	10	10
Woodwork/Metalcraft/Glass/Etc.	4	5
Interior Decorators	2	0
Lawn Care Products/Yard Service	3	1
Upholsters	1	1
Water Purifiers/Filters	0	1
Cleaning Services	3	3
House Construction/Remodeling	3	4
Vermin/Bug Extermination	0	9
Tools	1	3
Insurance	19	27
Extended Warranties	5	9
Service Agreements/Contracts	5	2
Jewelry	29	28
Precious Stone & Metals	2	2
Watches	3	2
Medical	7	15
Hospitals/Clinics	6	16
Pharmacies	1	1
Convalescent/Nursing Homes	0	0
Medical Equipment	0	1
Medical Service Companies	5	7
Medical Laboratories	3	1
Home Care Facilities	0	0
Psychiatric Counseling/Group Therapy	0	0
Other Counseling/Group Therapy	1	0
Occupational Therapists (457G)	0	0
Morticians, Cemeteries & Other	7	1
Moving & Storage	8	5
Private Storage Company	7	2

SUBJECT	FY 99-00	FY 00-01
Bill of Lading	2	2
In-transit Storage	0	0
Delivery Service	5	6
Air Cargo Service	0	0
Multi-Product Retailer/Wholesalers	23	12
Buying Clubs	5	9
Department Stores	4	7
Photography	8	9
Photo Studios	8	5
Film Processing	0	1
Camera/Equipment	1	3
Photographic Services	2	1
Professional Services	8	23
Attorneys/Legal Services	3	2
Accountants/Bookkeeping	0	0
Tax Services	6	5
Medical Professional	2	3
Adoption Agencies	0	2
Printers	3	2
Regulated Services (Trade & VO Caption)	11	11
Protection Devices	2	2
Fire/Burglar Alarms	2	1
Heat/Smoke Detectors	0	0
Locks (Windows, Doors, Etc.)	2	0
Fire Extinguisher	0	0
Recreation/Toys/Game/Etc.	24	13
Arts & Crafts	3	8
Boats & Airplanes	4	6
Toys	5	3
Surfboards	1	1
Video Games	0	2

SUBJECT	FY 99-00	FY 00-01
Camping Equipment	0	0
Sporting Goods	18	15
Recreational Rentals	6	3
Transportation	7	2
Cabs	0	0
Moving Companies/Storage	1	0
Pedi-Cabs	0	0
Tour Buses and Limos	3	1
Automobiles	9	11
Car/Truck Rental	33	22
Car/Truck Lease	0	0
Moped Rentals	2	2
Other Transportation Rentals	1	1
Towing	8	9
Parking	0	1
Body/Paint Shops	11	9
Auto Parts/Repair	43	18
Rustproofing/Undercoating	1	1
Glass Tinting	3	1
Vehicle (Incl Mopeds) New & Used Sales	2	2
Warranties	9	4
Travel/Vacations	21	18
Air Travel Services (Airlines, Etc.)	13	8
Ocean Travel Services (Cruises & Ships)	2	5
Discounted Tickets - Travel/Entertainment	5	0
Hotels & Motels	26	24
Bed & Breakfast	11	5
Tour Services	4	8
Travel Clubs	1	0
Passports & Visas	0	0
Utilities	15	5

SUBJECT	FY 99-00	FY 00-01
Gas Provider	1	0
Electric	0	0
Telephone/Cellular/Pagers	81	111
Water	0	0
Cable	2	4
Telecommunications/Electronic Devices	24	19
Dating Services	8	7
Investment/Financial	6	10
Chain Letter	1	0
Consumer Credit	28	23
Credit Card	83	97
Checking Accounts	0	3
Debit Accounts	1	0
Promissory Notes	0	0
Buying on Account	0	1
Information to Obtain Credit/Credit Cards	0	2
Discount Coupons/Books	1	0
Financial Institutions	19	10
Credit Reporting Agency	9	4
Credit Repair	4	11
Collection of Debts	6	7
Advance Fee Loans	3	0
Bank/Savings & Loan/Industrial Loan Companies	8	1
Escrow Services	0	1
Loan/Mortgages	14	14
Investment/Opportunity Scheme	10	12
MLM/Pyramids/Endless Chain Schemes	2	1
Referral Sales	0	1
Get Rich Programs	6	3
Work-at-Home Programs	7	3
Coins/Currency	0	4

SUBJECT	FY 99-00	FY 00-01
Stocks & Bonds	1	0
Oil/Gas Lottery	0	0
Art	17	5
Securities	0	0
Tax Planning/Devices	1	0
Contract Sellers	0	1
Pawn Shops	1	1
Auctioneers	3	14
Second Hand Dealers	1	0
Real Estate	7	6
Sweepstakes/Lottery/Games of Chance	36	27
Contests	3	0
Gambling	0	0
Education/Information	5	3
Schools (Elementary, High)	1	4
Degree Granting Schools	6	5
Unaccredited Degree Schools	126	24
Trade/Vocational Schools	1	2
Home Study	0	0
Correspondence Schools	0	1
Dance Schools	0	0
Modeling Schools	0	5
Day Care Centers	0	0
Employment	3	4
Resume Preparation	0	0
Modeling Agency	2	4
Regular Periodic Information Service	8	3
Magazine	28	15
Subscription Services	11	28
Newspaper	2	9
TV Broadcasting	1	0

SUBJECT	FY 99-00	FY 00-01
Radio Broadcasting	1	0
Computer Information Services	10	16
Internet Transactions	N/A	13
Books/Encyclopedia	10	7
Self-Improvement Seminars	0	0
Encounter Group Therapy	0	0
Charitable Solicitations	6	4
Environmental Claims	0	0
Religious	1	0
Emergency: Prize/Freeze/Gouging/Rent Termination	0	0
Rent to Own	0	1
Elderly Issues	22	15
Civil Procedures/Statutory Constructions	0	0
Multistate Projects	13	18
Spamming	1	0
MS – Newspaper Advertisement	26	19
MS – Other Regular Printed Media Ad (Magazine, Etc.)	1	14
MS – Television/Cable	8	2
MS – Info Commercial	1	2
MS – Telemarketing	21	17
MS - 1-900 Numbers	2	1
MS – Direct Mail	22	18
MS – Information Brochure	0	1
MS – Response Card/Letter	1	0
MS – Home Presentation (Door-to-Door)	1	2
MS – Radio	0	0
MS – Product Show	0	0
MS – Information/"How To" Seminar	3	2
MS – Mail Order	41	32
TOTAL COUNT	1,674	1,509

Table 6: OCP Neighbor Island Assistance FY 2001

DIVISION	HILO	MAUI	TOTAL
Division of Financial Institutions	11	4	15
Business Registration	79	17	96
Cable Television	3	2	5
Insurance Division	41	7	48
Division of Consumer Advocacy	0	0	0
Professional & Vocational Licensing	13	2	15
Regulated Industries Complaints Office	282	97	379
Non-Departmental Related	147	66	213
Other DCCA Divisions	130	37	167
TOTAL	706	232	938

PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

website: www.state.hi.us/dcca/pvl

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

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 application, license, and renewal review and processing, 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 assists consumers in their decision of whether to utilize a licensed professional.

PVL is in the final year of a three-year project to promote accessibility to licensing information on the Internet. PVL continues to explore ways to make licensing information, the licensing process, and the licensee roster more accessible to the public. PVL's web page, a site that provides general licensing information for all 46 licensing areas, now features downloadable license applications, as well as the ability to request an application or contact the board or program staff via e-mail. The website address is <http://www.state.hi.us/dcca/pvl>.

PVL also launched the PVL On-line Inquiry, a fully interactive site that enables the public to access the licensee roster on-line. The roster may be searched to confirm licensing by license name, license number, and other identifying information. Feedback received on the on-line roster indicates that accessibility benefits 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 other useful consumer information, such as a licensee's complaints history. The address for PVL's On-line Inquiry is <http://www.state.hi.us/dcca/pvl/inquiry>.

This year, on-line renewals were made available for the first time. During the spring 2001 renewal, 2,898 nurses, social workers and acupuncturists renewed on-line. This entirely paperless process enabled licensees to complete, file and pay for their license renewal electronically. This winter, 22 different types of licenses will be afforded the opportunity to renew on-line (activity desk, audiologist, barber, barber shop, beauty instructor, beauty operator, beauty shop, chiropractor, dental hygienist, dentist, hearing aid dealer and fitter, emergency medical technician basic, emergency medical technician paramedic, marriage and family therapist, naturopath, pharmacist, pharmacy, pharmacy – miscellaneous permit, wholesale prescription drug distributor, physician, podiatrist, and speech pathologist). The division is hopeful that many of these 20,000 licensees will take advantage of on-line renewals. In time, PVL hopes to be able to offer all licensed areas the opportunity to renew on-line. On-line renewals are available at <https://www.ehawaii.gov/DCCA/pvl/renewal>.

Another significant project is the migration of the PVL licensing database to a new Oracle-based platform. This project, which has been in the design stage for several years, is targeted for completion in the early summer of 2002. It is anticipated that the new platform will provide the technology and enhanced capability needed to maintain and ensure the integrity of the PVL licensing database.

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 1010 Richards Street, on the first and seventh floors of the Princess Kamamalu Building, Honolulu, Hawaii, 96813.

Composition

PVL is divided into four functions: *Licensing Branch* (Phone 586-3000) responds to walk-in and phone inquiries on license and renewal requirements; handles intake functions for license applications, biennial renewals, changes to licensee records, and license verification requested by licensees; reviews all documents for completeness and works with applicants or licensees to correct deficient filings; and issues the license indicia after license or renewal requirements have been met. 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 its continued validity and reliability, and advises boards on all technical aspects of examinations.

Administration Branch (See Verizon Hawaii SuperPages, Government Pages 15, first column, Executive Offices for Boards/Commissions & Programs) serves as the liaison between the director of the department and the 25 boards and commissions 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 regime registration and governance. With the largest volume of applicants and licensees, and fees collected to support branch activities, the Real Estate Branch offers specialized assistance to licensees and the public. Also, through the Real Estate Branch, the Real Estate Commission produces an annual report that details the Commission's real estate and condominium activities. The report may be obtained at no cost from the Real Estate Branch or accessed on the Commission's website: <http://www.state.hi.us/hirec>. The Commission's report complements this report to provide a total picture of the activities of PVL's licensing program.

In summary, all Branches within PVL work towards efficient and expedient processing of applications, licenses, and renewals to ensure the public has choices amongst competent, licensed practitioners. For a statistical summary of PVL key activities, see Table 1: PVL Statistical Overview, and Table 2: Total Number of Active and Current Licensees.

ACCOMPLISHMENTS

PVL, with the cooperation of the boards and commissions, is nearing the end of a 5-year project to effectuate changes to the licensing laws and rules for deregulation and streamlining. Accomplishments include elimination of: licensing boards (dispensing opticians, hearing aid dealers and fitters, and nursing home administrators); a separate and additional "shop" license (dispensing opticians and hearing aid dealers and fitters); exams which tested only the knowledge of licensing law and rules (accountants, chiropractors, engineers, architects, landscape architects, surveyors, opticians, optometry, veterinarians); application requirements (photo, notarization); and substantive licensing requirements (site inspection of motor vehicle dealerships and pharmacies). In addition, more flexible licensing and renewal standards have been adopted (accountants, contractors, pest control, psychology, massage therapy, medical, mortgage brokers and solicitors, motor vehicle dealership, optometry, real estate brokers and salespersons).

The 2001 legislative session advanced PVL's efforts to deregulate, streamline, and adopt more flexible licensing standards. The mortgage brokers and solicitors licensing law was amended to reduce the bond amount for mortgage brokers who engage in mortgage servicing from \$50,000 to \$15,000. The medical licensing law was amended to allow the Board of Medical Examiners to conduct a random audit of continuing medical education credits required for license renewal for medical physicians, emergency medical ambulance service personnel, and podiatrists. In addition, the total number of hours of continuing medical education for medical physicians was reduced, but the retained hours require organized and planned educational learning activities that are structured. In the aggregate, the amendments streamline procedures, renew licenses in an expedient manner, and continue to protect the public.

The architects licensing law was also streamlined to facilitate licensure by endorsement. And, applicable to all licensing areas that license business entities, the Professional and Vocational Licensing Act was amended to allow professional and vocational licenses of business entities to be converted when the underlying entity has been converted or merged to form a new entity. The resulting process facilitates a company's license conversion or merger in the least intrusive manner.

Finally, the Real Estate Commission completed an ambitious rewrite of its administrative rules to further the deregulation and streamlining initiative. After working in concert with industry groups and associations throughout 2000 to develop deregulation proposals, the Commission finalized its rules and held a public hearing in the spring of 2001. By summer, the rules had been adopted and the new rules were ready for implementation. The Commission embarked on an intensified outreach and educational program designed to familiarize licensees and the public with the new rules.

Concurrent with the rules, the Commission also introduced legislation to bring about the statutory changes needed to accomplish the deregulation and streamlining proposals. The amendments addressed experience requirements for real estate brokers, eliminated duplicative requirements for condominium hotel operators who are real estate brokers, and achieved consistency with regard to the fidelity bond requirements for condominium hotel operators and condominium managing agents. The Commission is already planning to introduce additional legislation in the coming year to further clarify and promote its deregulation initiatives.

The CRF financial summary relating to PVL for FY 00-01 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,415,678	\$662,519	\$3,078,197	\$4,671,125

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. In these difficult economic times, 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 goal is to achieve and facilitate a fair marketplace for the State of Hawaii.

Table 1: PVL Statistical Overview

	FY 99-00	FY 00-01
No. of applications received	11,198	11,545
No. of applicants licensed	8,053	8,507
No. of licenses renewed	40,417	42,671
No. of changes for licensee files	171,184	174,447
Total licensee population	222,490	231,389

Table 2: Total Number of Active and Current PVL Licensees

Boards and Commissions (shown by asterisk), and Programs	FY 99-00	FY 00-01
*Accountants	2,261	2,372
Activity Desks	297	360
*Acupuncturists	405	418
*Barbers	880	969
Barber Shops	205	219
*Boxing (all categories)	91	124
Cemeteries and Pre-Need Funeral Authorities	18	20
*Chiropractors	481	538
Collection Agencies	189	239
*Contractors	9,093	8,447
*Cosmetologists	5,214	5,790
Beauty Shops	990	1,069
*Dentists	1,326	1,352
Dental Hygienists	667	721
Dispensing Opticians	145	131
*Electricians (all categories)	2,435	2,567
*Plumbers (all categories)	1,085	1,004
Electrologists	23	20
*Elevator Mechanics	222	210
Employment Agencies	100	94
*Engineers, Architects, Surveyors, and Landscape Architects:		
Engineers	4,073	4,377
Architects	1,710	1,851
Surveyors	170	179
Landscape Architects	112	126
Hearing Aid Dealers & Fitters	60	70
Marriage and Family Therapists (established 12/31/98)	70	80
*Massage Therapists	3,707	3,922
Massage Establishments	452	509
*Medical:		
Physicians	5,481	6,458

2001 Compliance Resolution Fund Report

Professional and Vocational Licensing Division (PVL)

Boards and Commissions (shown by asterisk), and Programs	FY 99-00	FY 00-01
Podiatrists	58	73
Osteopaths	385	376
Physician Assistants	65	88
Emergency Medical Technicians	315	356
Mobile Intensive Care Technicians	317	335
Mortgage Brokers	304	196
Mortgage Solicitors	1,929	1,257
*Motor Vehicle Dealers	247	244
Motor Vehicle Salespersons	1,501	1,514
*Motor Vehicle Repair Dealers	981	878
Motor Vehicle Mechanics	2,440	2,127
*Naturopaths	63	72
*Nurses RN	11,899	11,222
LPN	2,699	2,337
Advanced Practice Registered Nurse (APRN)	312	381
APRN with Prescriptive Authority (established 10/24/98)	42	73
Nurse Aides	11,228	2,526
Nursing Home Administrators	128	117
Occupational Therapists (established 1/1/99)	280	349
*Optometrists	311	346
*Pest Control Operators	158	157
Pest Control Field Reps.	54	48
*Pharmacists	1,372	1,496
Pharmacies	204	206
Wholesale Drug Distributors	48	56
*Physical Therapists	741	756
Port Pilots	10	9
Deputy Port Pilots	1	4
*Private Detective Agencies	29	32
Private Detectives	119	111
Guard Agencies	52	53
Guards	77	75

2001 Compliance Resolution Fund Report

Professional and Vocational Licensing Division (PVL)

Boards and Commissions (shown by asterisk), and Programs	FY 99-00	FY 00-01
*Psychologists	490	529
Real Estate Appraisers (all)	364	318
*Real Estate Brokers	4,522	4,419
Real Estate Salespersons	4,932	5,016
Condominium Managing Agents	110	103
Condominium Hotel Operators	120	123
Real Estate Collection Servicing Agents (repealed 7/2/99)		
Social Workers (established 7/1/95)	1,084	1,064
*Speech Pathologists	345	399
Audiologists	53	55
Subdivision	9	13
Time Share (all categories)	1,952	1,926
Travel Agencies	1,758	1,945
*Veterinarians	314	316

REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

website: www.state.hi.us/dcca/rico

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

OVERVIEW

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

RICO continues to increase emphasis on alternative dispute resolution at the intake level; increase collaborative cases with the Office of Consumer Protection; increase the educational function of the division; improve the current advisory committee system of case review; improve enforcement of pending and completed actions; evaluate and enhance existing office technology; and enhance staff training opportunities.

RICO's main office is located on Oahu at the Leiopapa A Kamehameha Building, 235 South Beretania Street, 8th and 9th Floors, Honolulu, Hawaii 96813. In addition, the division maintains four neighbor island offices at Hilo, Kona, Wailuku and Lihue.

Composition

The work of RICO can be divided into two main categories: (1) education, information, complaint intake and alternative dispute resolution functions which 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.¹¹ 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, Intake and Alternative Dispute Resolution)

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.state.hi.us/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. Preliminary investigations and dispositions of cases are also accomplished by this staff, with the aim of screening and forwarding only those cases appropriate for further investigations or prosecution to the other sections of RICO or OCP.

¹¹ See, Section 26-9, and 26H-4, Hawaii Revised Statutes.

The majority of RICO's cases are initiated by consumer complaints. 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 other resolution.

Alternative dispute resolution tools such as mediation have been integrated into RICO's case handling system. Cases are evaluated based upon factors such as the type and severity of the alleged licensing law violation, the severity of the dispute, and the complaints history of the respondent. Since its inception, over half of the cases referred and concluded through this initial mediation path have been successful. This service is now available on Kauai, Maui, Hilo and Kona, as well as in Honolulu.

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 which allows callers to use just one telephone number (587-3222) to find out (1) basic business registration information; (2) whether a business is licensed; and (3) complaints history on file with RICO and OCP. By using this service, callers avoid having to call multiple offices to gather important information about a particular licensee or business.

See Table 1 for more specific information about CRC's activity during the year.

Field Investigation

The Investigation Section contains the largest concentration of RICO staff located in all five of RICO's offices statewide, consisting of field investigators and clerical support staff. With enforcement responsibility over the licensing laws of 46 different boards, commissions and programs, investigators evaluate a diverse population of licensees with a wide range of possible violations. See Table 2 for an overview of the number of complaints by board, commission or program.

Field investigators are responsible for gathering evidence in RICO licensing law cases. RICO's investigators also take an active part in resolving cases, and in issuing administrative citations where active 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. These expert evaluations 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, the major areas of assistance provided to the public by neighbor island RICO offices continue to be 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 Section

The Legal Section 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 Section will determine the appropriate course of action based upon the information contained in the case file. If necessary, further inquiry into the circumstances may occur at this time. Formal action of the case may be taken by either the filing of a Petition for Disciplinary Action with the Office of Administrative Hearings (for cases involving licensees), or a Complaint for Injunctive and Other Relief in circuit court (for cases involving unlicensed activity). Once formal action is taken in a case, the case remains in the Legal Section until an administrative board final order or circuit court judgment has been rendered and fulfilled.

Three hundred civil or administrative actions were filed during FY 2001. Fines or civil penalties amounting to \$1,047,795 and restitution to consumers totaling \$471,979 were assessed. There were 155 injunctions imposed against unlicensed persons or entities for the year.

State Certified Arbitration Program

The State Certified Arbitration Program (SCAP) provides an arbitration forum for consumers to resolve warranty-related disputes with motor vehicle manufacturers. SCAP handled 43 cases and helped consumers recover over \$366,000 during the year. General Motors had the most complaints numbering 12, followed by Ford Motor Company with 6. DaimlerChrysler (which includes Dodge and Jeep Eagle) and Honda each had 5 complaints, Mazda and Mercedes-Benz each had 3 complaints, and Volkswagen and Toyota each had 2 complaints. Subaru, Mitsubishi, Volvo, Acura, and Nissan had one complaint each. Thirty-four cases went to arbitration, and 9 cases settled. Of the 34 arbitrations, the consumer prevailed in 28 cases. One grateful consumer stated, "SCAP is an excellent program. It's one of the few ways a consumer can legally and inexpensively fight for their rights in a fair process against an intimidating, large manufacturer". SCAP will continue to strive to improve its educational and enforcement efforts for the benefit of all consumers.

Administration of the state's lemon law program is handled by RICO's Legal Branch. The program has achieved high rates of satisfactory arbitration. Staff is actively involved in arbitrator training and in actual arbitrations, and provides educational information to the public about the arbitration process.

ACCOMPLISHMENTS

Unlicensed Contractor Stings: In response to numerous reports of unlicensed contractor activity, RICO conducted an Oahu-based sting of contractors that were offering contracting services without the necessary licenses. Investigators posed as homeowners and obtained quotes from persons who operated in a variety of specialty areas. The one-week sting resulted in the issuance of a number of citations.

In addition, RICO conducted a sting of specific categories of companies who advertised in the Yellow Pages to determine the extent to which the companies were operating in compliance with the contracting law. The advertising sting uncovered a significant number of violations that have resulted in legal action.

Regulated Industries Complaints Office (RICO)

Community Outreach (Consumer Education): RICO continues to work with the building industry to provide contracting law information to consumers as part of a series of BIA presentations about remodeling issues.

ADR Mediation Program: RICO now makes mediation at the intake level available for most of the RICO cases reviewed. Mediation services are now available in Honolulu, Maui, Hilo, Kauai and Kona through a number of private mediation agencies. In addition, RICO continues to integrate in-house mediation for appropriate cases. Work has begun on providing additional ADR resources to affected consumers through the use of informal dispute resolution conducted by letter instead of face-to-face. In addition, some of the mediation criteria adopted by RICO will be replicated for use by the Consumer Resource Center for cases within the jurisdiction of the Office of Consumer Protection.

Enhanced Internet Services for the Public: RICO's internet website www.state.hi.us/dcca/rico, continues to be fine-tuned in response to public input. In addition, the division provides up-to-date complaints history information to the public at <http://www.ehawaii.gov/org/serv/rico>, thereby enhancing the public's ability to obtain information about the licensed professionals in our community.

The CRF financial summary relating to RICO for FY 00-01 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,711,392	\$1,019,854	\$3,731,246	\$4,937,656

CONCLUSION

With responsibility for the enforcement of the licensing laws of over 46 boards, commissions and programs, RICO's activities in the past year included a range of activities including unlicensed contractor stings and sweeps, providing enhanced Internet services for the public, administering the alternative dispute resolution program and instituting formal disciplinary proceedings and other enforcement action. Rapid changes and increased complexity in the way many of the licensed professionals conduct business 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 Activity

	2000	2001
INQUIRIES BY:		
Phone	20,919	17,329
Letter	823	513
Walk-in	1,163	1,129
TOTAL	22,905	18,971
LBIS ASSISTANCE		
Prior Complaints History RICO	48,099	42,981
BREG, PVL, OCP and Other	104,153	98,455
TOTAL	152,252	141,436
FORMS ISSUED BY:		
Phone	5,605	4,058
Letter	100	75
Walk-in	615	686
TOTAL	6,320	4,819

*Calendar year

Table 2: Number of RICO Complaints Filed by Board, Commission or Program

	Board, Commission, or Program	2000	2001
ACC	Accountants	2	3
ADP	Activity Desks	19	7
ACU	Acupuncturists	5	1
BAR	Barbers & Cosmetologists	184	76
BOX	Boxing	1	1
CEM	Cemeteries and Pre-Need Funeral Authorities	19	8
CHI	Chiropractors	4	6
COL	Collection Agencies	21	21
CLB	Contractors	327	289
DEN	Dentists and Dental Hygienists	18	28

Regulated Industries Complaints Office (RICO)

	Board, Commission, or Program	2000	2001
DOP	Dispensing Opticians	0	1
ENP	Electricians & Plumbers	3	1
ELE	Electrologists	1	0
EVM	Elevator Mechanics	0	0
CEA	Employment Agencies	1	0
EASLA	Engineers, Architects, Surveyors and Landscape Architects	10	5
HADF	Hearing Aid Dealers & Fitters	3	2
MFT	Marriage and Family Therapists (established 12/31/98)	0	0
MAS	Massage Therapists	122	71
MED	Medical	89	74
MBS	Mortgage Brokers & Solicitors	14	10
MVI	Motor Vehicle	73	56
ARP	Motor Vehicle Repair	122	84
NAT	Naturopaths	1	0
RNS	Nursing	32	23
NHA	Nursing Home Administrators	0	1
OTP	Occupational Therapist	0	0
OPT	Optometrists	1	0
PCO	Pest Control	12	12
PHA	Pharmacy	16	13
PTS	Physical Therapists	1	1
PTP	Pilotage	0	0
PDG	Private Detectives & Guards	9	7
PSY	Psychologists	4	9
REA	Real Estate Appraisers	4	5
REC	Real Estate (including CPRs and Ltd. Equity Housing Cooperatives)	123	124
RSW	Social Workers	3	3
SPE	Speech Pathologists & Audiologists	3	1
SUB	Subdivision	1	1
TSP	Time Share	2	10

Regulated Industries Complaints Office (RICO)

	Board, Commission, or Program	2000	2001
TAR	Travel Agencies	109	76
VET	Veterinarians	5	8
TOTAL		1,364	1,038

Table 3: Assistance Provided to the Public for other DCCA divisions by Neighbor Island RICO Offices in FY 2001

DIVISION	HILO	KAUAI	KONA	MAUI	TOTAL
Division of Financial Institutions	31	16	3	10	60
Business Registration	631	725	604	2,156	4,116
Cable Television	16	16	0	10	42
Insurance Division (+ MVID)*	97	41	10	29	177
Division of Consumer Advocacy	90	9	2	10	111
Professional & Vocational Licensing	494	602	1,262	1,716	4,074
Office of Consumer Protection	232	901	60	386	1,579
Non-Department Related	324	912	228	606	2,070
Totals	1,915	3,222	2,169	4,923	12,229

Numbers include requests from the public for information or assistance by telephone, walk-ins, or letter.

* MVID: Motor Vehicle Insurance Division

OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

website: www.state.hi.us/dcca/oah

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

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 Hawai'i Revised Statutes (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 (PVLD) 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); and 4) other matters from other divisions.

OAH also is responsible for conducting administrative hearings for 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.

Lastly, an integral part of OAH's responsibilities are the Medical Claims Conciliation Panel (MCCP) and the Design Professional Conciliation Panels (DPCP). The MCCP and DPCP programs are responsible for conducting informal conciliation hearings on claims against health care providers and design professionals, respectively, before such claims can be filed as lawsuits. The decisions of the MCCP and DPCP 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 staff of OAH that are 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 Penthouse of Princess Kamamalu Building at 250 South King Street. Mailing address: Office of Administrative Hearings, Penthouse, 250 South King Street, Honolulu, HI 96813; phone number: 586-2828; fax number: 586-3097; internet address: www.state.hi.us/dcca/oah; and e-mail address: oah@dcca.state.hi.us.

ACCOMPLISHMENTS

The attached Table 1 summarizes the CRF-related activities of OAH for the past two fiscal years. This statistical information has been compiled on the basis of individual licensees involved in disciplinary proceedings and individuals cited for unlicensed activities rather than the actual number of consumer complainants whose cases have been resolved or addressed by the dispositions listed in the attached tables.

Office of Administrative Hearings (OAH)

The number of consumer complainants is higher than the number of licensee dispositions as it is not uncommon for a case against a licensee to include several complainants.

In the summer of 2000, DCCA arranged to have Hawai'i Correctional Industries, (Department of Public Safety), electronically scan the decisions issued by the Boards, Commissions and Programs, from 1978 to present. The scanning process has been completed, and the resulting electronic documents are being integrated into the OAH case data base, and will eventually become part of a comprehensive DCCA master data base. These electronic documents can be searched, accessed, and printed/distributed more rapidly than conventional hard copies.

The financial summary for the Director and its support Office, which includes OAH, is reflected in footnote 2 in the Introduction.

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 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.

Table 1: Office of Administrative Hearings: CRF Activities - FY 99-00 and FY 00-01

	FISCAL YEAR 99 - 00										FISCAL YEAR 00 - 01																		
	Disciplinary Action After Hearing				Disciplinary Action Settlements				Citations		License Denials		Disciplinary Action - After Hearing				Disciplinary Action - Settlements				Citations		License Denials						
	Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Requests for Hearing	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Denial Sustained After Hearing	License Granted After Hearing	FY 99 - 00 Totals	Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Requests for Hearing	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Dismissed by Parties	Denial Sustained After Hearing	License Granted After Hearing	FY 00 - 01 Totals
Accountants					1									1				1											2
Activity Desks						1								1															0
Acupuncturists														0	1	1													2
Barbers							1	1						2							1			1					2
Barber Shops												1		1										3					3
Boxing (all categories)														0															0
Cemeteries & Pre-Need Funeral Auth.							2							2															0
Chiropractors	1													1															0
Collection Agencies														0															0
Contractors	22	7	15	5	11	7	36	3	6	15		4	131	10	3	7	4	1	15	3		7	1	3	2				56
Cosmetologists									29	5	32		66									20	2	10	18				50
Beauty Shops									68	36			104									22		4	17				43
Dentists						1							1													1			1
Dental Hygienists													0																0
Dispensing Opticians													0																0
Electricians (all categories)							1		1			1	3																0
Plumbers (all categories)													0																0
Electrologists													0																0
Elevator Mechanics													0																0
Employment Agencies													0																0
Engineers, Architects, Surveyors																													0
Engineers							1						1							1						2			3
Architects							2						2																0
Surveyors													0																0
Landscape Architects													0																0
Hearing Aid Dealers & Fitters													0																0
Marriage & Family Therapists													0																0

Table 1: Office of Administrative Hearings: CRF Activities - FY 99-00 and FY 00-01

	FISCAL YEAR 99 - 00										FISCAL YEAR 00 - 01																		
	Disciplinary Action After Hearing				Disciplinary Action Settlements				Citations		License Denials		Disciplinary Action - After Hearing				Disciplinary Action Settlements				Citations		License Denials						
	Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Requests for Hearing	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Denial Sustained After Hearing	License Granted After Hearing	FY 99 - 00 Totals	Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Requests for Hearing	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Dismissed by Parties	Denial Sustained After Hearing	License Granted After Hearing	FY 00 - 01 Totals
Massage Therapists	1		1		1	2	5		24	9	34			77						1	2		15	2	13	8			41
Massage Establishments	1		1		1		1		54		26			84					2	2			16	3	20				43
Medical:																													
Physicians							5							5	2	1		2	1	5								11	
Podiatrists											1			1														0	
Osteopaths	1						1							2														0	
Physician Assistants														0														0	
Emergency Medical Technicians														0														0	
Mobile Intensive Care Techs														0														0	
Mortgage Brokers	1			1										2	1			1		5	1							8	
Mortgage Solicitors	1		1		1									3														0	
Motor Vehicle Dealers									1		1			2	1		1	2											4
Motor Vehicle Salespersons	1			1					9		4			15														0	
Motor Vehicle Repair Dealers			1	2	1		1	3	4	9	1	11			33	1	3	1		5	2			9	2				23
Motor Vehicle Mechanics			1						8		6			15	1								7	3				11	
Naturopaths														0														0	
Nurses																													
RN					1	2	5							8				1	1	5								7	
LPN	1	1	1											3														0	
APRN														0														0	
APRN w/ Prescriptive Authority														0														0	
Nurse Aides														0												1		1	
Nursing Home Administrators														0														0	
Occupational Therapists														0														0	
Optometrists														0	1	1				1								0	
Pest Control Operators														0														0	
Pest Control Field Reps.														0														0	

Table 1: Office of Administrative Hearings: CRF Activities - FY 99-00 and FY 00-01

	FISCAL YEAR 99 - 00										FISCAL YEAR 00 - 01																		
	Disciplinary Action After Hearing				Disciplinary Action - Settlements				Citations		License Denials		Disciplinary Action After Hearing				Disciplinary Action - Settlements				Citations		License Denials						
	Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Requests for Hearing	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Denial Sustained After Hearing	License Granted After Hearing	FY 99 - 00 Totals	Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Requests for Hearing	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Dismissed by Parties	Denial Sustained After Hearing	License Granted After Hearing	FY 00 - 01 Totals
Pharmacists					1		1							2															3
Pharmacies											2			2								1							1
Wholesale Drug Distributors														0															0
Physical Therapists														0															0
Port Pilots														0															0
Deputy Port Pilots														0															0
Private Detective Agencies														0								1					1		2
Private Detectives														0								1							1
Guard Agencies														0															0
Guards														0															0
Psychologists							2					3	5									1					1		2
Real Estate Appraisers (all)	1		1	1									3																0
Real Estate Brokers	2		2				24	1				2	31	2		1	1		3	1	18	2					4		32
Real Estate Salespersons	3		1	2	1		4	1				1	13														2		2
Condo Managing Agents							1						1																0
Condo Hotel Operators							1						1																0
Collection Servicing Agents													0																0
Social Workers													0																0
Speech Pathologists													0																0
Audiologists													0																0
Subdivision													0																0
Time Share (all categories)													0									1							1
Travel Agencies			1		2			1	1		1		6														1		1
Veterinarians													0																0
Totals	36	9	27	11	20	14	96	11	210	15	169	11	1	630	18	5	15	8	9	6	69	8	80	5	53	70	13	0	359