

**2002 Annual
Compliance Resolution Fund Report
to the Legislature**



**DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS**

STATE OF HAWAII

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website: www.state.hi.us/dcca
e-mail address: dcca@dcca.state.hi.us

OVERVIEW

The Department of Commerce and Consumer Affairs (“DCCA”) submits its Annual Compliance Resolution Fund Report. As mandated by section 26-9(o) of the Hawaii Revised Statutes, DCCA describes the use of the Compliance Resolution Fund ("CRF") by presenting individual overviews of the functions and activities of the various DCCA programs funded by the CRF, and provides a financial summary of the expenditures made from the fund including personnel and operating expenses, as well as revenues received.

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

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

By Fiscal Year 1998-1999, eight DCCA programs were part of the CRF: Business Registration Division, Professional and Vocational Licensing Division¹, Regulated Industries Complaint Office, Office of Consumer Protection, and the Director’s Office with its supporting offices of Administrative Services, Information Systems and Communications, and Administrative Hearings.² Act 129 SLH 1999, effective July 1, 1999, expanded the 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

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

² The Director’s Office provides general policy and administrative leadership in supervising and coordinating the various department activities. Administrative Services provides the department programs with centralized budgeting, accounting, personnel management, and organizational analysis support as well as centralized clerical services. Information Systems and Communications provides system and technical computer support services for the various DCCA programs. Administrative Hearings conducts formal administrative hearings for the department programs and various attached boards and commissions, and also administers the Medical Claims and the Design Professional Conciliation Panels, and hears appeals of the State procurement code. The CRF financial summary for the Director's Office, Administrative Services, Information Systems and Communications, and Administrative Hearings for FY 01-02 is: Personnel Expenses \$2,256,758, Operating Expenses \$1,182,432, Total Expenses \$3,439,190, with Revenues Received of \$168,712.

for trust and special funds with dedicated purposes³, the CRF provides the sole source of funding for DCCA at calendar year end 2002.

ACCOMPLISHMENTS

The financial summary for the entire CRF for FY 01-02 is as follows (and as this is fiscal year ending June 30, 2002, the Insurance Regulation Fund merger into the Compliance Resolution Fund is not included):

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$14,177,698	\$5,381,757	\$19,559,455	\$26,646,880

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

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

Website Address
www.state.hi.us/dcca
www.BusinessRegistrations.com

E-mail Address
dcca@dcca.state.hi.us
breg@dcca.state.hi.us

Website Address
www.state.hi.us/dcca/catv
www.state.hi.us/dcca/dca

E-mail Address
cabletv@dcca.state.hi.us
consumeradvocate@dcca.state.hi.us

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 financial strategy for the reserve is to have, at minimum, a year end balance that will fund the succeeding 1.5 years of the biennium operating budget for all CRF funded divisions and offices. A 1.5 year operating budget for the CRF reserve for FY 2003 is \$52,200,468. The reserve at fiscal year end 2002 is \$61,282,855.

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

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 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.

Information technology projects completed this fiscal year to improve efficiency include conversion of the WANG system to Oracle for the databases of the divisions of Business Registration, Professional and Vocational Licensing, and the Regulated Industries Complaints Office; as a personnel improvement, implementation of an Electronic Leave System (“ELS”) which through our Lotus Notes system, processes all leave reports thereby eliminating 99.9% of the paperwork previously required; and for the benefit of our clients, the Business Registration Division, Professional and Vocational Licensing Division, and Insurance Division increased on-line filing capabilities for businesses and professions. IT projects underway include an integrated complaints tracking system spanning all our enforcement divisions; master calendaring of public meetings and hearings; and final orders of the department and its administratively attached boards and commissions posted on-line.

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

Composition

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

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

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

The **Securities Enforcement Branch** enforces the uniform securities act in the State by taking action against those persons and/or firms both licensed and unlicensed who violate securities laws or purposely evade them. The branch 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 Honolulu Prosecutor's Office, the U.S. Bankruptcy Trustee, and other federal and state securities and law enforcement agencies.

Documents Registration Branch

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

The Documents Registration Branch processed 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.

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

The goal of the Documents Registration Branch is to become one of the fastest, most efficient, customer-oriented business registries in the nation. To accomplish this goal, the management identified and studied the "best practice" states in the country renowned for business registration services. Based on that study, the branch's objectives are to: (1) Review and implement policies and procedures designed to achieve a level of efficiency in processing document filings and information requests in a timely manner consistent with the "best practice" states, (2) Review and where appropriate modernize the business law by making it track as closely as possible the most current versions of the uniform or model law, and (3) Implement an information system based on state-of-the-art imaging work-flow technologies that will also allow public access to records and electronic filing of documents over the internet.

Accomplishments

The Documents Registration Branch went live with a number of technological improvements this year. The Business Registration Information Management System (BRIMS), a computerized data storage and retrieval system that replaces the old legacy Wang-based system with a state-of-the-art Oracle-based system.

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 our portal

subscribers containing business registration information regarding all of the entities on record. We have recently 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 concept 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, and an identification number with the Department of Labor and Industrial Relations.

The legislation passed by the 2001 Legislature and signed into law by the governor updates and modernizes the business law in Hawaii 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 the only business registry in the country with the technological and legal infrastructure in place that allows both online incorporation and annual filing, however, a 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 52,000 securities salespersons and over 1,400 broker/dealer firms on record licensed to sell securities. In addition, the branch has over 300 registered investment adviser firms and 1,000 registered investment adviser representatives on record. The branch also processes nearly 600 franchise registrations and approximately 300 filings for the private placement of securities this year.

The goal of the Securities Compliance Branch and Securities Enforcement Branch is to become one of the most effective state securities regulatory agencies in the country. To accomplish this goal, the management identified state agencies renowned for effectiveness and respect as securities regulators based on input from industry organizations, the United States Securities and Exchange Commission, and the North American Securities Administrators Association.

Based on that study, the Securities Compliance Branch's objectives are to: (1) Complete the hiring and training of new supervisors in position currently vacant to handle and supervise the workload and manage the licensing of broker/dealers and their salespersons, investment advisers and their representatives, and registration of securities, franchise offering circulars and professional fund raising counsel/solicitors, (2) Develop a 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 supervisory positions is nearly completed. The branch is in the process of interviewing prospective candidates. In addition, we were able to fill all vacancies for licensing clerks. The additional staff has contributed to maintaining an end to the broker/dealer salesperson application backlog for the first time in over ten (10) years. In addition, the recently added personnel continued to

keep other backlogs low in pending applications for broker/dealers and investment advisers and their representatives.

The branch also 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 several 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 an industry forum for 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 12-part investor education talk-show series following in the footsteps of our highly successful six-part documentary series called "Financing Your Future". The new series was aired throughout 2002 over 260 times, at different times and on different days to maximize exposure to the programs.

The division also completed 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 prosecutor's offices, the Federal Bureau of Investigations, and the Internal Revenue Service and 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 training and development 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 two (2) judgements, and entered into one (1) consent agreement in calendar year 2002. The staff was required to prepare for and attend numerous hearings and court appearances. These appearances took place both before the Administrative Hearings Office of the Department of Commerce and Consumer Affairs and in the Circuit Courts of State of Hawaii and U.S. Federal Court.

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

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

The branch continues to monitor the progress of its cases. The result has enabled more efficient and effective control of the caseload overall. The additional training, modification of procedures and approach,

and more media exposure with its intended deterrent effect is enabling the branch to experience faster investigations and swifter legal actions while the “trail is still hot”, tougher sanctions but greater fairness and sensibility in application and appropriateness, and greater impact on deterring potential financial con artists and scammers through more highly visible enforcement actions. During the past fiscal year, the branch assessed approximately \$336,000, and \$22,535 collected in fines and penalties; one (1) one-year bar, one (1) five-year bar, and one (1) permanent bar.

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

The CRF financial summary relating to BREG for FY 01-02 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,157,534	\$1,403,640	\$4,561,174	\$10,714,171

CONCLUSION

The Business Registration Division continues to receive an increasing number of applications, registrations, and/or complaints resulting in a growing demand for the essential government services involving the business registry, securities law enforcement, and licensing. It is necessitating increases in personnel and improved information systems to handle the workload, increased training to improve the quality of regulatory oversight, and constant attention and commitment to re-engineering and adaptation to the changing, increasingly complex needs for service.

CABLE TELEVISION DIVISION (CATV)

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

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

OVERVIEW

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

Subsequent to the issuance of a franchise, CATV's role in protecting the public interest continues. Functionally, CATV acts to enforce obligations of the franchise and ensure compliance with rules and regulations relating to operators' practices and procedures. CATV will continue to monitor the franchisee to ensure the operating system is reliable and responsive to the public. Such reliability and responsiveness to the public's interest may be indicated by operators providing the widest possible diversity of information sources and services and enhancing communication capabilities for its communities by supporting the interconnection of public facilities, public television, and public educational and government access. CATV is cognizant of the increasing importance of cable service to the people of Hawaii. With advanced technology, cable systems are becoming more than strictly a source of entertainment, but increasingly serve as a means of providing informational and educational programming. Therefore, the Division recognizes that the extension of cable service to all communities within the franchised areas should remain a high priority.

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

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

Composition

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

ACCOMPLISHMENTS

Direct Broadcast Satellite (DBS) Service – CATV continues its on-going efforts in lobbying the Federal Communications Commission (“FCC”) for DBS service to Hawaii that is equivalent in programming and pricing as found elsewhere in the continental United States. Due to our efforts and those of Senator Daniel Inouye, DBS service is currently available in Hawaii but not at levels found on the mainland. We will continue to lobby for and demand equal treatment by DBS providers. CATV has participated in the proposed merger of DirecTV and Echostar by providing comments to the State Attorney General’s office and will continue to do so whenever appropriate.

Institutional Network (“INET”) – CATV continues its leadership role in the development, expansion and enhancement of the INET. Working with the Information, Communications and Services Division (“ICSD”) of the Department of Accounting and General Services, the University of Hawaii (“UH”) and the Department of Education (“DOE”), CATV is actively participating in the upgrade of the INET that will leverage Dense Wave Division Multiplexing (“DWDM”) technology. This upgrade will dramatically improve the capacity and performance of the INET. The ability to efficiently and effectively provide broadband telecommunications services to government agencies will greatly improve the level of service to our residents. The upgrade of the fiber/coax infrastructure on Maui is soon to be completed which will allow Maui County as well as the UH, DOE and State, access to state-of-the-art telecommunications capabilities. In addition, interconnection of the islands of Oahu, Maui and Hawaii was completed via submarine fiber in the fourth quarter of 2002. This submarine fiber interconnection provides the UH, DOE and ICSD with seamless, broadband networking capabilities between these islands. With the recently completed transfer of Garden Isle Telecommunications to Time Warner Cable of Hawaii, plans are currently in place to interconnect the island of Kauai 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.

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

The CRF financial summary relating

to CATV for FY 01-02 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$248,732	\$633,073	\$881,805	\$1,285,431

CONCLUSION

The year 2002 was a remarkable year for CATV, due in part by the rapid development of advanced technology by cable companies. The continued deployment of fiber to node architecture provided increased bandwidth capacity for traditional services such as video programming as well as for new interactive and digital services. Oceanic Cable will soon be making available to subscribers the option of multiple ISPs. In addition to Roadrunner, consumers will be able to select high speed cable modem service from AOL as well as Earthlink. Thus given the nascent nature of digital technology relative to cable, CATV had and presently has the continuous task of monitoring the public's present needs and future interests.

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

DIVISION OF CONSUMER ADVOCACY (DCA)

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

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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. The analyst is subject to cross-examination by attorneys hired by a utility or transportation company if an evidentiary hearing before the Commission is required to resolve differences between the utility and DCA.

Composition

The DCA consists of 21 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 eighth floor of the Princess Kamamalu Building, 250 South King 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 plans to hire an Education specialist who will be responsible for educating the consumer about his/her rights and monitor consumer complaints filed with the regulatory agencies, attend public hearings and neighborhood board meetings to gain public input about specific issues affecting consumers such as the undergrounding of utility power lines.

ACCOMPLISHMENTS

In 2002, the Division's primary focus was on the application filed by Citizens Utilities Company, Kauai Electric Division and Kauai Island Utility Co-Op to sell certain assets of Kauai Electric to the co-operative and to retain the existing rates for electric service on the island of Kauai. This was a critical case since it would establish the first co-operative owning and operating the electric utility serving the entire island. Since the electrical systems serving each of the Hawaiian islands are not inter-connected, the Division was required to carefully review the application to ensure that the existing customers on the island of Kauai would continue to receive reliable service under the proposed co-operative ownership. Furthermore, the Division wanted to ensure the ability to the co-operative to achieve financial support to sustain the operation of the electric utility.

In addition, to the above application, four rate applications, representing a request for a combined total of \$3.8 million in increased allowed revenue, were tendered by Western Motor Tariff Bureau. The Division also worked on several rate case applications filed by private sewer and water companies on the neighbor islands.

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 2002, the Consumer Advocate reviewed over 230 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.

In addition to the above proceedings, the Consumer Advocate reviewed 119 motor carrier tariff change requests from January to October and about 120 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 01-02 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$908,712	\$432,387	\$1,341,099	\$2,431,251

CONCLUSION

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

DIVISION OF FINANCIAL INSTITUTIONS (DFI)

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

OVERVIEW

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

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

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

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

Composition

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

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

ACCOMPLISHMENTS

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 statutorily reduced to \$2 million beginning in FY 2001-2002 and, DFI received such the funds on June 30, 2002 from the franchise tax to fund its program for FY 2002-2003.

In the prior fiscal year, the franchise tax collected was less than the franchise tax refunded resulting in a negative amount for the net franchise tax for fiscal year 2000-01. Based on this situation, DFI immediately froze all vacant positions, and reduced its budgeted expenses by suspending the development of software for a DFI integrated database and information tracking system and cutting spending on other budgeted items for FY2001-2002. As DFI collects less than one-fourth of its total payroll and operating expense budget directly from examination, application, and licensing fees, the \$2.5 million from the franchise tax covered three-fourths or the bulk of DFI's budget. In light of the rapid downturn in the Hawaii economy due to the September 11 attack and to provide temporary support of Hawaii financial institutions, DFI also suspended collection of the hourly examination fees and solely collected examination costs which reimbursed DFI for out-of pocket examination expenses. Given its financial situation, DFI continued to conserve its remaining funds during FY2001-2002 while considering potential proposals to present to the Hawaii State Legislature of alternative sources of revenue for the next fiscal year. One proposal of a framework to collect an assessment amount based on a total asset or loan schedule that parallels the assessment funding scheme used by the federal regulators of national banks and federal credit unions was presented and considered by the 2002 Hawaii State Legislature, but was not passed out of committee.

Administrative Rule Revisions. The last of five chapters of administrative rules being revised by DFI, Chapter 31, Credit Unions, of Title 16 of the Hawaii Administrative Rules (HAR), was completed by August 12, 2002.

New Federal Laws Continue to Expand DFI's Regulatory Role. In addition to the continuing implementation of the Gramm-Leach-Bliley Financial Services Modernization Act of 1999 (GLBA), Congress enacted additional new federal legislation to address terrorism in the aftermath of the September 11 tragedy, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA Patriot), effective October 26, 2001, and to deal with corporate governance issues raise by the Enron scandal, the Sarbanes-Oxley Act of 2002, effective July 30, 2002. GLBA removed legal barriers between the banking, securities and insurance industries, necessitating increased communication and cooperation between DFI and other state and federal agencies, and provided financial privacy standards for consumers. The US 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 requires 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. Over the next three to five years, DFI anticipates that it will need to enhance its programs on privacy and

safeguards for consumer financial information, compliance with new requirements dealing with money laundering and corporate governance and to introduce legislation, as necessary, to address the additional and revised federal laws and regulations resulting from GLBA, the US Patriot Act, Sarbanes-Oxley Act, and any additional federal legislation.

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 is the total disruption of commercial air transportation that is crucial for financial institution item processing and currency/cash supply between the Hawaiian islands and with the mainland. Public confidence in the financial payment systems is crucial in times of emergencies and disaster. Maintaining and safeguarding the adequate supply of currency to the public as well as efficient access to deposit accounts is a main support of this public confidence. Thus, the second prong of DFI's approach is the development by DFI, together with the depository financial institutions industry and Hawaii State Civil Defense, of a comprehensive plan and procedure to address transportation of items and currency 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 is the expansion of DFI's own emergency preparedness plan and coordinated post emergency follow up plan with all the federal regulators and financial institutions and escrow depositories.

DFI's In-house Project Development. In FY 2001-2002, development and implementation of an integrated database and tracking system software was the next step to improving DFI efficiency through computer technology. Unfortunately, due to DFI's above described budget situation, this project had to be suspended. However, DFI knows it must find a way to use technology to improve its efficiency given its resource limitations and has begun to explore alternative ways to achieve its database/tracking system goal through smaller in-house projects with the assistance of DCCA's Information Systems & Communications Office. In addition to being included in the DCCA Complaints Management System Project, DFI has also taken the first steps to develop specific computer processes to replace certain DFI manual systems presently in place.

DFI Workload-Changing but Continuing Magnitude. Continuing a trend that began in FY 99-00, DFI's workload has continued at an increased level overall. During FY 01-02, 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 throughout the year rather than once a year, for those two major banks. In addition, one of the large banks, Bank of Hawaii became a member of the Federal Reserve Bank System and is now supervised by the Federal Reserve Bank of San Francisco (FRB). Quickly adjusting to a different federal regulator, DFI is closely working with the FRB on joint year-round type targeted examinations of this Bank. DFI continues to work closely with the FDIC on the joint year-round "large-banks" examination of the First Hawaiian Bank. DFI enjoyed successful completion of its Escrow Depository Examination Program, moves to the maintenance phase of its Privacy Compliance Program for escrow depositories and nondepository financial services loan companies, continued implementation of DFI's Off-Site Monitoring program to enhance DFI's 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.

The CRF financial summary relating to DFI for FY 01-02 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,290,095	\$149,352	\$1,439,447	\$2,745,917

CONCLUSION

During FY 01-02, in addition to its established regulatory and licensing programs, DFI successfully juggled its limited resources to continue, develop and implement examination programs necessitated by existing and new federal legislation and changing circumstance in the industries regulated by DFI. Further, DFI continued its Off-site Monitoring program to maintain standards essential for the Division’s continued accreditation.

DFI and the financial institutions it regulates faced and rose to the many economic and regulatory challenges this past fiscal year. It is certain that new federal regulations will continue to be promulgated under the recent federal legislation, as well as the continued and rapid evolution of technologies and products of a sophisticated financial services industry. It is also hoped that the economic situation in Hawaii will continue to get better, although the changes to the economy remains uncertain due to the downturn and uncertainty as to when there will be a recovery in the national and global economy. All of these factors require and DFI continues to develop and find innovative ways to stretch its resources and manpower to responsibly and nimbly make the needed regulatory adjustments to deal with these changes in order to maintain and promote the safety and soundness of our State-chartered financial institutions.

OFFICE OF CONSUMER PROTECTION (OCP)

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

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OVERVIEW

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

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

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

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

Composition

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

The Consumer Resource Center (CRC) handles the intake of complaints for OCP. CRC is staffed by investigators who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to OCP for review, closing or further investigation. In addition, a newly formed unit within CRC answers telephonic requests for prior complaint history for OCP. In addition to prior complaint history information, consumers have the opportunity to visit OCP's Honolulu office to view the actual case files, if the files are available for viewing. OCP's staff reviews each file before public viewing to ensure that personal information about the complainant such as credit card

numbers and checking account numbers, are protected. See Table 2, statistics on OCP Information Requests.

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

OCP's investigation section receives cases from CRC and gathers evidence to determine whether violations of consumer laws have occurred. Investigators' tasks include on-site inspection, witness interviews, document collection, collaboration with the legal section to prepare evidence for trial, and the subpoena of testimonial and documentary evidence from various sources. See Table 3, Number of OCP Complaints Filed; Table 4, Numerical Breakdown of Dispositions of All OCP Cases; and Table 5, OCP Complaints by Subject Matter for 2001-2002 statistics.

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

In addition, OCP runs the Landlord-Tenant Volunteer Center. The Center is supervised by an investigator and is staffed by trained volunteers who answer questions about landlord-tenant issues. The Landlord-Tenant Volunteer Center does not represent landlords or tenants in court or give legal advice; its role is limited to informing the parties what their rights and obligations are under the existing law. The office has enhanced its landlord-tenant services by placing frequently asked questions on the department's 24-hour Consumer Dial Information Service, and on its web site. The office has also revised and updated its landlord-tenant handbook. This is a publication that is widely used by landlords and tenants.

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

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

OCP also provides the following services:

Consumer Education

In an effort to enhance consumer awareness of various consumer problems, OCP continuously strives to promote consumer education. The office issues press releases on a variety of consumer topics, and prepares and distributes written materials to provide specific consumer information. OCP also offers a series of Consumer Dial messages dealing with a variety of landlord-tenant and general consumer protection issues. Interested parties can call 24 hours a day and receive information on a variety of topics. In addition, OCP staff has participated in a number of speaking engagements to inform consumers and businesses about various aspects of consumer protection.

Neighbor Island Assistance Requests

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

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

ACCOMPLISHMENTS

Consumer Education

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

Cases

OCP handled several significant cases in 2002 involving nearly every area of consumer protection. It filed and resolved numerous cases relating to alleged violations of Hawaii’s laws governing unaccredited degree granting institutions, car rentals, motor vehicle sales, advance fee loans, sweepstakes and prizes, door to door sales, going out of business sales, refund and exchanges and unfair or deceptive trade practices. Many of these cases successfully resulted in OCP obtaining injunctive relief and fines as well as recovering hundreds of thousands of dollars in consumer restitution. During the next year, OCP will continue to seek the implementation of alternative dispute resolution (ADR) to resolve those consumer complaints that do not justify formal enforcement. Shifting those complaints to ADR will expedite their resolution while conserving valuable governmental resources. Additionally, OCP will focus on cases offering the broadest protection for Hawaii consumers.

Statutory Changes

It is anticipated that new legislation criminalizing the taking of another’s identity will provide an effective tool in combating this criminal activity.

The CRF financial summary relating to OCP for FY 01-02 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$839,322	\$120,838	\$960,160	\$938,017

CONCLUSION

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

Table 1: Laws Enforced by OCP

HRS §209-9	Price Gouging
HRS §290-11	Towing
HRS §437	Motor Vehicle Sales – Spot Delivery

HRS Chapter 437D	Motor Vehicle Rental
HRS Chapter 446	Debt Adjusting
HRS Chapter 446E	Unaccredited Degree Granting Institutions
HRS Chapter 457G	Occupational Therapists
HRS Chapter 467B	Charitable Solicitations
HRS Chapter 476	Credit Sales ⁶
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices ⁷
HRS Chapter 480D	Collection Practices ⁸
HRS Chapter 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 ⁹
HRS Chapter 487A	Plain Language Law
HRS Chapter 506	Reverse Mortgage Loan
HRS Chapter 521	Landlord Tenant Code ¹⁰
ACT 146 (1999)	Check Cashing
Act 282 (1997)	Assistive Device Warranty Act
Act 222 (2000)	Service Contracts

⁶ HRS §476-31. OCP has also filed cases based upon the Federal Truth in Lending Act and the State's usury statute, HRS Chapter 478.

⁷ OCP also has enforcement power over certain Lemon Law agreements (HRS §481I-4), and has filed lawsuits based upon HRS §486-119, "Made in Hawai'i" law. Also HRS Chapter 514E sets forth a comprehensive regulatory scheme for time-share development, sales and maintenance. However, there is a section which makes thirteen specific types of conduct *per se* violations of HRS §480-2. Under HRS §490:2A-104, UCC leases are explicitly subject to state consumer protection statutes and case law.

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

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

¹⁰ HRS §521-74.5 provides that a landlord who recovers possession of a dwelling unit by willful interruption of utilities or other essential services violates HRS §480-2. In addition, HRS §521-77 provides that OCP may receive, investigate and attempt to resolve any dispute arising under HRS Chapter 521.

Table 2: OCP Information Requests

REQUEST AND INQUIRIES	FY 00-01	FY 01-02
Requests for Prior Complaint History	8,120	7,774
Requests for Landlord/Tenant Information	7,818	8,671
Complaint Inquiries	14,841	13,769
Requests for Records Review	135	122
TOTAL	30,914	30,336

Table 3: Number of OCP Complaints Filed

COMPLAINANT	FY 00-01	FY 01-02
Public	1,278	1,193
OCP	90	142
TOTAL	1,368	1,335

Table 4: Numerical Breakdown of Dispositions of All OCP Cases

DISPOSITIONS	FY 00-01	FY 01-02
Complaint Withdrawn	6	8
Legal Action & Referrals to Legal	87	146
Advisory Contact	42	147
Civil Dispute/Personal Matter	75	68
Monetary Threshold	9	27
Complainant Uncooperative	5	12
Consumer Complaint Resolved	10	14
Respondent Died or Bankrupt	32	81
Business vs. Business	24	36
No Jurisdiction	2	1
Refer to Investigation	283	179
Other	6	1
Warning Letter	61	92
Insufficient Evidence	297	476
Transferred to Other Gov't. Agency	477	547
No Violation	24	34
Information Only/Inquiry	52	27
Total	1,492	1,896

Table 5: OCP Complaints by Subject Matter

A complaint may cover multiple subject matters

SUBJECT	FY 00-01	FY 01-02
Animals	4	2
Breeders	1	0
Pet Grooming	0	0
Pet Shops	1	2
Kennels/Boarding	0	0
Apparel/Accessories	18	14
Laundry/Dry Cleaning/Laundromats	3	3
Dressmaker/Tailors	1	0
Fabric/Notions/Etc.	4	1
Shoes/Etc.	0	1
Clothes	5	5
Appliances	13	6
Refrigerator/Freezer/Stove/Range	5	6
Water Heaters/Air Conditioners	3	4
Washer/Dryer	2	2
Radio/Stereo/Tape Deck/CD Player	9	1
TV/VCR	6	4
Sewing Machine	1	0
Vacuum Cleaner	12	11
CB Radios	0	0
Computers/Software	92	54
Health Services/Products	21	10
Exercise Devices	7	3
Exercise/Health Clubs/Clinics	12	13
Health Foods	2	1
Weight Reduction	1	3
Cosmetics/Beauty Products	8	9
Wigs/Hairpieces	1	0
Entertainment/Music	1	2
Concerts/Events	0	2
Ticket Sellers/Promoters	1	1
Theaters	1	0
Night Clubs/Discotheques	2	0

SUBJECT	FY 00-01	FY 01-02
Musical Instruments/Lessons	2	4
Audio Records/Tapes/CD/Etc.	2	5
Buying Clubs - Record/Tape/CD/Video	2	1
Video Records/Tapes/CD/Etc.	4	4
Florists/Nurseries	2	4
Food/Drink	8	8
Food Stores/Markets	10	7
Drive Inns	0	0
Caters/Deli	1	1
Bakery	0	0
Restaurants	15	14
Banquet Halls	2	0
Bars/Cocktail Lounges	2	2
Energy/Fuels	0	0
Solar Energy	2	2
Gas, Propane, Etc.	3	4
Energy Saving Devices	0	0
House Materials/Goods/Services	20	11
Beds & Mattresses	4	4
Furniture	20	22
Cookware	2	2
Drapery	0	2
Carpet/Rugs	7	5
Clocks	0	0
House Hardware/Fixtures	10	3
Woodwork/Metalcraft/Glass/Etc.	5	10
Interior Decorators	0	0
Lawn Care Products/Yard Service	1	6
Upholsters	1	1
Water Purifiers/Filters	1	1
Cleaning Services	3	2
House Construction/Remodeling	4	19
Vermin/Bug Extermination	9	2
Tools	3	2

SUBJECT	FY 00-01	FY 01-02
Insurance	27	27
Extended Warranties	9	3
Service Agreements/Contracts	2	7
Jewelry	28	28
Precious Stone & Metals	2	3
Watches	2	3
Medical	15	4
Hospitals/Clinics	16	17
Pharmacies	1	1
Convalescent/Nursing Homes	0	0
Medical Equipment	1	2
Medical Service Companies	7	20
Medical Laboratories	1	1
Home Care Facilities	0	0
Psychiatric Counseling/Group Therapy	0	0
Other Counseling/Group Therapy	0	1
Occupational Therapists (457G)	0	0
Morticians, Cemeteries & Other	1	0
Moving & Storage	5	9
Private Storage Company	2	8
Bill of Lading	2	1
In-transit Storage	0	0
Delivery Service	6	3
Air Cargo Service	0	0
Multi-Product Retailer/Wholesalers	12	11
Buying Clubs	9	4
Department Stores	7	8
Photography	9	11
Photo Studios	5	3
Film Processing	1	1
Camera/Equipment	3	10
Photographic Services	1	4
Professional Services	23	11
Attorneys/Legal Services	2	1

SUBJECT	FY 00-01	FY 01-02
Accountants/Bookkeeping	0	0
Tax Services	5	1
Medical Professional	3	4
Adoption Agencies	2	0
Printers	2	0
Regulated Services (Trade & VO Caption)	11	6
Protection Devices	2	1
Fire/Burglar Alarms	1	0
Heat/Smoke Detectors	0	0
Locks (Windows, Doors, Etc.)	0	2
Fire Extinguisher	0	0
Recreation/Toys/Game/Etc.	13	11
Arts & Crafts	8	3
Boats & Airplanes	6	3
Toys	3	2
Surfboards	1	0
Video Games	2	2
Camping Equipment	0	0
Sporting Goods	15	9
Recreational Rentals	3	0
Transportation	2	5
Cabs	0	0
Moving Companies/Storage	0	1
Pedi-Cabs	0	0
Tour Buses and Limos	1	1
Automobiles	11	16
Car/Truck Rental	22	13
Car/Truck Lease	0	2
Moped Rentals	2	2
Other Transportation Rentals	1	0
Towing	9	12
Parking	1	6
Body/Paint Shops	9	12
Auto Parts/Repair	18	32

SUBJECT	FY 00-01	FY 01-02
Rustproofing/Undercoating	1	0
Glass Tinting	1	1
Vehicle (Incl Mopeds) New & Used Sales	2	8
Warranties	4	5
Travel/Vacations	18	19
Air Travel Services (Airlines, Etc.)	8	11
Ocean Travel Services (Cruises & Ships)	5	3
Discounted Tickets - Travel/Entertainment	0	1
Hotels & Motels	24	30
Bed & Breakfast	5	5
Tour Services	8	3
Travel Clubs	0	3
Passports & Visas	0	0
Utilities	5	4
Gas Provider	0	0
Electric	0	1
Telephone/Cellular/Pagers	111	73
Water	0	1
Cable	4	13
Telecommunications/Electronic Devices	19	2
Dating Services	7	4
Investment/Financial	10	18
Chain Letter	0	0
Consumer Credit	23	11
Credit Card	97	100
Checking Accounts	3	2
Debit Accounts	0	5
Promissory Notes	0	0
Buying on Account	1	0
Information to Obtain Credit/Credit Cards	2	2
Discount Coupons/Books	0	2
Financial Institutions	10	12
Credit Reporting Agency	4	3
Credit Repair	11	5

SUBJECT	FY 00-01	FY 01-02
Collection of Debts	7	12
Advance Fee Loans	0	0
Bank/Savings & Loan/Industrial Loan Companies	1	4
Escrow Services	1	0
Loan/Mortgages	14	18
Investment/Opportunity Scheme	12	9
MLM/Pyramids/Endless Chain Schemes	1	0
Referral Sales	1	0
Get Rich Programs	3	0
Work-at-Home Programs	3	1
Coins/Currency	4	1
Stocks & Bonds	0	1
Oil/Gas Lottery	0	0
Art	5	4
Securities	0	0
Tax Planning/Devices	0	0
Contract Sellers	1	1
Pawn Shops	1	0
Auctioneers	14	6
Second Hand Dealers	0	0
Real Estate	6	5
Sweepstakes/Lottery/Games of Chance	27	16
Contests	0	1
Gambling	0	0
Education/Information	3	3
Schools (Elementary, High)	4	1
Degree Granting Schools	5	2
Unaccredited Degree Schools	24	56
Trade/Vocational Schools	2	1
Home Study	0	0
Correspondence Schools	1	0
Dance Schools	0	0
Modeling Schools	5	2
Day Care Centers	0	2

SUBJECT	FY 00-01	FY 01-02
Employment	4	5
Resume Preparation	0	0
Modeling Agency	4	3
Regular Periodic Information Service	3	1
Magazine	15	12
Subscription Services	28	22
Newspaper	9	8
TV Broadcasting	0	1
Radio Broadcasting	0	0
Computer Information Services	16	20
Internet Transactions	13	131
Books/Encyclopedia	7	11
Self-Improvement Seminars	0	3
Encounter Group Therapy	0	0
Charitable Solicitations	4	4
Environmental Claims	0	1
Religious	0	0
Emergency: Prize/Freeze/Gouging/Rent Termination	0	0
Rent to Own	1	1
Elderly Issues	15	9
Civil Procedures/Statutory Constructions	0	1
Multistate Projects	18	10
Spamming	0	0
MS – Newspaper Advertisement	19	16
MS – Other Regular Printed Media Ad (Magazine, Etc.)	14	7
MS – Television/Cable	2	5
MS – Info Commercial	2	4
MS – Telemarketing	17	16
MS - 1-900 Numbers	1	4
MS – Direct Mail	18	5
MS – Information Brochure	1	0
MS – Response Card/Letter	0	0
MS – Home Presentation (Door-to-Door)	2	3
MS – Radio	0	0

SUBJECT	FY 00-01	FY 01-02
MS – Product Show	0	0
MS – Information/"How To" Seminar	2	4
MS – Mail Order	32	26
TOTAL COUNT	1,509	1,482

Table 6: OCP Neighbor Island Assistance FY 2002

DIVISION	HILO	MAUI	TOTAL
Division of Financial Institutions	8	5	13
Business Registration	64	39	103
Cable Television	4	1	5
Insurance Division	39	3	42
Division of Consumer Advocacy	0	0	0
Professional & Vocational Licensing	22	6	28
Regulated Industries Complaints Office	236	177	413
Non-Departmental Related	116	86	202
Other DCCA Divisions	158	125	283
TOTAL	647	442	1,089

PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

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

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

OVERVIEW

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations for 46 different professions and vocations. Twenty-five (25) licensing regulatory boards and commissions are administratively attached to DCCA/PVL, as well as twenty-one (21) licensing programs (those without a board or commission). The division provides staff support to the licensing regulatory boards, handles application, license, and renewal review and processing, and maintains license records. The division provides guidance for proper implementation of the licensing laws and administrative rules for the 46 licensing areas. Additionally, PVL responds to phone inquiries on whether a person or entity is properly licensed, a service that assists consumers in their decision of whether to utilize a licensed professional.

PVL has completed a three-year project to promote accessibility to licensing information on the Internet. PVL continues to explore ways to enhance public accessibility to licensing information, the licensing process, and the licensee roster. PVL's web page, a site that provides general licensing information for all 46 licensing areas, features downloadable license applications, publications, links to Hawaii Revised Statutes and Hawaii Administrative Rules, as well as a means to request an application or contact the board or program staff via e-mail. The website address is <http://www.state.hi.us/dcca/pvl>.

Public accessibility to licensee information is enhanced by the PVL On-line Inquiry, a fully interactive site that enables the public to access the licensee roster on-line. The roster may be searched to confirm licensing by license name, license number, and other identifying information. 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 On-line Inquiry is <http://www.state.hi.us/dcca/pvl/inquiry>.

This is the second year that on-line 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 2001-2002, 8,461 licensees renewed their licenses electronically. This represents 18.7% of the total number of licensees that were eligible to renew online. The division is hopeful that even more licensees will take advantage of on-line renewals in the future. In time, PVL hopes to be able to offer all licensed areas the opportunity to renew on-line. On-line renewals are available at <https://www.ehawaii.gov/DCCA/pvl/renewal>.

This year, PVL migrated the PVL licensing database to a new Oracle-based platform. This project, which had been in the design stage for several years, was completed in the summer of 2002. The new platform provides the technology and enhanced capability needed to maintain and ensure the integrity of the PVL licensing database. PVL intends to utilize the new platform to convert its records storage system into an electronic format. It is anticipated that an electronic format will streamline retention and improve retrievability and accessibility of PVL records.

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

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

Composition

PVL is divided into four functions: *Licensing Branch* (Phone 586-3000) responds to walk-in and phone inquiries on license and renewal requirements; handles intake functions for license applications, biennial renewals, changes to licensee records, and license verification requested by licensees; reviews all documents for completeness and works with applicants or licensees to correct deficient filings; and issues the license indicia after license or renewal requirements have been met. Further, the Licensing Branch accesses the computerized licensing database to provide immediate information. Inquirers may obtain information on whether a person or entity is licensed, the original date of licensure, the current status of licensure, the expiration date of the license, Hawaii disciplinary sanctions imposed on the licensee, and, if applicable, whether mandatory insurance (e.g., workers compensation, liability insurance) is current and in effect.

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

Administration Branch (See Verizon Hawaii SuperPages, Government Pages 15, first column, Executive Offices for Boards/Commissions & Programs) serves as the liaison between the director of the department and the 25 boards and commissions administratively attached to DCCA. On a daily basis, the Administration Branch handles board affairs such as the coordinating, preparing, facilitating and recording of board meetings; ensuring board compliance with applicable laws that guide and direct their conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The Administration Branch also responds to requests for interpretation of the licensing laws and rules; oversees licensing and examination activity; and guides and assists with regulatory compliance issues. The same activities are done for the 21 programs (absent the necessity of board meetings) on behalf of the director of the department. There are also substantial coordination and facilitation activities performed by the Administration Branch with other state, county, and federal agencies involved with licensing and regulatory issues.

Real Estate Branch (Phone 586-2643) serves as the liaison between the director of the department and the Real Estate Commission, and performs the same functions as the Administration Branch for real estate licensing and regulation, and condominium property regime registration and governance. With the largest volume of applicants and licensees, and fees collected to support branch activities, the Real Estate Branch offers specialized assistance to licensees and the public. Also, through the Real Estate Branch, the Real Estate Commission produces an annual report that details the Commission's real estate and condominium activities. The report may be obtained at no cost from the Real Estate Branch or accessed on the Commission's website: <http://www.state.hi.us/hirec>. The Commission's report complements this report to provide a total picture of the activities of PVL's licensing program.

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

ACCOMPLISHMENTS

PVL, with the cooperation of the boards and commissions, is nearing the end of a 5-year project to effectuate changes to the licensing laws and rules for deregulation and streamlining. Changes include elimination and consolidation of boards and the elimination of regulatory areas and specific licenses, in addition to duplicative requirements and licenses. Other amendments achieve more flexible licensing and renewal requirements and area specific modifications to lessen the regulatory burden while preserving consumer protection. Each of the 46 licensing areas, which collectively represents a licensing population of over 220,000 licensees, has been affected by this deregulation and streamlining initiative.

The 2002 Legislature supported changes proposed by PVL Administration in the following areas: real estate, limited-equity housing cooperatives, naturopathy, cemetery and funeral trusts, the Uniform Professional and Vocational Licensing Act, and commercial employment agencies. Act 129 amended the real estate and limited-equity housing cooperatives laws by reducing duplicative regulatory requirements for limited-equity housing cooperatives, providing flexibility to principal brokers, amending real estate licensure requirements for out-of-state licensees with equivalent prelicense requirements, streamlining regulatory requirements for condominium managing agents, and making housekeeping amendments for clarity.

Act 14 amended the naturopathy law by repealing outdated language regarding the application procedures for the examination and modifying the accrediting standards for approved naturopathic schools in order to eliminate adverse consequences on applicants for licensure. In recognition of the complexity of certain cemetery authority and pre-need funeral authority filings, Act 214 gave the Director of DCCA the authority to contract with private consultants to assist in their review.

Act 20 made a seemingly simple, but critical amendment to the Uniform Professional and Vocational Licensing Act to clarify that the Act, HRS Chapter 436B, applies whenever the provisions of the licensing laws or rules for the respective profession or vocation are silent. And finally, Act 22 reduced the regulatory burdens on commercial employment agencies by repealing the requirement to license branch offices, exempting employer paid fee agencies from having to post a bond, and

repealing the burdensome requirement of employment agencies having to file a yearly schedule of placement fees. Other amendments addressed industry concerns relating to technology and the use of broadcast email and faxes in the industry.

The CRF financial summary relating to PVL for FY 01-02 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,693,014	\$797,460	\$3,490,474	\$4,560,765

CONCLUSION

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

Table 1: PVL Statistical Overview

	FY 00-01	FY 01-02
No. of applications received	11,545	11,564
No. of applicants licensed	8,507	8,451
No. of licenses renewed	42,671	44,900
No. of changes for licensee files	174,447	157,810
Total licensee population	231,389	239,545

Table 2: Total Number of Active and Current PVL Licensees

Boards and Commissions (shown by asterisk), and Programs	FY 00-01	FY 01-02
*Accountants	2,372	2,301
Activity Desks	360	951
*Acupuncturists	418	470
*Barbers	969	954
Barber Shops	219	187
*Boxing (all categories)	124	200
Cemeteries and Pre-Need Funeral Authorities	20	20
*Chiropractors	538	527
Collection Agencies	239	231
*Contractors	8,447	9,236
*Cosmetologists	5,790	5,637

Boards and Commissions (shown by asterisk), and Programs	FY 00-01	FY 01-02
Beauty Shops	1,069	988
*Dentists	1,352	1,316
Dental Hygienists	721	705
Dispensing Opticians	131	121
*Electricians (all categories)	2,567	2,071
*Plumbers (all categories)	1,004	887
Electrologists	20	22
*Elevator Mechanics	210	194
Employment Agencies	94	76
*Engineers, Architects, Surveyors, and Landscape Architects:		
Engineers	4,377	4,197
Architects	1,851	1,753
Surveyors	179	176
Landscape Architects	126	119
Hearing Aid Dealers & Fitters	70	65
Marriage and Family Therapists (established 12/31/98)	80	76
*Massage Therapists	3,922	3,943
Massage Establishments	509	504
*Medical:		
Physicians	6,458	5,970
Podiatrists	73	75
Osteopaths	376	345
Physician Assistants	88	83
Emergency Medical Technicians	356	351
Mobile Intensive Care Technicians	335	324
Mortgage Brokers	196	300
Mortgage Solicitors	1,257	1,896
*Motor Vehicle Dealers	244	207
Motor Vehicle Salespersons	1,514	1,160
*Motor Vehicle Repair Dealers	878	985
Motor Vehicle Mechanics	2,127	2,326
*Naturopaths	72	73
*Nurses RN	11,222	12,922
LPN	2,337	2,665

Boards and Commissions (shown by asterisk), and Programs	FY 00-01	FY 01-02
Advanced Practice Registered Nurse (APRN)	381	475
APRN with Prescriptive Authority (established 10/24/98)	73	85
Nurse Aides	2,526	0
Nursing Home Administrators	117	107
Occupational Therapists (established 1/1/99)	349	361
*Optometrists	346	341
*Pest Control Operators	157	130
Pest Control Field Reps.	48	41
*Pharmacists	1,496	1,496
Pharmacies	206	218
Wholesale Drug Distributors	56	52
*Physical Therapists	756	885
Port Pilots	9	9
Deputy Port Pilots	4	4
*Private Detective Agencies	32	31
Private Detectives	111	99
Guard Agencies	53	41
Guards	75	63
*Psychologists	529	535
Real Estate Appraisers (all)	318	331
*Real Estate Brokers	8,659	5,238
Real Estate Salespersons	5,016	9,855
Condominium Managing Agents	103	114
Condominium Hotel Operators	123	123
Real Estate Collection Servicing Agents (repealed 7/2/99)		
Social Workers (established 7/1/95)	1,064	1,161
*Speech Pathologists	399	382
Audiologists	55	49
Subdivision	13	11
Time Share (all categories)	1,926	154
Travel Agencies	1,945	1,164
*Veterinarians	316	294

REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

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

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

OVERVIEW

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

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

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

Composition

The work of RICO can be divided into two main categories: (1) education, information, complaint intake and alternative dispute resolution functions which are performed by the division's Consumer Resource Center, and (2) investigation and prosecution functions for the licensing boards, commissions and programs within the Professional and Vocational Licensing Division which are performed by the division's field investigation and legal branches.¹¹ RICO staff consists of intake investigators, field investigators, attorneys and support staff. Approximately one-fifth of RICO's full-time positions are located in the four neighbor island offices. The primary functions of the RICO branches are generally described as follows:

Consumer Resource Center (Education, Information, Intake and Alternative Dispute Resolution)

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

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

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

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

Another important aspect of CRC's work is the service provided by CRC's Licensing & Business Information Section (LBIS). The LBIS is a consolidated service which allows callers to use just one telephone number (587-3222) to find out (1) basic business registration information; (2) whether a business is licensed; and (3) complaints history on file with RICO and OCP. By using this service, callers avoid having to call multiple offices to gather important information about a particular licensee or business.

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

Field Investigation

The Investigation Section contains the largest concentration of RICO staff located in all five of RICO's offices statewide, consisting of field investigators and clerical support staff. With enforcement responsibility over the licensing laws of 46 different boards, commissions and programs, investigators evaluate a diverse population of licensees with a wide range of possible violations. See Table 2 for an overview of the number of 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 licensing law cases. RICO's investigators also take an active part in resolving cases, and in issuing administrative citations where active unlicensed activity is observed.

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

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

Legal Section

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

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

Three hundred seven civil or administrative actions were filed during FY 2002. Fines or civil penalties amounting to \$832,040.47 and restitution to consumers totaling \$304,078.51 were assessed. There were 140 injunctions imposed against unlicensed persons or entities for the year.

State Certified Arbitration Program

The State Certified Arbitration Program (SCAP) provides an arbitration forum for a consumer to resolve a warranty-related dispute with a motor vehicle manufacturer without having to hire an attorney. SCAP handled 63 cases and helped consumers recover over \$378,000 during the year. General Motors had the most complaints numbering 18, followed by Ford Motor Company with 15. DaimlerChrysler had 8 complaints, and Mazda had 5. Honda and Nissan each had 3 complaints that were all settled. Subaru, Toyota, and Kia each had 2 complaints. Volvo, Volkswagen, Audi, BMW, and Isuzu each had 1 complaint. Forty cases went to arbitration, and 23 cases settled. Of the 40 arbitrations, the consumer prevailed in 26 cases. One consumer actually lost his case, yet still stated that he was very satisfied with the administration of the lemon law program. He said the agency was "very competent, thorough, and efficient" and a "good model of an excellent government agency".

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 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

ACCOMPLISHMENTS

Motor Vehicle Repair Compliance Check: In response to reports of improper motor vehicle repair activity, RICO conducted an Oahu-based check of motor vehicle repair facilities to determine whether facilities were operating in compliance with applicable licensing laws. Investigators visited numerous Oahu facilities, verified licensure, provided information to businesses, and where applicable, issued citations.

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.

Regulated Industries Complaints Office (RICO)

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

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

The CRF financial summary relating to RICO for FY 01-02 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,783,531	\$662,575	\$3,446,106	\$3,802,616

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

	2001	2002
INQUIRIES BY:		

Regulated Industries Complaints Office (RICO)

Phone	17,329	16,219
Letter	513	248
Walk-in	1,129	1,301
TOTAL	18,971	17,768
LBIS ASSISTANCE		
Prior Complaints History RICO	42,981	34,396
BREG, PVL, OCP and Other	98,455	66,732
TOTAL	141,436	101,128*
FORMS ISSUED BY:		
Phone	4,058	3,907
Letter	75	33
Walk-in	686	519
TOTAL	4,819	4,459

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

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

	Board, Commission, or Program	2001	2002
ACC	Accountants	3	3
ADP	Activity Desks	7	10
ACU	Acupuncturists	1	6
BAR	Barbers & Cosmetologists	76	142
BOX	Boxing	1	7
CEM	Cemeteries and Pre-Need Funeral Authorities	8	19
CHI	Chiropractors	6	1
COL	Collection Agencies	21	10
CPR	Condominium	2	4
CLB	Contractors	289	345
DEN	Dentists and Dental Hygienists	28	19
DOP	Dispensing Opticians	1	0
ENP	Electricians & Plumbers	1	1
ELE	Electrologists	0	0
EVM	Elevator Mechanics	0	0
CEA	Employment Agencies	0	3

Regulated Industries Complaints Office (RICO)

	Board, Commission, or Program	2001	2002
EASLA	Engineers, Architects, Surveyors and Landscape Architects	5	12
HADF	Hearing Aid Dealers & Fitters	2	1
MFT	Marriage and Family Therapists (established 12/31/98)	0	2
MAS	Massage Therapists	71	115
MED	Medical	74	90
MBS	Mortgage Brokers & Solicitors	10	16
MVI	Motor Vehicle	56	54
ARP	Motor Vehicle Repair	84	82
NAT	Naturopaths	0	5
RNS	Nursing	23	25
NHA	Nursing Home Administrators	1	2
OTP	Occupational Therapist	0	0
OPT	Optometrists	0	1
PCO	Pest Control	12	32
PHA	Pharmacy	13	11
PTS	Physical Therapists	1	0
PTP	Pilotage	0	0
PDG	Private Detectives & Guards	7	4
PSY	Psychologists	9	7
REA	Real Estate Appraisers	5	2
REC	Real Estate (including CPRs and Ltd. Equity Housing Cooperatives)	124	107
RSW	Social Workers	3	3
SPE	Speech Pathologists & Audiologists	1	0
SUB	Subdivision	1	0
TSP	Time Share	10	11
TAR	Travel Agencies	76	53
VET	Veterinarians	8	8
TOTAL		1,038	1,216*

*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 2002

DIVISION	HILO	KAUAI	KONA	MAUI	TOTAL
Division of Financial Institutions	33	9	8	11	61

2002 Compliance Resolution Fund Report

Regulated Industries Complaints Office (RICO)

Business Registration	752	745	1,308	1,164	3,969
Cable Television	0	5	0	9	14
Insurance Division (+ MVID)*	86	45	18	62	211
Division of Consumer Advocacy	62	16	3	12	93
Professional & Vocational Licensing	802	750	1,342	900	3,794
Office of Consumer Protection	381	760	180	379	1,700
Non-Department Related	605	779	335	333	2,052
Totals	2,721	3,109	3,194	2,870	11,894

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

* MVID: Motor Vehicle Insurance Division

OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

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

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

OVERVIEW

As a support office under the Director's Office, the Office of Administrative Hearings (OAH) is responsible for conducting administrative hearings and issuing recommended decisions, for all divisions within DCCA that are required by law to provide contested case hearings under the provisions of Hawai'i Revised Statutes (HRS) Chapter 91. The primary CRF caseload of OAH is composed of cases originating from: 1) the Regulated Industries Complaints Office (RICO) and boards, commissions, and programs attached to the Professional and Vocational Licensing Division (PVLVD) on licensee disciplinary action and declaratory relief petitions; 2) citations issued to persons or businesses engaged in unlicensed activities; 3) trade name/trademark revocation and securities cases from the Business Registration Division (BREG); and 4) other matters from other divisions.

OAH also is responsible for conducting administrative hearings for: 1) denials of no-fault and personal injury protection benefits; 2) 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 3) 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 staff of OAH that are responsible for CRF related activities are: Senior Hearings Officer, division secretary, two hearings officers and three legal stenos. The office is physically located in the Penthouse of Princess Kamamalu Building at 250 South King Street. Mailing address: Office of Administrative Hearings, Penthouse, 250 South King Street, Honolulu, HI 96813; phone number: 586-2828; fax number: 586-3097; internet address: www.state.hi.us/dcca/oah; and e-mail address: oah@dcca.state.hi.us.

ACCOMPLISHMENTS

The attached Table 1 summarizes the CRF-related activities of OAH for the past two fiscal years. This statistical information has been compiled on the basis of individual licensees involved in

disciplinary proceedings and individuals cited for unlicensed activities rather than the actual number of consumer complainants whose cases have been resolved or addressed by the dispositions listed in the attached tables. The number of consumer complainants is higher than the number of licensee dispositions as it is not uncommon for a case against a licensee to include several complainants.

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 will soon be accessible to the general public.

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

CONCLUSION

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

Table 1: Office of Administrative Hearings: CRF Activities FY 00-01 and 01-02

	FISCAL YEAR 00 - 01										FISCAL YEAR 01 - 02																									
	Disciplinary Action - After Hearing		Disciplinary Action - Settlements			Citations			License Denials		FY 00 - 01 Totals		Disciplinary Action - After Hearing		Disciplinary Action - Settlements			Citations			License Denials		FY 01 - 02 Totals													
	Licenses Revoked	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Requests for Hearing	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Dismissed by Parties	Denial Sustained After Hearing	License Granted After Hearing		Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Dismissed by RICO/Settled	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Denial Sustained After Hearing	License Granted After Hearing					
Accountants				1	1									2																						
Activity Desks														0																						
Acupuncturists	1	1											2																							
Barbers									1				2																							
Barber Shops						1			3			3																								
Boxing (all categories)																																				
Cemeteries & Pre-Need Funeral Auth.																																				
Chiropractors																																				
Collection Agencies																																				
Contractors	10	3	7	4	1	15	3	7	1	3	2	56	4	6	2	1	14	1	1	1	2															
Cosmetologists								20	2	10	18	50																								
Beauty Shops								22	4	17	43																									
Dentists												1																								
Dental Hygienists																																				
Dispensing Opticians																																				
Electricians (all categories)																																				
Plumbers (all categories)																																				
Electrologists																																				
Elevator Mechanics																																				
Employment Agencies																																				
Engineers, Architects, Surveyors																																				
Engineers																																				
Architects																																				
Surveyors																																				
Landscape Architects																																				
Hearing Aid Dealers & Fitters																																				
Marriage & Family Therapists																																				

Table 1: Office of Administrative Hearings: CRF Activities - FY 00-01 and FY 01-02

	FISCAL YEAR 00 - 01										FISCAL YEAR 01 - 02																		
	Disciplinary Action - After Hearing		Disciplinary Action - Settlements			Citations			License Denials		FY 00 - 01 Totals		Disciplinary Action - After Hearing		Disciplinary Action - Settlements			Citations			License Denials		FY 01 - 02 Totals						
	Licenses Revoked	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Requests for Hearing	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Dismissed by Parties	Denial Sustained After Hearing	License Granted After Hearing	Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Dismissed by RICO/Settled	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Denial Sustained After Hearing	License Granted After Hearing
Message Therapists							15	2	13	8																			
Massage Establishments							16	3	20																				
Medical:																													
Physicians	2	1	2	1	5																								
Podiatrists																													
Osteopaths																													
Physician Assistants																													
Emergency Medical Technicians																													
Mobile Intensive Care Techs																													
Mortgage Brokers	1		1	5	1																								
Mortgage Solicitors																													
Motor Vehicle Dealers	1	1	2																										
Motor Vehicle Salespersons																													
Motor Vehicle Repair Dealers	1	3	1	5	2			9	2																				
Motor Vehicle Mechanics	1							7	3																3	3			
Naturopaths																													
Nurses																													
RN			1	1	5																								
LPN																													
APRN																													
APRN w/ Prescriptive Authority																													
Nurse Aides											1																		
Nursing Home Administrators																													
Occupational Therapists																													
Optometrists																													
Pest Control Operators	1	1																											
Pest Control Field Reps.																													

Table 1: Office of Administrative Hearings: CRF Activities FY 00-01 and FY 01-02

	FISCAL YEAR 00 - 01										FISCAL YEAR 01 - 02																		
	Disciplinary Action - After Hearing		Disciplinary Action - Settlements			Citations			License Denials		FY 00 - 01 Totals		Disciplinary Action - After Hearing		Disciplinary Action - Settlements			Citations			License Denials		FY 01 - 02 Totals						
	Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Requests for Hearing	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Dismissed by Parties	Denial Sustained After Hearing	License Granted After Hearing		Licenses Revoked	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Licenses Revoked/Surrendered	Licenses Suspended	Monetary Fines Imposed	Restitution Awarded to Consumer	Dismissed by RICO/Settled	Citations Dismissed After Hearing	Citations Sustained/Not Contested	Denial Sustained After Hearing	License Granted After Hearing	
Pharmacists																													
Pharmacies						3																							
Wholesale Drug Distributors						1																							
Physical Therapists																													
Port Pilots																													
Deputy Port Pilots																													
Private Detective Agencies							1						1																
Private Detectives							1																						
Guard Agencies																													
Guards																													
Psychologists																													
Real Estate Appraisers (all)							1						1																
Real Estate Brokers	2	1	1		3	1	18	2					4							3	3	18	3						
Real Estate Salespersons													2																
Condo Managing Agents																													
Condo Hotel Operators																													
Collection Servicing Agents																													
Social Workers																													
Speech Pathologists																													
Audiologists																													
Subdivision																													
Time Share (all categories)																													
Travel Agencies													1																
Veterinarians																													
Totals	18	5	15	8	9	6	69	8	80	5	53	70	13	0	359	15	2	3	4	12	9	56	7	47	6	20	3	1	185