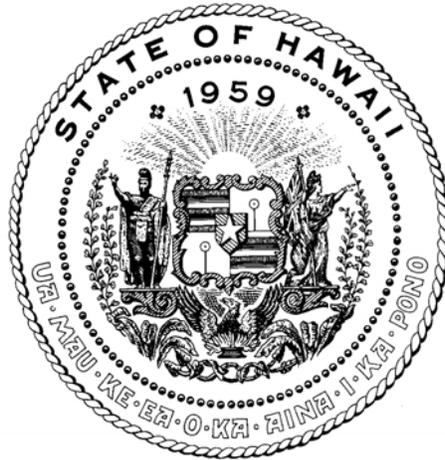


**2003 Annual
Compliance Resolution Fund Report
to the Legislature**



**DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS**

STATE OF HAWAII

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INTRODUCTION

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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

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

July 1, 1999, expanded the CRF to include the Division of Consumer Advocacy, Division of Financial Institutions, and the Cable Television Division. Act 39, SLH 2002, effective July 1, 2002 merged the Insurance Regulation Fund, the primary funding source for the Insurance Division, into the CRF. Except for trust and special funds with dedicated purposes³, the CRF provides the sole source of funding for DCCA at calendar year end 2003.

ACCOMPLISHMENTS

The financial summary for the entire CRF for FY 02-03 is as follows (this is the first year that the CRF include Insurance Division [CCA-106] revenues and expenses):

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$19,201,918	\$6,261,308	\$25,463,226	\$34,494,284

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 As a self-funded agency, DCCA makes no 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 2002 expenses and, for the second consecutive year, continued to build towards our reserve.⁵

In fiscal year 2003, we were able to begin or complete expansion of many of our services to the public through 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. We have entered into statements of work that plan to: (1) make more forms available for online filing, (2) automate the name reservation and clearance function, and (3) create a one-

Communications, and Administrative Hearings for FY 01-02 is: Personnel Expenses \$2,440,518, Operating Expenses \$1,094,081, Total Expenses \$3,534,599, with Revenues Received of \$134,540.

³ The Professional and Vocational Licensing Division has the following trust funds: Real Estate Recovery, Real Estate Education, Condominium Management Education, Contractor’s Recovery, Contractor’s Education, Real Estate Appraisers, Travel Agency Education, all of which are managed and controlled by the respective licensing boards. The Insurance Division has the following trust funds: Insurance Commissioner’s Education, Patient’s Compensation; and the following special funds: Driver’s Education and Captive Insurance. The Regulated Industries Complaint’s Office has the Motor Vehicle Arbitration trust fund, and the Office of Consumer Protection has a Restitution trust fund. Additionally the Hawaii Hurricane Relief is administratively attached to DCCA, and 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 department’s financial strategy for the reserve was to have, at minimum, a year end balance that would fund the succeeding 1.5 years of the biennium operating budget for all CRF funded divisions and offices. In the legislative sessions of 2002 and 2003, the legislature determined that the department’s reserves were excessive and authorized the transfer of CRF funds to the general fund (2002: \$26,000,000; 2003: \$19,083,824). In light of those transfers and in view of the State’s overall financial position, the department announced that it would attempt to implement a 6-9 month reserve policy for so long as statewide financial conditions required it. A 9-month operating budget for the CRF reserve for FY 2004 is \$26,387,866. The reserve at fiscal year end 2003 is \$31,869,412.

stop filing website where customers wishing to start a business can file once through the internet portal and register their business entity with the Department of Commerce and Consumer Affairs, obtain a general excise tax number with the Department of Taxation, an identification number with the Department of Labor and Industrial Relations, and the federal employee identification number ("FEIN") with the Internal Revenue Service. These projects are in various stages of development. 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
www.state.hi.us/dcca/oah
www.state.hi.us/dcca/ins

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
OAH@dcca.state.hi.us
Insurance@dcca.state.hi.us

Other on-going information technology projects to improve internal efficiency included expanding our Office of Information System and Communication (ISCO) with additional staffing to support all divisions in system and program needs; maintaining hardware and software stability to ensure continuous computer operations; computerizing DCCA to the fullest extent possible; and streamlining fiscal and personnel document processing.

ISCO is divided into two groups, Infrastructure and Custom Applications.

In 2003 Infrastructure has planned and successfully executed the move of computer systems from the Princess Kamamalu Building to the newly renovated King Kalakaua Building. The move involved the relocation of the PC's and printers for 300 staff, as well as all the networking and servers that provide computer services to these staff. The new facilities at the King Kalakaua, including 7x24 air conditioning for servers, sufficient electrical power, and new network wiring we provide an environment that will greatly reliability of computer services.

In 2003 Custom applications:

a) Completed a departmental wide complaint management system (CMS). CMS is used by four of DCCA's offices: Regulated Industries Complaints Office (RICO), Office of Consumer Protection (OCP), Securities Enforcement Branch (SEB), and the Division of Financial Institutions (DFI). CMS was based on a system previously in-place for RICO and OCP. For SEB the CMS replaced an outdated system. For DFI CMS replaced a paper system. For all offices, CMS provides automated letter generation using information stored in the system. The flexibility of the automated letter generation greatly reduces the effort for complaints involving large numbers of consumers. For SEB and DFI, the new system provides tracking and reporting features not previously available.

b) Implemented quarterly filing of annuals with Business Registration. A quarterly filing versus the previous annual filing evens out the flow of work, eliminating the need for emergency hires during peak

periods and streamlining processing.

c) Implemented new trademark and service mark classifications for Business Registration. Trademark and service mark classifications were statutorily required by July 1st, 2003.

d) Enhanced DCCA's electronic leave system (ELS). ELS replaces the paper leave of absence form and was implemented in August 2002. Over the initial period of its use, various requests for enhancement were received from users.

e) Implemented new sub-systems for the Insurance division. These include: continuing education, rate and policy filings for the Health and Rate and Policy Branch, complaint tracking for the Complaints and Enforcement Branch and Health Branch. These modules streamline processes and provide greater integration of information from the Insurance Division's branches. This in turn provides greater efficiency, necessary to handle workloads with new requirements such as continuing education and background checking.

In 2004, ISCO's major projects include: a) upgrading its databases to the current release of Oracle; b) creating a system for the Division of Financial Institutions (DFI) to more efficiently track its customers, applications and exams; c) adding the Limited Liability Limited Partnership to the types of businesses that can register with DCCA; d) providing on-line registration of continuing education credit and rate and policy filings for the Insurance division; e) creating a complaint tracking system for the Insurance Fraud Branch; and f) participating in the One-Stop project to provide a single on-line process to start-up new businesses.

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. We have moved from 49th to 3rd in the nation in E Commerce and Business, in the latest Digital States Survey. 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 (BREG) 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 335 Merchant Street, Honolulu, HI 96813 on the second 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. These branches are supported by a fourth branch, the Office Services Branch. The division's staff includes attorneys, investigators, securities examiners, an auditor, 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, the registration of securities offerings, and the filing of franchise offering 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 licensed by the State.

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 has also worked in conjunction with other government 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 County Prosecutors' Offices, 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 commercial activities in the State. Without the availability of this information to the business community, commercial activity in the State would be substantially impaired, since 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 approximately 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.

As part of a comprehensive information systems plan to meet the increasing number of requests for services from the branch, the branch's computerized processing and data storage infrastructure was redesigned and reconfigured with the development of a new data storage and retrieval system to improve public access to records on file that allows for the electronic filing of documents. The new systems completed to date include: (1) a state-of-the-art imaging workflow system with public internet access to the record and (2) 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 ongoing 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 laws 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 over the last several years. The Business Registration Information Management System ("BRIMS"), a computerized data storage and retrieval system, replaced the old legacy Wang-based system with a state-of-the-art Oracle-based system. BRIMS complements the Registration Documents Processing Management System ("RDPMS") which is a computerized processing and recording system for all documents based on imaging work-flow technology.

The branch continues to work with the Hawaii Information Consortium, the State's internet portal partner, 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. The certificates of good standing can either be mailed or be printed at your own printer with a unique identifying number to authenticate the certificate. 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 can now be done online as well. Customized lists can be ordered online by subscribers to the internet portal that contain business registration information regarding all of the entities on record. We have entered into statements of work that plan to: (1) make more forms available for online filing, (2) automate the name reservation and clearance function, and (3) create a one-stop filing website where customers wishing to start a business can file once through the internet portal and register their business entity with the Department of Commerce and Consumer Affairs, obtain a general excise tax number with the Department of Taxation, an identification number with the Department of Labor and Industrial Relations, and the federal employee identification number ("FEIN") with the Internal Revenue Service. These projects are in various stages of development.

The legislation passed by the 2002 Legislature and signed into law by the governor updates and modernizes the business law in Hawaii for limited partnerships and continues the modernization process begun eight years ago. This has resulted in the most modern business law 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 business registry in the country that is seeking to create a brand identity through a URL. We are also one of the few business registries in the country with the technological and legal infrastructure in place that allows both online incorporation and annual filing, however, a growing number of other states have similar plans in the near future.

Securities Compliance Branch

The Securities Compliance Branch of the division is supervised by a Specialist who is responsible for the work of four examiners, five licensing clerical staff, and one secretary. The branch currently has approximately 50,500 securities salespersons and over 1,300 broker/dealer firms on record licensed to sell securities. In addition, the branch has over 41 registered investment adviser firms and 374 registered investment adviser representatives on record. The branch also processed nearly 600 franchise offering circular filings 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 hiring and training of new securities examiners to handle the licensing of broker/dealers and their salespersons, investment advisers and their representatives, the registration of securities, and the filings of franchise offering circulars and professional fund raising counsel/solicitors, (2) Implement and on going comprehensive training program, (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 hiring of staff into new securities examiner supervisory positions was completed. In addition, we were able to fill nearly all vacancies for licensing clerks. The additional staff has contributed to the efficient management of the volume of applications and renewals received this year and maintaining an end to the broker/dealer salesperson application backlog. In addition, the recently added personnel continued to keep other backlogs low in pending applications for broker/dealers, investment advisers and their representatives.

The branch also expanded implementation of the new web-based Investment Adviser Registration Depository (“IARD”) to investment adviser representatives, 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.

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.

The branch is also continuing its comprehensive training program for professional development of its securities examiners staff. Currently, the branch is supporting training leading to the Certified Regulatory and Compliance Professional from the NASD Institute for Professional Development.

Investor education continues to be another important mission, and substantial progress was made over the last year. The division implemented more investor education outreach projects that resulted in a number of televised programs, appearances at a senior fair, and before various consumer groups by division staff. The division also partnered with the local chapter of the Securities Industry Association in sponsoring “Facts of Savings and Investment Week” and a regulator forum with the U.S. Securities and Exchange Commission and the NASD for Hawaii securities salespersons and registered investment advisers.

The division completed work on a joint project with the Department of Education, Office of Information & Telecommunication Services, Teleschool Branch to produce a 6-part investor education talk-show series following in the footsteps of our highly successful six-part documentary series called “Financing Your Future I” and 12-part follow up series called “Financing Your Future II”. All three series were aired throughout the year and continues into the next fiscal year at different times and on different days to maximize exposure to the programs.

The division also distributed 26 individual brochures and one booklet covering a wide range of investor education topics from how to select and investment profession to how to avoid scams and fraud for handout at presentations and fairs. On-site presentations and lectures reached over 2,000 persons during the year at the University of Hawaii Manoa and Hilo campuses, town hall meetings, community centers, retirement centers, community colleges, and high school and middle school classes.

Securities Enforcement Branch

The Securities Enforcement Branch of the division is supervised by a Senior Enforcement Attorney who is responsible for the regulatory enforcement activities of four attorneys, one supervising investigator, six investigators, one auditor, and four 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 prosecutors' offices, the Federal Bureau of Investigations, and the Internal Revenue Service in order to coordinate law enforcement activities between agencies 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 professional training program.

Accomplishments

As a result of the enforcement work of the branch, the division issued three (3) Orders to Cease and Desist, obtained three (3) final orders, four (4) consent orders, and five (5) judgments in fiscal year 2003. 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 who teach 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 with regulators in other states. 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 conduct remedies and monetary penalties. Currently, the branch is supporting training leading to the Certified Fraud Examiners designation for investigators and the Certified Regulatory and Compliance Professional from the NASD Institute for

Professional Development for attorneys.

The branch continues to issue press releases and work with the department communications director 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.

The branch continues to monitor the progress of its cases. This has been made easier by the implementation of the Complaints Management System (“CMS”), a new case management tracking system. The result has enabled more efficient and effective control of the caseload overall. The additional training, focused procedures and approach, and more media exposure with its intended deterrent effect enabled the branch to conduct more effective regulatory oversight of the securities industry and securities fraud in the State. During the past fiscal year, the branch assessed approximately \$700,000 and collected \$540,000 in fines and penalties; three (3) seven-year bars and two (2) permanent bars.

Finally, the branch is in the process of 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 02-03 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,362,538	\$1,004,483	\$4,367,021	\$8,663,750

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. The growing demand for the division’s services has necessitated an increase in division 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 of a cable franchise is in the public's best interest. This determination is made only after careful consideration by CATV of the public need for the proposed service, the adequacy, efficiency, and reliability of service, and the technical, financial, and operational ability of the franchisee.

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

CATV is cognizant of the increasing importance of cable service to the people of Hawaii. With advanced technology, cable systems are becoming more than strictly a source of entertainment, 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 daily to public inquiries, concerns, and complaints. Staff is 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 first floor of the King Kalakaua Building at 335 Merchant Street. Mailing address: P.O. Box 541, Honolulu, HI 96809; phone number: 586-2620; internet address: www.hawaii.gov/dcca/catv.

ACCOMPLISHMENTS

Plan for Public, Education, and Government (“PEG”) Access – In the spring of 2003, DCCA decided to reassess the State’s policies on PEG access, and to create a plan to guide the future development of PEG access television in Hawaii. To that end, the DCCA developed a discussion document that identified 16 issues relating to PEG access, and set forth possible policy options for many of those issues. The public was invited to comment on the issues identified in the document, as well as any other issues that they believed should be addressed. In order to facilitate that process, public comment meetings were held in Hilo, Kona, Honolulu, Kahului and Lihue. The plan is scheduled to be finalized by the end of the year.

Direct Broadcast Satellite (DBS) Service – CATV continues its on-going efforts before the Federal Communications Commission (“FCC”) to ensure that DBS service to Hawaii is equivalent in programming and pricing to the service found elsewhere in the continental United States. 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. Echostar – DishNetwork has made significant progress in their service offerings, including local-into-local service. Our most recent efforts have been focused on DirecTV which has not offered equivalent services that are available on the mainland. We will continue to lobby for and demand equal treatment by DBS providers.

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 allows Maui County as well as the UH, DOE and State, access to state-of-the-art telecommunications capabilities. In addition, interconnection of the islands of Oahu, Maui and Hawaii via submarine fiber provides the UH, DOE and ICSD with seamless, broadband networking capabilities between these islands. Plans are currently being developed that will result in the interconnection of the island of Kauai into this intrastate submarine fiber network in the near future. The State’s INET is currently one of the most sophisticated networks in the nation.

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. A notable accomplishment was the recent agreement between the four PEG organizations, UH, and DOE to implement consistent channel numbering for E channels. The benefit to our residents is that regardless of where you reside, the UH and DOE will have the same PEG channel number statewide.

Kauai Upgrade to 750 Mhz – The upgrade will result in a consistent, statewide 750 Mhz bandwidth infrastructure design with digital headroom using two-way fiber-to-node architecture. Once this upgrade is completed, cable television subscribers statewide will be served by an equivalent fiber to node delivery system. This upgrade, as others in the other counties, is being implemented without the passing on of costs or charges to subscribers.

The CRF financial summary relating to CATV for FY 02-03 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$219,530	\$177,926	\$397,456	\$1,373,910

CONCLUSION

The year 2003 was a remarkable year for CATV, due in part to 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. 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 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 to both the public and 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, 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/tariff changes, capital improvement projects, integrated resource plans, issues regarding competition in the telecommunications and electric industries, certificates to operate, and other applications filed with regulatory bodies by utility and transportation companies. In representing the consumer before the PUC, the DCA must analyze financial and statistical data, prior docketed material, industry standards, and the information provided by the utility and transportation companies to support their applications. After analyzing the information, DCA must submit written statement of position or testimony explaining the analyst's analysis, findings, and recommendations to the PUC. Oral testimony by DCA analysts, subject to utility company cross examination, is required if an evidentiary hearing before the Commission is required to resolve differences between the utility and DCA.

Composition

The DCA consists of 23 employees, ranging from administrator, secretary, utilities/transportation officer, utilities/transportation specialist, IRP and telecommunications specialists, economist, statisticians, tariff analyst, auditors, engineers, attorneys and clerical support. DCA is located on the third floor of the King Kalakaua Building, 335 Merchant Street. Mailing address is P.O. Box 541, Honolulu, HI 96809; phone number: 586-2800; internet address: www.state.hi.us/dcca/dca.

DCA is comprised of the Financial Analysis Branch, the Economics and Pricing Branch, the Engineering 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 evaluates the allocation of common costs by analyzing the allocation methodologies to detect discriminatory allocation practices of expenses common to both the regulated and non-regulated operations. The Branch reviews current accounting pronouncements to ensure the compliance in the financial information presented by the regulated companies.

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

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

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

DCA has four staff positions—the Public Utilities/Transportation specialist, Integrated Resource Planning (IRP) specialist, Telecommunications specialist and the Education specialist. The Public Utilities/Transportation specialist assists the Public Utilities/Transportation Officer in managing the overall work pertaining to matters filed before the regulatory agencies such as the PUC and FCC. The IRP specialist focuses on filings pertaining to the electric companies and has primary responsibility for reviewing the integrated resource plans and related demand side management programs applications. The telecommunications specialist focuses on filings pertaining to the telecommunications industry.

DCA has recently hired an Education specialist who will be responsible for educating consumers about their rights, monitoring consumer complaints filed with the regulatory agencies, and attending public hearings and neighborhood board meetings to gain public input about specific issues affecting consumers such as the undergrounding of utility power lines and maintain the Division's web page content.

ACCOMPLISHMENTS

In 2003, the Division's reviewed the application filed by Citizens Utilities Company, The Gas Company Division and K-1 USA Ventures Inc. and Hawaii Gas Company LLC. to sell certain assets of The Gas Company to K-1 USA Ventures Inc. and to retain the existing rates for regulated utility gas service in the state of Hawaii. In addition, to the above application, several rate applications involving small water and wastewater companies were reviewed. Although the dollar impacts were small, considerable staff resources were required since these utility companies had not sought a rate adjustment in over ten years.

The Division was also involved in a generic proceeding opened by the Public Utilities Commission to examine the issues surrounding whether it is consistent with public interest to exempt commercial mobile radio service providers, which include wireless telecommunication providers, their services, or both from any provision of Hawaii Revised Statute (HRS) chapter 269 in accordance with HRS § 269-16.9 and Hawaii Administrative Rule § 6-80-135. This is an important proceeding in that the primary issue to be addressed is whether existing regulation is unnecessary, in light of the existing market conditions.

The Division also examined the existing rate structure by which Young Brothers, Ltd. charges customers for the transport of goods between islands in the State. The need to determine the reasonableness of the existing rate structure will serve as the basis for changes in the rates charged for the transport of various individual commodities, in accordance with the pilot zone of reasonableness rate adjustment program. The pilot program and the study of the existing rate structure would enable Young Brothers to operate in today's environment where the company faces competition for certain select services that it provides.

Finally, 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 200 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. For the first ten months of 2003, the Consumer Advocate reviewed over 150 tariff filings by various telecommunications carriers.

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.⁶

In addition to the above proceedings, the Consumer Advocate reviewed 100 motor carrier tariff change requests from January to October and about 180 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 02-03 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,024,352	\$325,336	\$1,349,689	\$2,571,366

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.

⁶ The Hawaii Public Utilities Commission recently opened Docket No. 03-0253 to begin the 3rd IRP process for Hawaiian Electric Company, Inc.

DIVISION OF FINANCIAL INSTITUTIONS (DFI)

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

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

OVERVIEW

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

DFI is charged with the supervision and regulation of all 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 335 Merchant Street, Room 221, Honolulu, Hawaii 96813. The public can call DFI at (808) 586-2820 or send e-mail to dfi@dcca.hawaii.gov.

Composition

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

Within DFI there are two branches: (1) the 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 administering the institution's risk management programs and practices. The *Licensing and Regulatory Analysis Branch* is responsible for licensing activities and other regulatory approvals, the off-site monitoring program, and responding to complaints and inquiries. The Licensing and Regulatory Analysis Branch Manager also assists the Deputy Commissioner in administrative matters such as legislation, training, and budgetary items.

ACCOMPLISHMENTS

Positive Franchise Tax Collections. The Hawaii State Legislature through Act 182, 1999 Session Laws of Hawaii, mandated an annual deposit on June 30 of each fiscal year and thereafter of \$2.5 million from the franchise tax collected under HRS Chapter 241 to the Compliance Resolution Fund (CRF) for the support of DFI's program. The deposit from the franchise tax collections was reduced to \$2 million beginning in FY 2001-2002. In FY 01, the franchise tax collected was less than the franchise tax refunded, resulting in a negative amount for the net franchise tax. For this past fiscal year, DFI received \$2 million on June 30, 2003 from the franchise tax to fund its program for FY 2003-2004. With adequate revenues to support the Division from these funds, DFI suspended collection of Hawaii financial institution hourly examination fees and costs which reimburse DFI for out-of-pocket examination expenses funds and lessened the financial costs of state regulation on Hawaii financial institutions.

Overhaul of the Escrow Depository Company Law. During FY 2002-2003, a team of key DFI staff undertook a complete review and redraft of portions of Chapter 449, Escrow Depositories, Hawaii Revised Statutes (HRS). Although amended periodically since its enactment in 1967, this chapter required substantial changes to bring it forward to meet the more current sophisticated status of the industry.

Implementation of Federal Laws Continue to Expand DFI's Regulatory Role. Congress has enacted the Gramm-Leach-Bliley Financial Services Modernization Act of 1999 (GLBA), to address modernization of the financial services industry; the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA Patriot Act), to address terrorism in the aftermath of the September 11 tragedy; and the Sarbanes-Oxley Act of 2002, to address corporate governance issues raised by the Enron and other corporate scandals.

GLBA removed legal barriers between the banking, securities and insurance industries, necessitating increased communication and cooperation between DFI and other state and federal agencies. It also established new financial privacy standards for consumers.

The USA Patriot Act contains provisions requiring financial entities, such as banks, finance companies, etc., to establish procedures and programs to detect and report money laundering activities and prohibit terrorist finance.

The Sarbanes-Oxley Act mandates public companies to, among other requirements, maintain auditor independence, strengthen corporate responsibility of financial reports and enhance corporate financial disclosures. This law also requires conflict of interest disclosure by analysts, and imposes corporate and criminal fraud accountability.

DFI continues to enhance its programs and train its staff to implement these federal laws relating to privacy for consumer financial information, money laundering and corporate governance.

DFI's Emergency Preparedness Program. As a direct result of the tragic events of September 11 and its aftermath, DFI continues to plan, implement, and maintain its three-prong approach to Emergency Preparedness. One prong of DFI's plan is similar to the intensive Y2K Readiness Program that consumed countless DFI man-hours and resources over several years. DFI must 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 was the total disruption of commercial air transportation that is crucial for financial institution item processing and currency/cash supply both within the Hawaiian islands and with the Mainland. Public confidence in the financial payment system 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 the 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 procedures to address transportation of items and currency that 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 was the expansion of DFI's own emergency preparedness plan and coordinated post emergency follow up plan with all the federal regulators and financial institutions.

During 2003, DFI coordinated numerous meetings with the State's financial institutions, Hawaii State Civil Defense, federal regulators, Federal Aviation Authority, the Hawaii Bankers Association, and the Hawaii Credit Union League. As a result of these meetings, a Financial Institutions Liaison Team (FILT) was formed to develop a contingency plan. The team consists of members representing all of Hawaii's financial institutions, State Civil Defense and DFI. In addition, a comprehensive State of Hawaii, Air Transportation Contingency Plan was drafted and placed into effect. Along those guidelines, DFI subsequently prepared its own emergency preparedness plan to complement plans in place with the FILT Team's Contingency Plan. Although plans are now in place, DFI will continue to ensure that plans are updated semi-annually and coordinate efforts to further streamline and facilitate these plans should they need to be placed into action.

DFI Continuing Efforts-Examination of Large Banks. During FY 02-03, DFI continued 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 for those banks throughout the year rather than once a year. DFI works closely with the Federal Reserve Bank of San Francisco on joint year-round type targeted examinations of Bank of Hawaii. DFI also continues to work closely with the Federal Deposit Insurance Corporation on the joint year-round "large-banks" examination of the First Hawaiian Bank. DFI also continues implementation of its Off-Site Monitoring program to enhance its ability to detect significant trends or deviations in the safety and soundness components of its depository financial institutions with the possible extension of this program, depending on resources, to escrow depository companies.

Hostile Acquisition Application. On April 28, 2003 DFI received an application by Central Pacific Financial Corp. (CPF) requesting approval of its proposed acquisition of control of CB Bancshares, Inc. (CBBI). DFI staff has spent significant time addressing the numerous documents received by DFI, the publicity, and the issues raised by this unprecedented situation. An informational and comment proceeding has been scheduled for December 8, 2003 for DFI to receive comments from the public regarding this application. Further detailed study and review by DFI staff will be required on these issues going forward.

DFI Participation in Meeting of Pacific Regulators. In initializing efforts to provide outreach to financial services regulators in the Pacific, newly appointed Commissioner of Financial

Institutions, Dominic B. Griffin III, participated in the Pacific Technical Assistance Center and International Monetary Fund sponsored Basel II workshop and Association of Financial Supervisors of Pacific Countries (AFSPC) Annual Meeting in Suva, Fiji. At this meeting, the Commissioner sought opportunities for Hawaii to play a part in the future activities of this group by promoting its regulatory expertise (representing both the State of Hawaii and the Federal Reserve Bank of San Francisco) in training Pacific Island financial institution examiners, money laundering investigators, etc. Hawaii has now been accorded formal Observer status in the AFSPC and looks forward to further mutually beneficial participation.

Post-Fiscal Year But of Significance for Year 2003

DFI staff worked steadily through FY 2002-2003 on plans to move DFI and most of DCCA in late 2003 to the old United States Post Office-Custom House-Court House building, renamed the King Kalakaua Building. In mid-November, DFI with other DCCA divisions were smoothly moved out of the Princess Kamamalu Building to the newly renovated King Kalakaua Building. DFI is presently adjusting to its new home on the second floor of this building.

The CRF financial summary relating to DFI for FY 02-03 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,383,373	\$150,178	\$1,533,551	\$1,888,789

(Note: FY 99-00 was the last year that DFI received general funds support.)

CONCLUSION

During FY 02-03, in addition to its established regulatory and licensing programs, DFI successfully continued to develop and implement examination programs necessitated by new federal legislation and changing circumstance in the industries regulated by the Division. Further, DFI continues its Off-site Monitoring program to maintain standards essential for the Division’s continued accreditation by CSBS.

DFI and the financial institutions it regulates faced and rose to economic and regulatory challenges this past fiscal year. The implementation of federal legislation enacted over the past several years, as well as the continued and rapid evolution of technologies and products of a sophisticated financial services industry, continue to provide DFI and the Hawaii financial institutions it regulates and supervises with ongoing compliance challenges. The economic situation in Hawaii appears to be improving, despite the continued economic doldrums in Japan and the Far East and the uncertainty in the continental United States. All of these factors require DFI to aggressively employ its resources to effectively deal with these changes to continue maintaining the safety and soundness of our State-chartered financial institutions.

INSURANCE DIVISION (ID)

website: www.hawaii.gov/dcca/ins
 e-mail address: insurance@dcca.hawaii.gov

OVERVIEW

The Hawaii State Insurance Division’s (ID) mission is to ensure that the consumer is provided with insurance services meeting acceptable standards of quality, equity, and dependability at fair rates by establishing and enforcing appropriate service standards and fairly administering the Insurance Code.

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

At June 30, 2003, the following were the number of entities licensed under the insurance statute.

	<u># of Licenses</u>
Insurance Companies.....	962
Captive Insurance Companies.....	112
Producers.....	7,049
Nonresident Producers.....	7,500
Surplus Lines Brokers.....	58
Nonresident Surplus Lines Brokers.....	45
Adjusters.....	532
Fraternal Benefit Societies.....	6
Fraternal Benefit Society Agents.....	47
Mutual Benefit Societies.....	5
Health Maintenance Organizations.....	2
Independent Bill Reviewer.....	16
Service Contract Providers.....	104
Ltd. Lines Motor Vehicle Rental Co. Producers.....	7
Vehicle Protection Product Warrantor.....	9
TOTAL.....	16,454

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

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

Composition

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

Captive Insurance Branch. Hawaii's captive insurance industry began on May 29, 1986, when the Governor signed Act 253, which authorizes the Insurance Commissioner to license and regulate these specialized insurance companies. The Act was subsequently codified as Article 19, Chapter 431 of the Hawaii Revised Statutes. The initial intent of the enabling captive legislation appears to focus on providing local businesses with an alternative to the traditional commercial insurance market, and to also create a new industry that would help diversify the state's economy by attracting organizers from out of state and creating an infrastructure to service this special kind of insurance industry.

In 1998, the Captive Insurance Branch (CIB) was formally established by legislative mandate to provide dedicated resources to prudently monitor, regulate and develop Hawaii's captive insurance industry, as well as, to provide for the sustained development of this industry for Hawaii's economic diversification. Pursuant to statutes, the Insurance Commissioner transfers, at the end of each year, up to \$1.5 million of captive premium taxes and fees to the Compliance Resolution Fund to pay for expenditures contemplated by the captive insurance laws (HRS 431, Article 19). For the most recent fiscal year ended June 30, 2003, the CIB collected and transferred approximately \$1.2 million to the Compliance Resolution Fund.

The CIB is currently led by a Captive Insurance Administrator, and includes a Secretary, and 6 Captive Insurance Examiners. The CIB reports directly to the Insurance Commissioner and is responsible for all aspects of licensing, regulating and developing the captive insurance industry for the State of Hawaii. The size and scope of Hawaii's captive insurance industry has recently surpassed the size and scope of Hawaii's domestic insurance companies.

The growth and refinement of Hawaii's captive insurance industry is anticipated to continue for at least the next 10 years because of the continued hardening of the local and national insurance marketplace, the increasing sophistication and demands of businesses to better control their insurance costs, and the emerging need for better insurance products for Japanese and other Asian based risks.

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

Financial Surveillance and Examination Branch. The Financial Surveillance and Examination Branch (FS&E) conducts a continuous program of financial analysis and examination of Hawaii-domiciled insurance companies to assure compliance with laws and financial solvency in an effort to safeguard consumer interests and maintain professionalism in the industry. The work of the FS&E is subject to review by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Program (Accreditation Program). The NAIC Accreditation Program requires that insurance departments have adequate statutory and administrative authority to regulate an insurer's corporate and financial affairs, and that they have the necessary resources to carry out that authority. Accredited insurance departments undergo a comprehensive review every five years by an independent review team to ensure they continue to meet baseline standards. ID was first

accredited by the NAIC in 1996 and re-accredited in 2001. The FS&E is comprised of a manager, 7 examiners and 2 certification specialists.

Other work performed by the FS&E includes:

- reviews filings from companies not domiciled in Hawaii applying for a certificate of authority to transact the business of insurance in Hawaii;
- receives and audits premium tax statements from all domestic and foreign insurers;
- licenses and regulates self insurers; and
- conducts agency financial examinations when necessary.

Health Insurance Branch. The Health Insurance Branch (HI) is responsible for regulating health insurers, including health maintenance organizations and mutual benefit societies. The HI's primary responsibilities are: receive inquiries and complaints pertaining to health insurance, including long-term care insurance; receive requests from consumers for external reviews of a health plan's decisions under the Hawaii Patient Bill of Rights and Responsibilities Act, and administer the external review and rate oversight processes. The HI also conducts financial surveillance of health insurers and provides administrative and technical support to the Patient Rights and Responsibilities Task Force, the Mental Health Task Force, and the Medical Privacy Task Force. The HI is headed by the Program Administrator and has 10 other authorized positions.

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

Licensing Branch. The Licensing Branch (LB) oversees the examination process and issues licenses to qualified applicants for various insurance licensees. The major license types are producers, nonresident producer, and adjuster licenses; and maintains records of the licensees. The LB also provides support for the Financial Surveillance and Examination Branch in issuing and amending Certificates of Authority and the maintenance of these records. The LB is responsible for continuing education deficiency notices, license renewal notifications, processing of remittance checks, confirmation & cancellation of these insurance licenses. The LB also works with the Commissioner's advisory board on continuing education requirements for producers. The LB is comprised of a licensing assistant, 6 licensing clerks, and a clerk typist.

Motor Vehicle Insurance Fraud Investigations Branch. The Insurance Fraud Investigation Branch (MVIF) conducts a statewide program for the prevention, investigation, and prosecution of motor vehicle insurance fraud cases and complaints relating to motor vehicle insurance fraud. The MVIF reviews referrals submitted by the insurance industry, other agencies, members of the public and initiates an investigation in all cases where there is reason to believe that a crime may have been or is currently being committed. In an effort to effectively fight insurance fraud, the branch coordinated

Insurance Division (ID)

efforts with both the Oahu and Maui Police Department and federal agencies. State law requires any insurer or insurer's employee or agent who believes that a fraudulent claim is being made to refer the case to the branch within sixty days. The MVIF has created a toll free insurance fraud hotline.

The MVIF consists of an administrator, five investigators, two forensic auditors, and a legal clerk. The administrator and two contract attorneys are designated as Special Deputy Attorney Generals and are responsible for initiating criminal prosecutions. By employing deputies who are trained in insurance fraud, all cases receive prompt attention and representation in the criminal justice system.

The MVIF Branch endeavored to meet its statutory mandate to prevent insurance fraud by distributing copies of their informational brochure on the topic of auto insurance fraud to the community. During the previous fiscal year copies of the brochure were provided to the Hawaii Public Library System for distribution through all of their branches statewide. In an effort to increase our public outreach effort, in FY 2003, the branch also provided copies to all of the branches of the Satellite City Hall. During the fiscal year a total of 2193 brochures were distributed to private citizens, insurance companies, military, law enforcement and state agencies.

One of the primary goals of the MVIF is to educate the public, insurance industry and law enforcement about motor vehicle insurance fraud. To meet this objective the branch conducted twelve (12) informational presentations. Presentations were conducted for insurance companies, Maui County Department of Prosecutors, Maui Police Department, Association of Certified Fraud Examiners, and at the First Circuit Court.

Office Services Branch. The Office Services Branch (OS) provides general reception; answers and screens telephone calls, clerical, stenographic, typing, duplicating and other administrative services for the Division. OS also, maintains the division's central administrative files, including Division's memorandum, newspaper articles, documents, reports, etc.; orders office supplies and equipment for the Division and maintains its inventory; and handles the receiving and distribution of Division's general mail. The OS is comprised of a clerical supervisor, a clerk-steno and 5 clerk typists.

Rate and Policy Analysis Branch. The Rate and Policy Analysis Branch (RPA) provides systems and procedures for the conduct and analyses of rate and policy filings of domestic, foreign and alien insurance companies for compliance with State insurance laws. The RPA reviews and approves rates for casualty, property, motor vehicle, inland marine, surety, credit life and disability and medicare supplement insurance used by companies in the sale of its policies to ensure that mandated coverages are provided and that the interests of the buyers are protected. RPA also reviews policy form filings for workers' compensation, motor vehicle, credit life and disability, medicare supplement, temporary disability and title insurance. The RPA is comprised of a manager and 8 rate & policy analysts.

ACCOMPLISHMENTS

Captive Branch. Since the creation of the CIB and the hiring of the Captive Insurance Administrator in 1999, Hawaii has become the premier domicile for captives in the Pacific Basin, and is also second in the U.S., and within the top ten in the world. During this period, over 60 *new* companies were incorporated in Hawaii and granted licenses to operate as captive insurance companies. Captive organizers come mainly from the U.S. mainland, with about 12 owned by Hawaii companies, and about 6 by Japanese based companies. The organizers come from a diverse range of industries, including manufacturing, high technology, healthcare and medical, real estate ownership

and development, construction, banking, insurance, transportation, petroleum and energy, and retail.

Following is a summary of information about Hawaii's captive insurance industry for the last four (4) fiscal years (*Note: dollar amounts rounded to the nearest \$1 million*):

	<u>FY 2003</u> (Estimate*)	<u>FY 2002</u>	<u>FY 2001</u>	<u>FY 2000</u>
No. of Captive Insurance Licensees	112	89	78	68
Combined Total Assets	\$ 3,000*	\$ 2,851	\$ 2,052	\$ 1,703
Combined Total Capital and Surplus	\$ 1,000*	\$ 933	\$ 650	\$ 473
Total Premium	\$ 1,100*	\$ 1,086	\$ 538	\$ 272
Total Hawaii Investments	\$ 750*	\$ 524	\$ 384	\$ 266

Compliance and Enforcement Branch. 597 complaints and requests for assistance were received for the following classes of insurance:

MOTOR VEHICLE INSURANCE received the largest number of cases with 384 or 64% of the total. Of this amount, 334 cases involved claims and claims handling. Claims involving the personal injury protection coverage (PIP) for medical and other related benefits accounted for 230 cases. From this amount, 187 were PIP cases where benefits were contested or denied by the insurer. In the area of material damage cases, 19 were collision, 10 were comprehensive, and 54 involved property damage liability cases, with 20 cases that involved other claims-related complaints. These 20 cases involved payment delays, coverage disputes, and settlement disagreements with the repair or replacement of the damaged motor vehicle. Complaints other than claims were in the area of premiums (27), policy cancellations (18), and refunds (3). In addition to these categories, there were 3 miscellaneous cases involving incorrect billing and policy adjustments, acknowledgment delays, and dissatisfaction with services rendered by agents and adjusters. 197 cases were resolved or referred to the appropriate agency for resolution. 187 cases involved PIP denials and were referred for formal resolution by administrative hearing. No cases remain pending.

LIFE INSURANCE received 73 or 12% of the total. Of this amount, 15 involved the replacement of policies, 10 were regarding claims and 48 were in miscellaneous category (policy and refund delays, incorrect cash values, and possible misrepresentation and fraudulent transactions). 73 cases were resolved or referred to the appropriate agency for resolution. No cases remain pending.

WORKERS' COMPENSATION received 47 cases or 8% of the total. Of this amount, 38 involved claims and 9 were in the miscellaneous category. 47 were resolved or referred to the appropriate agency for resolution. No cases remain pending.

FIRE/HOMEOWNERS INSURANCE received 25 cases or 4% of the total. Of this amount, 8 involved claims, 15 were in underwriting (rating, cancellations, and nonrenewals), and 2 was in the miscellaneous category. 25 cases were resolved or referred to the appropriate agency for resolution. No cases remain pending.

MARINE INSURANCE received 2 cases or less than 1 % of the total. Of this amount, 2 cases involved claims. 2 cases were resolved or referred to the appropriate agency for resolution. No cases

remain pending.

MISCELLANEOUS: In addition to the above categories, there were 66 cases relating to other classes or matters of insurance (dental, general liability, motorcycle, surety and miscellaneous). 66 cases were resolved or referred to the appropriate agency for resolution. No cases remain pending.

The resolution of the investigations consumers saved or recovered more than \$ 650,000 from insurance companies and agents with the assistance of the Insurance Division.

DISCIPLINARY ACTION: There were 21 formal actions filed which involved the Compliance and Enforcement Branch. 1 Letter of Caution was issued, 18 stipulated agreements were entered into, 1 Cease and Desist Order and 1 Revocation of License was issued. A total of \$153,100 was levied in fines.

Financial Surveillance and Examination Branch. To protect the policyholders, domestic insurance organizations, including insurers and risk retention groups, are regularly examined for solvency and compliance with the Hawaii Revised Statutes. Examinations which were conducted between July 1, 2002 and June 30, 2003 and for which reports have been officially filed are as follows:

AIG Hawaii Insurance Company, Inc.
 American Pacific Insurance Company, Inc.
 BSH Life Insurance, Inc.
 California Healthcare Insurance Company, Inc., A Risk Retention Group
 Mililani Life Insurance Company, Ltd.
 National Interstate Insurance Company of Hawaii, Inc.
 Newport Mutual Insurance Risk Retention Group, Inc.
 Residential Insurance Company, Inc., A Risk Retention Group
 WorkComp Hawaii Insurance Company, Inc.
 WorkComp Hawaii Select Insurance Company, Inc.

The Branch completed the following during FY 03.

• Domestic insurers dissolved	1
• Foreign insurers licensed	32
• Mergers and acquisitions reviewed	31
• Risk purchasing groups registered	10
• Risk retention groups registered	8
• Self insurance entities licensed	1
• Annual premium tax returns received and audited	1,000
• Quarterly premium tax returns received	4,000

Health Insurance Branch. The Health Insurance Branch received inquires and complaints pertaining to federal and state laws governing health insurance, including long-term care insurance. From July 1, 2002 to June 30, 2003, one hundred and seventy-four (174) complaints were received. Of the one hundred and seventy-four (174) complaints, one hundred forty (140) were resolved. Of the one

Insurance Division (ID)

hundred forty (140) resolved complaints, the Health Insurance Branch had no jurisdiction for thirty-one (31) complaints, and six were referred to another agency. Of the total cases, seventy-four (74) involved benefit payments. Thirty-four (34) cases are still pending. As a result of the assistance conducted by the Health Insurance Branch during this period, consumers saved or recovered more than \$130,000 from insurers, health maintenance organizations, and mutual benefit societies.

During the same period, the Health Insurance Branch received five hundred and eleven (511) inquiries. One hundred and eighty (180) were regarding complaints, ninety-eight (98) were requesting information on health insurance providers, fifty-one (51) concerned filing and financial requirements, fifty (50) were about government insurance plans (COBRA, QUEST, Medicaid, and Medicare), forty-one (41) were general health insurance questions, thirty-eight (38) were about coverage costs and premiums, forty (40) were regarding external review procedures, ten (10) were concerning the Prepaid Health Care Act, two (2) requested more information on mandated benefits, and one (1) requested information on alternatives to insurance.

To protect the policyholders, domestic insurance organizations, including mutual benefit societies and health maintenance organizations, are regularly examined for solvency and compliance with the Hawaii Revised Statutes. Examinations which were conducted between July 1, 2002 and June 30, 2003 and for which reports have been officially filed are as follows:

Hawaii Management Alliance Association
Mutual Benefit Association of Hawaii
Voluntary Employees' Benefit Association of Hawaii

In addition, the Health Insurance Branch reviewed premium rate filings of managed care plans pursuant to HRS Article 431:14F. The Health Insurance Branch also conducted independent external reviews of managed care plan coverage decisions that are appealed by the plan member pursuant to Chapter 432E, HRS.

The Health Insurance Branch also reviewed long-term care advertising issued by long-term care insurers licensed in the state. The filings were reviewed for compliance with HRS §431:10H (Long-Term Care Insurance).

The Health Insurance Branch also provided administrative and technical support to the Patients' Rights and Responsibilities Task Force and subcommittees, pursuant to Act 178, Session Laws of Hawaii (1998).

Motor Vehicle Insurance Fraud Investigations Branch. During the period of July 1, 2002 and June 30, 2003 the Insurance Fraud Investigation Branch received one hundred ninety eight (198) referrals. Of the total referrals, one hundred six (106) investigations were opened. Thirty four (34) referrals were made to other agencies. Twenty six (26) criminal indictments against thirty one (31) individuals were obtained. The number of indictments obtained reflects a fifty three percent (53%) increase from the previous fiscal year. Of the thirty one (31) individuals indicted during the fiscal year twenty one (21) have been sentenced, and ten (10) have not reached the sentencing phase.

The dollar amount involved in actual and attempted fraud and theft cases indicted by the fraud branch equaled one hundred sixty nine thousand nine hundred seventy four dollars and seven cents (\$169,974.07). Value of the actual fraud and theft cases totaled sixty three thousand

Insurance Division (ID)

four hundred sixty nine dollars and sixty six cents (\$63,469.66). Value of the attempt cases totaled one hundred six thousand, five hundred four dollars and forty one cents (\$106,504.41). Of those actual fraud and theft cases which reached final disposition during the fiscal year the branch obtained restitution orders totaling nineteen thousand one hundred forty dollars and twenty four cents (\$19,140.24). As a result of all cases which reached final disposition the branch obtained fines payable to the State of Hawaii totaling seven thousand two hundred fifty dollars (\$7,250), payments in the amount of five thousand one hundred fifty dollars (\$5,150) to the Criminal Compensation Fund, probation services fees in the amount of six hundred seventy five dollars (\$675), and community service totaling one thousand seven hundred eighty hours (1780 hours).

Rate and Policy Analysis Branch. During the fiscal year, 3,385 rate filings and 3,558 policy filings were reviewed; in the preceding year, 3,455 rate filings and 3,658 policy filings were reviewed. The Rate and Policy Analysis Branch also reviewed and analyzed approximately 7,300 motor vehicle reports and statements.

On November 21, 2001, Hawaii became the 40th state to begin accepting electronic form filings for life insurance products through the National Association of Insurance Commissioners' filing process known as SERFF. Two hundred sixty-two electronic form filings were processed.

CONCLUSION

ID has met and continues to meet its mission and goals to maintain a secure and competitive insurance market place, and to protect the interests of the consumers.

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 HRS Chapter 91. The primary CRF caseload of OAH is composed of cases originating from: 1) the Regulated Industries Complaints Office (RICO) and boards, commissions, and programs attached to the Professional and Vocational Licensing Division (PVL) on licensee disciplinary action and declaratory relief petitions; 2) citations issued to persons or businesses engaged in unlicensed activities; 3) trade name/trademark revocation and securities cases from the Business Registration Division (BREG); 4) denials of no-fault and personal injury protection benefits; and 5) other matters from other divisions.

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

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

ACCOMPLISHMENTS

The following table summarizes the CRF-related activities conducted by OAH for the 2002-03 fiscal year:

Type of Proceeding Conducted	Number
Pre-hearing conferences	151
Status conference	93
Motions	48
Hearings	100
Oral arguments on written exceptions	16

The following table summarizes the relative percentage of CRF-related activities conducted by OAH for the 2002-03 fiscal year, by referring Division of OAH

DCCA Divisions Referring Matters to OAH	Percentage
Insurance Division (denial of personal injury protection benefits)	41%
Regulated Industries Complaints Office (disciplinary proceedings)	34%
Office of Administrative Hearings (procurement protests)	13%
Professional and Vocational Licensing (license denials)	8%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, violations of securities laws)	5%

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

OAH is continuing the process of integrating the scanned copies of all board and commission final orders and recommended decisions into the comprehensive DCCA complaints management system which is near completion. Currently, the electronic documents have been compiled into discrete collections which have available to the general public upon request.

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.

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 governmental agency in the State of Hawaii responsible for reviewing and investigating allegations of unfair or deceptive trade practices in consumer transactions.

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

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

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 website address is www.hawaii.gov/dcca/ocp. Its functions are divided into four basic sections: intake, investigation, landlord-tenant, and legal.

Composition

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

The Consumer Resource Center (CRC) handles the intake of complaints for OCP. CRC is staffed by investigators who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to OCP for review, closing or further investigation. In addition, a division within CRC answers telephonic requests for prior complaint history. If circumstances permit, consumers also have the opportunity to visit OCP's Honolulu office to view the actual case files. Prior to the release of any file, OCP's staff reviews its contents to ensure that legally protected private information is not disclosed. See Table 2, statistics on OCP Information Requests.

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

OCP's investigation section receives cases from CRC and gathers evidence to determine whether violations of consumer laws have occurred. Investigators' tasks include site inspections, witness interviews, document collection, evidentiary analysis, report writing and the service of subpoenas. See Table 3, Number of OCP Complaints Filed; Table 4, Numerical Breakdown of Dispositions of All OCP Cases; and Table 5, OCP Complaints by Subject Matter for FY 2002-2003 statistics.

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

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

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

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

OCP also provides the following services:

Consumer Education

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

Neighbor Island Assistance Requests

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

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

ACCOMPLISHMENTS

Consumer Education

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

Cases

OCP handled several significant cases in 2003 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, credit practices, sweepstakes and prizes, door-to-door sales, going out of business sales, refund and exchanges and unfair or deceptive trade practices. OCP’s involvement successfully resulted in recovering millions of dollars in restitution for Hawaii consumers as well as obtaining injunctive relief and fines against violators.

The CRF financial summary relating to OCP for FY 02-03 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$934,813	\$58,439	\$993,252	\$615,114

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 ⁷
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices ⁸
HRS Chapter 480D	Collection Practices ⁹
HRS Chapter 480F	Check Cashing
HRS Chapter 481A	Uniform Deceptive Trade Practice Act
HRS Chapter 481B	Unfair and Deceptive Practices, including Unsolicited Goods; Commercial Mail Order Buying Clubs; Offers of Gifts or Prizes; Aid to Handicapped; Refunds and Exchanges; Solar Energy Devices; Sales of Computers; Sensitivity Awareness Group Seminar; Credit Repair Organizations; Gift Certificates
HRS Chapter 481C	Door-to-door Sales
HRS Chapter 481D	Going Out of Business Sales
HRS Chapter 481F	Sale of Fine Prints
HRS Chapter 481H	Water Treatment Units
HRS Chapter 481K	Assistive Technology Warranty Act
HRS Chapter 481L	Motor Vehicle Lease Transactions
HRS Chapter 481M	Rent-to-Own
HRS Chapter 481P	Telemarketing Fraud Prevention Act
HRS Chapter 481 X	Service Contracts
HRS Chapter 486N	Health Clubs
HRS §487-5	Laws Enacted and Rules Adopted for the purpose of consumer protection ¹⁰
HRS Chapter 487A	Plain Language Law
HRS Chapter 506	Reverse Mortgage Loan
HRS Chapter 521	Landlord Tenant Code ¹¹
ACT 146 (1999)	Check Cashing
Act 282 (1997)	Assistive Device Warranty Act
Act 222 (2000)	Service Contracts

⁷ 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.

⁸ 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.

⁹ See also, Collection Agencies HRS §443B-20.

¹⁰ E.g. Motor vehicle advertising, HRS §437-4.

¹¹ 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.

Table 2: OCP Information Requests

REQUEST AND INQUIRIES	FY 01-02	FY 02-03
Requests for Prior Complaint History	7,774	6629
Requests for Landlord/Tenant Information	8,671	10,996
Complaint Inquiries	13,769	17,682
Requests for Records Review	122	105
TOTAL	30,336	35,412

Table 3: Number of OCP Complaints Filed

COMPLAINANT	FY 01-02	FY 02-03
Public	1,193	1631
OCP	142	38
TOTAL	1,335	1669

Table 4: Numerical Breakdown of Dispositions of All OCP Cases

DISPOSITIONS	FY 01-02	FY 02-03
Complaint Withdrawn	8	7
Legal Action & Referrals to Legal	146	238
Advisory Contact	147	62
Civil Dispute/Personal Matter	68	71
Monetary Threshold	27	13
Complainant Uncooperative	12	13
Consumer Complaint Resolved	14	18
Respondent Died or Bankrupt	81	97
Business vs. Business	36	22
No Jurisdiction	1	6
Refer to Investigation	179	263
Other	1	3
Warning Letter	92	75
Insufficient Evidence	476	416
Transferred to Other Gov't. Agency	547	785
No Violation	34	23
Information Only/Inquiry	27	30
Total	1,896	2142

Table 5: OCP Complaints by Subject Matter

A complaint may cover multiple subject matters

SUBJECT	FY 01-02	FY 02-03
Animals	2	4
Breeders	0	1
Pet Grooming	0	1
Pet Shops	2	5
Kennels/Boarding	0	0
Apparel/Accessories	14	15
Laundry/Dry Cleaning/Laundromats	3	3
Dressmaker/Tailors	0	1
Fabric/Notions/Etc.	1	0
Shoes/Etc.	1	3
Clothes	5	16
Appliances	6	12
Refrigerator/Freezer/Stove/Range	6	7
Water Heaters/Air Conditioners	4	4
Washer/Dryer	2	0
Radio/Stereo/Tape Deck/CD Player	1	3
TV/VCR	4	10
Sewing Machine	0	2
Vacuum Cleaner	11	10
CB Radios	0	0
Computers/Software	54	87
Health Services/Products	10	21
Exercise Devices	3	2
Exercise/Health Clubs/Clinics	13	16
Health Foods	1	1
Weight Reduction	3	2
Cosmetics/Beauty Products	9	10
Wigs/Hairpieces	0	0
Entertainment/Music	2	2
Concerts/Events	2	2
Ticket Sellers/Promoters	1	0
Theaters	0	1

SUBJECT	FY 01-02	FY 02-03
Night Clubs/Discotheques	0	0
Musical Instruments/Lessons	4	4
Audio Records/Tapes/CD/Etc.	5	10
Buying Clubs - Record/Tape/CD/Video	1	5
Video Records/Tapes/CD/Etc.	4	9
Florists/Nurseries	4	3
Food/Drink	8	23
Food Stores/Markets	7	8
Drive Inns	0	0
Caters/Deli	1	2
Bakery	0	0
Restaurants	14	13
Banquet Halls	0	0
Bars/Cocktail Lounges	2	1
Energy/Fuels	0	0
Solar Energy	2	1
Gas, Propane, Etc.	4	4
Energy Saving Devices	0	0
House Materials/Goods/Services	11	22
Beds & Mattresses	4	15
Furniture	22	14
Cookware	2	1
Drapery	2	0
Carpet/Rugs	5	4
Clocks	0	0
House Hardware/Fixtures	3	9
Woodwork/Metalcraft/Glass/Etc.	10	6
Interior Decorators	0	0
Lawn Care Products/Yard Service	6	1
Upholsters	1	1
Water Purifiers/Filters	1	2
Cleaning Services	2	5
House Construction/Remodeling	19	17
Vermin/Bug Extermination	2	1

SUBJECT	FY 01-02	FY 02-03
Tools	2	5
Insurance	27	12
Extended Warranties	3	3
Service Agreements/Contracts	7	8
Jewelry	28	22
Precious Stone & Metals	3	4
Watches	3	4
Medical	4	12
Hospitals/Clinics	17	14
Pharmacies	1	1
Convalescent/Nursing Homes	0	0
Medical Equipment	2	2
Medical Service Companies	20	4
Medical Laboratories	1	3
Home Care Facilities	0	0
Psychiatric Counseling/Group Therapy	0	0
Other Counseling/Group Therapy	1	1
Occupational Therapists (457G)	0	0
Morticians, Cemeteries & Other	0	0
Moving & Storage	9	19
Private Storage Company	8	3
Bill of Lading	1	0
In-transit Storage	0	2
Delivery Service	3	5
Air Cargo Service	0	0
Multi-Product Retailer/Wholesalers	11	10
Buying Clubs	4	3
Department Stores	8	6
Photography	11	8
Photo Studios	3	0
Film Processing	1	2
Camera/Equipment	10	23
Photographic Services	4	7
Professional Services	11	0

Office of Consumer Protection (OCP)

SUBJECT	FY 01-02	FY 02-03
Attorneys/Legal Services	1	2
Accountants/Bookkeeping	0	0
Tax Services	1	3
Medical Professional	4	2
Adoption Agencies	0	2
Printers	0	2
Regulated Services (Trade & VO Caption)	6	2
Protection Devices	1	1
Fire/Burglar Alarms	0	0
Heat/Smoke Detectors	0	1
Locks (Windows, Doors, Etc.)	2	0
Fire Extinguisher	0	0
Recreation/Toys/Game/Etc.	11	18
Arts & Crafts	3	8
Boats & Airplanes	3	4
Toys	2	12
Surfboards	0	2
Video Games	2	9
Camping Equipment	0	0
Sporting Goods	9	22
Recreational Rentals	0	9
Transportation	5	11
Cabs	0	1
Moving Companies/Storage	1	2
Pedi-Cabs	0	0
Tour Buses and Limos	1	1
Automobiles	16	25
Car/Truck Rental	13	10
Car/Truck Lease	2	1
Moped Rentals	2	3
Other Transportation Rentals	0	1
Towing	12	16
Parking	6	10
Body/Paint Shops	12	35

SUBJECT	FY 01-02	FY 02-03
Auto Parts/Repair	32	65
Rustproofing/Undercoating	0	1
Glass Tinting	1	1
Vehicle (Incl Mopeds) New & Used Sales	8	2
Warranties	5	5
Travel/Vacations	19	17
Air Travel Services (Airlines, Etc.)	11	20
Ocean Travel Services (Cruises & Ships)	3	4
Discounted Tickets - Travel/Entertainment	1	10
Hotels & Motels	30	18
Bed & Breakfast	5	7
Tour Services	3	10
Travel Clubs	3	2
Passports & Visas	0	1
Utilities	4	3
Gas Provider	0	0
Electric	1	1
Telephone/Cellular/Pagers	73	78
Water	1	3
Cable	13	3
Telecommunications/Electronic Devices	2	12
Dating Services	4	2
Investment/Financial	18	11
Chain Letter	0	0
Consumer Credit	11	17
Credit Card	100	89
Checking Accounts	2	5
Debit Accounts	5	2
Promissory Notes	0	0
Buying on Account	0	0
Information to Obtain Credit/Credit Cards	2	0
Discount Coupons/Books	2	0
Financial Institutions	12	13
Credit Reporting Agency	3	9

SUBJECT	FY 01-02	FY 02-03
Credit Repair	5	5
Collection of Debts	12	7
Advance Fee Loans	0	1
Bank/Savings & Loan/Industrial Loan Companies	4	5
Escrow Services	0	1
Loan/Mortgages	18	15
Investment/Opportunity Scheme	9	7
MLM/Pyramids/Endless Chain Schemes	0	2
Referral Sales	0	1
Get Rich Programs	0	1
Work-at-Home Programs	1	8
Coins/Currency	1	1
Stocks & Bonds	1	0
Oil/Gas Lottery	0	0
Art	4	2
Securities	0	0
Tax Planning/Devices	0	1
Contract Sellers	1	0
Pawn Shops	0	1
Auctioneers	6	6
Second Hand Dealers	0	2
Real Estate	5	20
Sweepstakes/Lottery/Games of Chance	16	15
Contests	1	1
Gambling	0	0
Education/Information	3	4
Schools (Elementary, High)	1	1
Degree Granting Schools	2	6
Unaccredited Degree Schools	56	23
Trade/Vocational Schools	1	2
Home Study	0	0
Correspondence Schools	0	0
Dance Schools	0	1
Modeling Schools	2	2

SUBJECT	FY 01-02	FY 02-03
Day Care Centers	2	1
Employment	5	3
Resume Preparation	0	0
Modeling Agency	3	4
Regular Periodic Information Service	1	0
Magazine	12	10
Subscription Services	22	42
Newspaper	8	3
TV Broadcasting	1	3
Radio Broadcasting	0	0
Computer Information Services	20	12
Internet Transactions	131	407
Books/Encyclopedia	11	13
Self-Improvement Seminars	3	0
Encounter Group Therapy	0	0
Charitable Solicitations	4	7
Environmental Claims	1	0
Religious	0	1
Emergency: Prize/Freeze/Gouging/Rent Termination	0	0
Rent to Own	1	0
Elderly Issues	9	2
Civil Procedures/Statutory Constructions	1	0
Multistate Projects	10	9
Spamming	0	1
MS – Newspaper Advertisement	16	8
MS – Other Regular Printed Media Ad (Magazine, Etc.)	7	15
MS – Television/Cable	5	6
MS – Info Commercial	4	5
MS – Telemarketing	16	22
MS - 1-900 Numbers	4	1
MS – Direct Mail	5	36
MS – Information Brochure	0	1
MS – Response Card/Letter	0	0
MS – Home Presentation (Door-to-Door)	3	4

SUBJECT	FY 01-02	FY 02-03
MS – Radio	0	0
MS – Product Show	0	0
MS – Information/"How To" Seminar	4	11
MS – Mail Order	26	39
TOTAL COUNT	1,482	2038

Table 6: OCP Neighbor Island Assistance FY 2003

DIVISION	HILO	MAUI	TOTAL
Division of Financial Institutions	5	5	10
Business Registration	52	37	89
Cable Television	2	0	2
Insurance Division	30	5	35
Division of Consumer Advocacy	0	1	1
Professional & Vocational Licensing	26	21	47
Regulated Industries Complaints Office	226	168	394
Non-Departmental Related	142	153	295
Other DCCA Divisions	34	50	84
TOTAL	517	440	957

PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

website: www.hawaii.gov/dcca/pvl

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

OVERVIEW

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations for 45 different professions and vocations. Twenty-five (25) licensing regulatory boards and commissions are administratively attached to DCCA/PVL, as well as twenty (20) licensing programs (those without a board or commission). The division provides staff support to the licensing regulatory boards, handles applications, licenses, reviews and processes renewals, and maintains license records. The division provides guidance for proper implementation of the licensing laws and administrative rules for the 45 licensing areas. Additionally, PVL responds to phone inquiries on whether a person or entity is properly licensed, a service that can assist consumers in making a decision on whether or not to utilize a licensed professional.

PVL's projects to promote accessibility for licensing information on the Internet are very user friendly. PVL continues to explore ways to enhance public accessibility to licensing information, the licensing process, and the licensee roster. PVL's web page, a site that provides general licensing information for all 45 licensing areas, features downloadable license applications, publications, links to Hawaii Revised Statutes and Hawaii Administrative Rules, as well as a means to request an application or contact the board or program staff via e-mail. The website address is <http://www.hawaii.gov/dcca/pvl>.

Public accessibility to licensee information is enhanced by the PVL Online Inquiry, a fully interactive site that enables the public to access the licensee roster online. The roster may be searched to confirm licensing by license name, license number, and other identifying information. Updates to the online information occur within 30 minutes of the update to the licensing database. Feedback received on the on-line roster indicates that the site 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 additional useful consumer information, such as a licensee's complaints history. The address for PVL's Online Inquiry is <http://www.ehawaii.gov/org/serv>.

This is the third year that online renewals are being made available to licensees. This entirely paperless process enables licensees to complete, file and pay for their license renewal electronically. During Fiscal Year 2002-2003, 10,245 licensees renewed their licenses electronically. This represents 32.6% of the total number of licensees that were eligible to renew online. The division is hopeful that even more licensees will take advantage of online renewals in the future. In time, PVL hopes to be able to offer all licensed areas the opportunity to renew online. Online renewals are available at <http://www.ehawaii.gov/org/pvl/renew>.

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

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

Composition

PVL is divided into four branches: *Licensing Branch* (Phone 586-3000) 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 20 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.hawaii.gov/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 toward 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: Total number of Website “Hits”; Table 2: Total number of Email Inquiries; Table 3: Total number of Online Renewals; Table 4: PVL Statistical Overview, and Table 5: Total Number of Active and Current Licensees.

ACCOMPLISHMENTS

The 2003 Legislature supported changes proposed by the PVL Administration relating to: licensing requirements for psychologists and the examination for licensure as a certified public accountant.

Act 79 amended the licensing requirements for psychologists by streamlining the licensing process for qualified psychologists in other states and to delete overly burdensome requirements to obtain licensure for senior psychologists. Act 129 amended the Certified Public Accountant law by authorizing the Board of Public Accountancy to accept computer-based testing.

A significant IT accomplishment for PVL was the completion of the conversion of PVL’s licensing database from a Wang system to an Oracle based system.

PVL is also very proud to announce that the Condominium Association of Apartment Owners are now able to register online. The online registration totaled 525 (36% or 47,775 condominium units).

PVL is currently working on a project to make the lists of licensees available over the Internet. This will enable the public to obtain lists of licensees by license type, zip code, etc., and to even obtain a list of all licensees in the State of Hawaii. This will be a fee service.

The CRF financial summary relating to PVL for FY 02-03 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,026,188	\$861,416	\$3,887,604	\$4,875,674

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: Total Number of Website “Hits”

Board or Program	FY 02-03
Accountancy	36,590
Activity Desk	4,731
Acupuncture	9,905
APRN-Rx	5,903
Barbering and Cosmetology	28,093
Cemetery and Pre-Need Funeral Authority	3,905
Chiropractor	17,224
Collection Agency	7,849
Contractor	117,810
Dentist and Dental Hygienist	27,922
Dispensing Optician	5,087
Electrician and Plumber	14,297
Electrologist	2,813
Elevator Mechanic	4,282
Employment Agency	4,975
Engineer, Architect, Surveyor, and Landscape Architect	61,848
Hearing Aid Dealer and Fitter	2,282
Marriage and Family Therapist	8,813
Massage Therapy	28,185
Medical and Osteopathy	71,878
Mortgage Broker and Solicitor	36,877
Motor Vehicle Industry	12,517
Motor Vehicle Repair	11,434
Naturopathy	4,287
Nurse Aide	2,310
Nursing	84,362
Nursing Home Administrator	5,551
Occupational Therapist	4,941
Optometry	11,893
Pest Control	8,818
Pharmacy and Pharmacist	56,299
Physical Therapy	11,317
Private Detective and Guard	13,199
Psychology	11,786

Board or Program	FY 02-03
Real Estate	629,934
Real Estate Appraiser	25,097
Social Worker	13,037
Speech Pathology and Audiology	5,186
Time Share	7,586
Travel Agency	9,681
Veterinary	4,843
TOTAL	1,435,347

Table 2: Total Number of Email Inquiries

Board or Program	FY 02-03
Accountancy	440
Activity Desk	15
Acupuncture	96
APRN-Rx	7
Barbering and Cosmetology	237
Boxing	8
Cemetery and Pre-Need Funeral Authority	20
Chiropractor	107
Collection Agency	13
Contractor	380
Dentist and Dental Hygienist	229
Dispensing Optician	14
Electrician and Plumber	64
Electrologist	24
Elevator Mechanic	12
Employment Agency	13
Engineer, Architect, Surveyor, and Landscape Architect	708
Exam Branch	45
Hearing Aid Dealer and Fitter	23
Marriage and Family Therapist	68
Massage Therapy	440
Medical and Osteopathy	546
Mortgage Broker and Solicitor	160

Board or Program	FY 02-03
Motor Vehicle Industry	8
Motor Vehicle Repair	13
Naturopathy	19
Nurse Aide	53
Nursing	898
Nursing Home Administrator	14
Occupational Therapist	96
Optometry	18
Pest Control	17
Pharmacy and Pharmacist	137
Physical Therapy	151
Private Detective and Guard	9
Psychology	115
PVL	300
Real Estate	3,249
Real Estate Appraiser	146
Social Worker	116
Speech Pathology and Audiology	49
Time Share	289
Travel Agency	39
Veterinary	91
TOTAL	9,496

Table 3: Total Number of Online Renewals

License	FY 02-03
Acupuncture	140
Electrologist	4
Mortgage Broker	68
Mortgage Solicitor	344
APRN	164
LPN	657
RN	4,667
Occupational Therapist	74

License	FY 02-03
Physical Therapist	236
Real Estate Broker	1,384
Real Estate Salesperson	2,507
Total	10,245

Table 4: PVL Statistical Overview

	FY 02-03
No. of applications received	14,504
No. of applicants licensed	10,221
No. of licenses renewed	44,757
Total licensee population	69,482

Table 5: Total Number of Active and Current PVL Licensees

Boards and Commissions (shown by asterisk), and Programs	FY 02-03
*Accountants	2,461
Activity Desks	704
*Acupuncturists	512
*Barbers	1,052
Barber Shops	202
*Boxing (all categories)	
Cemeteries and Pre-Need Funeral Authorities	25
*Chiropractors	568
Collection Agencies	320
*Contractors	9,258
*Cosmetologists	6,276
Beauty Shops	1,119
*Dentists	1,340
Dental Hygienists	732
Dispensing Opticians	133
*Electricians (all categories)	2,326

Boards and Commissions (shown by asterisk), and Programs	FY 02-03
*Plumbers (all categories)	961
Electrologists	16
*Elevator Mechanics	202
Employment Agencies	42
*Engineers, Architects, Surveyors, and Landscape Architects:	
Engineers	4,523
Architects	1,909
Surveyors	186
Landscape Architects	126
Hearing Aid Dealers & Fitters	71
Marriage and Family Therapists (established 12/31/98)	90
*Massage Therapists	4,742
Massage Establishments	615
*Medical	
Physicians	6,480
Podiatrists	80
Osteopaths	406
Physician Assistants	97
Emergency Medical Technicians	381
Mobile Intensive Care Technicians	338
Mortgage Brokers	252
Mortgage Solicitors	2,103
*Motor Vehicle Dealers	198
Motor Vehicle Salespersons	1,641
*Motor Vehicle Repair Dealers	1,044
Motor Vehicle Mechanics	2,443
*Naturopaths	84
*Nurses RN	15,698
LPN	2,982
Advanced Practice Registered Nurse (APRN)	589
APRN with Prescriptive Authority (established 10/24/98)	104
Nurse Aides	0
Nursing Home Administrators	119
Occupational Therapists (established 1/1/99)	346

Boards and Commissions (shown by asterisk), and Programs	FY 02-03
*Optometrists	365
*Pest Control Operators	158
Pest Control Field Reps.	69
*Pharmacists	1,577
Pharmacies	226
Wholesale Drug Distributors	58
Permit	191
*Physical Therapists	869
Port Pilots	9
Deputy Port Pilots	4
*Private Detective Agencies	32
Private Detectives	107
Guard Agencies	52
Guards	79
*Psychologists	589
Real Estate Appraisers (all)	342
*Real Estate Brokers	5,111
Real Estate Salespersons	9,601
Condominium Managing Agents	0
Condominium Hotel Operators	17
Real Estate Collection Servicing Agents (repealed 7/2/99)	
Social Workers (established 7/1/95)	1,254
*Speech Pathologists	425
Audiologists	53
Subdivision	0
Time Share (all categories)	0
Travel Agencies	1,871
*Veterinarians	336
TOTAL	99,297

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

RICO's main office is located on Oahu at the Leiopapa A Kamehameha Building, 235 South Beretania Street (8th and 9th Floors), Honolulu, Hawaii 96813. In addition, the division operates 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 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.¹² 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.

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.

¹² See, Section 26-9, and 26H-4, Hawaii Revised Statutes.

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 that is operated by RICO for the Office of Consumer Protection, the Business Registration Division, the Professional and Vocational Licensing Division, and RICO, which allows callers to use just one telephone number (587-3222) to find out (1) basic business registration information; (2) whether a business holds a professional license; and (3) complaints history on file with RICO and OCP. By using this service, callers avoid having to call multiple offices to gather important information about a particular licensee or business.

Public access to complaints information has been significantly enhanced with the availability of the interactive Business and Licensee Complaints History search site at www.ehawaii.gov/org/serv/cms. Consumers and businesses now have 24-hour access to current information about a particular person's or business's complaints history. Over the past year, this website underwent a substantial upgrade and now provides information about complaints that were filed as well as administrative or civil legal actions that were taken. The site is widely used by consumers, businesses, licensees, and credentialing organizations in Hawaii as well as in other states, and is designed to provide the inquirer with a printable complaints history report.

See Table 1 for more specific information about 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 cases by board, commission or program. In addition, both intake and field staff investigate many tips, anonymous reports and other complaints from consumers, businesses and other interested parties.

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

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

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

State Certified Arbitration Program The State Certified Arbitration Program (SCAP), more commonly known as the lemon law program, provides an arbitration forum for a consumer to resolve a warranty-related dispute with a motor vehicle manufacturer without having to hire an attorney. SCAP handled 60 cases and helped consumers recover over \$538,210 during the year. Ford Motor Company had 19 complaints, followed by General Motors with 10, Mazda with 8, and DaimlerChrysler with 7. Kia and Honda each had 3 complaints, and Isuzu, Volvo, and Volkswagen each had 2 complaints. Audi, Jaguar, Mercedes, and Nissan each had 1 complaint. Forty-one cases went to arbitration, and 19 cases settled. Of the 41 arbitrations, the consumer prevailed in 29 cases. One consumer actually lost her case, yet stated that she was very satisfied with the Department's service, instructions, and assistance. On the SCAP survey, she wrote, "It was a pleasure dealing with a governmental department where everyone was so helpful, respectful, and competent.

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

See Table 4 for more specific information about the Legal Section's activity during the year.

ACCOMPLISHMENTS

Review and improve investigation of medical licensing complaints: In an ongoing effort to improve the efficacy of the division's enforcement of the state's medical licensing laws, the division worked on a number of initiatives relating to the investigation of medical licensing violations. In particular, the division:

- Implemented a collaborative "team" handling of medical cases by RICO intake staff, field investigators and attorneys. The team approach will facilitate a more global review of multiple complaints against a particular practitioner, and will provide for proactive participation by staff

attorneys at an earlier stage of the investigative process;

- Began development of a customized complaint form for complaints about health care practitioners that facilitates the receipt of all necessary information, supporting documents and consents at the time the complaint is accepted; and
- Increased and enhanced networking opportunities with and access to entities that hold information about possible licensing violations such as the courts, peer review committees, and private and public medical databases.
- Revamped its process of medical case review by broadening its pool of experts through a targeted outreach effort, and by providing greater guidance on expert review protocols. The result has been faster and more diverse expert reviews.

In the upcoming year, the division will continue to develop strategies to improve its handling of medical licensing complaints. In particular, the division has recruited staff with experience in medical claims in order to strengthen its expertise in the area, and will be conducting internal training on a variety of medical-related issues to assist staff in investigating this increasingly complicated area of the licensing law.

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.

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/cms>, thereby enhancing the public's ability to obtain information about the licensed professionals in our community. Over the past year, the division successfully implemented an enhanced Internet version of its complaints history that (1) provides users with a printable complaints history report; and (2) provides detailed information about formal disciplinary action that was taken and board sanctions if any; and civil actions and judgments relating to unlicensed activity. Online complaints history report information is now virtually identical to the written information formerly available to the public only by writing to the agency.

Based upon feedback from members of the public and businesses, online complaints history has been a useful, timely and popular resource that has significantly reduced the amount of time inquirers have to spend when it sought information about a particular business.

The CRF financial summary relating to RICO for FY 02-03 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,103,373	\$269,451	\$3,372,824	\$4,941,802

CONCLUSION

With responsibility for the enforcement of the licensing laws of over 46 boards, commissions and programs, RICO continues to receive a large number of inquiries, complaints and other requests for assistance. Rapid changes and increased complexity in the way many of the licensed professionals conduct business, as well as changes in state law have spawned new enforcement issues and new

challenges for RICO. Through strategic initiatives, enhanced training, and a commitment to continual improvement, the division will continue its efforts to provide a fair and safe marketplace for the consumers, businesses and professionals it serves

Table 1: RICO Consumer Resource Center Activity

	2002	2003
INQUIRIES BY:		
Phone	16,219	14,700
Letter	248	138
Walk-in	1,301	890
TOTAL	17,768	15,728
LBIS ASSISTANCE		
Prior Complaints History RICO	34,396	40,254
BREG, PVL, OCP and Other	98,455	55,919
TOTAL	141,436*	96,173*
FORMS ISSUED BY:		
Phone	3,907	3,498
Letter	33	3
Walk-in	519	539
TOTAL	4,459	4,040

+Reflects increased use of the Internet to obtain prior complaints information.

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

Board, Commission, or Program	2002	2003
Accountants	3	5
Activity Desks	10	3
Acupuncturists	6	2
Barbers & Cosmetologists	142	91
Boxing	7	8
Cemeteries and Pre-Need Funeral Authorities	19	21
Chiropractors	1	10
Collection Agencies	10	21
Contractors	345	320
Dentists and Dental Hygienists	19	9
Dispensing Opticians	0	0
Electricians & Plumbers	1	9

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Board, Commission, or Program	2002	2003
Electrologists	0	0
Elevator Mechanics	0	0
Employment Agencies	3	20
Engineers, Architects, Surveyors and Landscape Architects	12	10
Hearing Aid Dealers & Fitters	1	0
Marriage and Family Therapists (established 12/31/98)	2	0
Massage Therapists	115	85
Medical	90	59
Mortgage Brokers & Solicitors	16	23
Motor Vehicle Industry	54	33
Motor Vehicle Repair	82	75
Naturopaths	5	0
Nursing	25	22
Nursing Home Administrators	2	1
Occupational Therapist	0	0
Optometrists	1	4
Pest Control	32	8
Pharmacy	11	8
Physical Therapists	0	3
Pilotage	0	0
Private Detectives & Guards	4	3
Psychologists	7	8
Real Estate Appraisers	2	5
Real Estate (including Condominiums)	111	80
Social Workers	3	3
Speech Pathologists & Audiologists	0	0
Subdivision	0	2
Time Share	11	2
Travel Agencies	53	62
Veterinarians	8	5
	1,216*	1,020*

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

Table 3: Assistance Provided to the

Public for other DCCA divisions by

Neighbor Island RICO Offices in FY 2003

DIVISION	HILO	KAUAI	KONA	MAUI	TOTAL
Division of Financial Institutions	30	9	3	9	51
Business Registration	916	607	472	1,064	3,059
Cable Television	1	8	0	3	12
Insurance Division (+ MVID)*	101	30	6	36	173
Division of Consumer Advocacy	83	26	7	6	122
Professional & Vocational Licensing	897	505	680	965	3,047
Office of Consumer Protection	384	629	118	373	1,504
Non-Department Related	574	650	282	418	1,924
Totals	2,986	2,464	1,568	2,874	9,892

Numbers include requests from the public for information or assistance by telephone, walk-ins, or letter. * MVID: Motor Vehicle Insurance Division

Table 4: RICO Legal Section Activity

	FY 02	FY 03
Legal Actions		
Assurance of Voluntary Compliance	9	3
Complaint or Consent Judgment	66	93
Pre-Petition Settlement Agreements filed	54	70
Petitions filed	45	67
Citations Issued	134	125
Total Legal Actions	308	358
Resolutions		
Assurance of Voluntary Compliance	10	3
Judgments/Consent Judgments	74	66
Citation Orders	94	59
Board Orders	111	130
Revocations	27	29
Suspensions	8	10