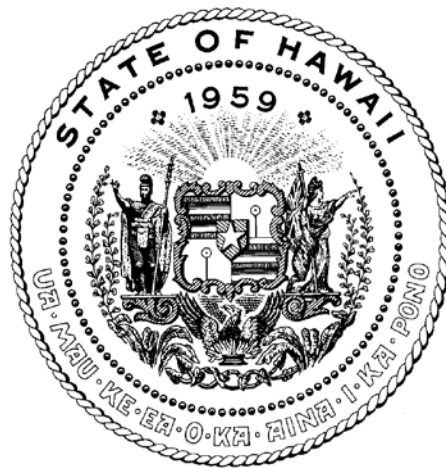


**2010 Annual
Compliance Resolution Fund Report
to the Legislature**



**DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS**

STATE OF HAWAII

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INTRODUCTION

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OVERVIEW

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

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

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

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

¹ The Director's Office provides general policy and administrative leadership in supervising and coordinating the various department activities. Personnel management services are provided by the Director's Office, while Administrative Services provides programs with centralized budgeting, accounting, 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, administers the Medical Claims and the Design Professional Conciliation Panels, hears appeals of the State procurement code, and conducts due process hearings for DOE under the Individuals with Disability Education Act (IDEA).

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

GOALS and OBJECTIVES

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

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

² The Professional and Vocational Licensing Division has the following trust funds: Real Estate Recovery, Real Estate Education, Condominium Education, Contractor’s Recovery, Contractor’s Education, Real Estate Appraisers, Travel Agency Recovery, 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 Premium Taxes Paid, Service Contract Providers, Captive Insurance Companies LOC; and the following special funds: Driver’s Education and Captive Insurance. The Regulated Industries Complaint’s Office has the Motor Vehicle Arbitration trust fund, and the Office of Consumer Protection has a Restitution trust fund. Additionally, the Hawaii Hurricane Relief Fund Board is administratively attached to DCCA, and its Board of Directors (rather than the director of DCCA) manages and controls the Fund. These funds are not included in the CRF.

	regarding mail, duplication projects and word processing.	Complete requests within deadline.	manner.
	Timely and complete response to division inquiries and complaints.	Timely address and answer all division concerns.	Percentage of concerns addressed (or acknowledged if time does not permit) within 5 business days.
ISCO	Find, acquire, implement and maintain information technology that improves the divisions' operations and allows them to provide better customer service.	Reduce Web site questions. Reduce travel costs. Reduce electrical costs. Reduce paper usage.	Reduce web site questions by 10%. Reduce travel costs by 10%. Reduce electrical costs by 10%. Reduce paper usage by 30%.

ACCOMPLISHMENTS

The overall CRF financial summary for FY 10³ is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$23,754,435	\$7,894,604	\$31,649,039	\$35,194,643

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

In the Information Technology (IT), area there were six major accomplishments this year: 1) the upgrade of the DCCA web site for faster performance; 2) the implementation of the Model Registered Agents Act (Act 55, SLH 2009) for Business Registration (BREG); 3) implementation of a new BREG filing for Publicity Rights (Act 28, First Special SLH 2009); 4) the addition of BREG's Name Changes and Assignments as on-line services; 5) the implementation of premium tax changes and fee increases (Act 22

³ The CRF financial summary relating to ADMIN (Director's Office, Personnel, Administrative Hearings, Fiscal and Administrative Services Offices and ISCO) for FY 09-10 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,271,479	\$1,510,772	\$4,782,251	\$383,218

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.

and 59, SLH 2010) for Insurance; and 6) the addition of compliance tracking for legal outcomes for RICO's licensing cases. To bring projects such as these to fruition, ISCO works collaboratively with DCCA business staff along with the State's central I.T. group (ICSD) and the State's Web Portal Manager.

Although not as visible to our customers, ISCO continues to enhance its infrastructure to provide DCCA's business staff with efficient and secure computer tools to get their work done. Included in these infrastructure enhancements are: 1) the configuration of video conferencing to reduce travel expenses for DCCA, as well as travel time for staff and board members to and from the neighbor islands; 2) the configuration of virtual servers to reduce costs for hardware and associated electricity; 3) the configuration of virtual personal computers to reduce costs for expensive desktops and associated electricity, while also providing remote access capability for telework and in the event of a disaster; 4) the evaluation of printers to reduce paper and electricity costs; and 5) the relocation of RICO's Kona office.

Projects underway at this time include: 1) the upgrade of screen technology for DCCA's core custom business applications; 2) the creation of an on-line service to allow the registration of real estate condominium projects; 3) the update of the Insurance Division's custom application to include continuing education ethics credits; 4) adding real time updates to the Insurance Division's on-line services; 5) providing computer systems support for the Division of Financial Institutions mortgage loan originator program; 6) working with DBEDT to support their electric vehicle rebate program; 7) converting PVL's forms to fillable format; 8) working with the portal manager to add a notification subscription service to the State's calendar; 9) working with the Insurance Division's Health Branch to provide premium rate reporting; and 10) filtering RICO's legal outcomes from the Internet where the respondent has complied with their orders.

CONCLUSION

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

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

BUSINESS REGISTRATION DIVISION (BREG)

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OVERVIEW

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

Composition

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

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

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

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

Live Chat (an instant messaging system which allows customers on the Hawaii Business Express website to obtain live help).

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

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

GOALS, OBJECTIVES AND ACCOMPLISHMENTS

Documents Registration Branch

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

The Documents Registration Branch processed over 188,000 documents this past fiscal year, up 57% from last year, and maintains the public registry of over 165,000 businesses, trade names, trade marks and service marks. The active files include business entities that have been on record with the State for over 100 years. Information is also retained for business entities that have been dissolved or cancelled. Minimal information must be kept for these inactive files for the purposes of research, litigation, real estate transactions, and general business use.

As part of an effort to make the Documents Registration Branch as convenient as possible for the public, we have been working to advance our computerized information systems so we can process and record documents with enhanced speed and accuracy. We have also been working on a new project to allow our electronic system accept wet signatures which will enhance processing by law firms and other professional filers.

Goals and Objectives

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

objectives: (1) review and implement policies and procedures designed to achieve a level of efficiency in processing document filings and information requests in a timely manner consistent with industry best practices; (2) continue to modernize the business laws so that they track as closely as possible the most current versions of the best uniform or model laws; (3) enhance the information systems to improve retrieval, processing and recording of public filing information while protecting the integrity of the data system, and (4) develop more online services that are useful to many.

ACCOMPLISHMENTS

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

Our efforts have been internationally recognized. The branch has won top honors for technological innovation four times in the recent past, as awarded by the International Association of Commercial Administrators (IACA). IACA is the leading association for business registries and has given top honors to Hawaii in 2005, 2006, 2007, and 2008.

This year, the branch continued to improve the documents online project that allows the public to purchase filed documents through an online webpage. Over 8218 documents were ordered online this past year. Through our redaction project, we have made over 700,000 documents immediately available online as of this past fiscal year. This saves the public time and money and increases convenient public access to the registry documents, especially to businesses on the neighbor islands. The branch is continuing to upgrade the interface of its website that can be found at www.BusinessRegistrations.com.

In 2008, the branch completed a year-long project to "go green" with respect to annual filings. This year, the "going green" effort has increased our online adoption rate for annual report filings to over 75% and in the second quarter of FY2011, our adoption rate has risen to over 90%. The effort continues to save the Division an estimated **560** pounds of paper and nearly **\$24,000** in postage a year. The increased online filing rate also reduces paper, postage and other costs for the consumer, helps keep our community green and reduces the division's manual handling, thereby allowing faster automated processing. We have worked to modify the timing of the postcard notification so that it saves the Division an estimated additional \$2,000 per quarter on postage.

In addition to annual filings, the branch currently accepts a total of 17 other online filings. We are working to add more online form filings in the upcoming year. Name searches and certificates of good standing requests can also be done online. Additionally, all forms that the branch generates are now available online for the public to download. The branch also maintains its Hawaii Business Express website that allows customers to submit one filing through the internet portal to satisfy three different filings: register their business entity with the Department of Commerce and Consumer Affairs, obtain a general excise tax number from the Department of Taxation and obtain an identification number from the Department of Labor and Industrial Relations.

The major project that the branch completed was a database upgrade to accommodate the new Model Registered Agent Act that became effective July 1, 2010. This was an extensive project that took

over 12 months and required weekly coordination with the IT staff, registration supervisors and our online partners. The task was completed on time with no major disruptions to the public.

The technological innovations and the work of the staff have also kept the processing times down to an average of 3 to 4 days and annual backlogs as low as a record-breaking zero.

Business Action Center Branch

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

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

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

In FY10, the BAC branch assisted over 16,850 customers over the counter or via phone, e-mail, fax, or Live Chat. In particular, Live-Chat assistance continues to be popular with over 600 chats a quarter in FY10.

GOALS AND OBJECTIVES

The goal of the BAC is to be the most responsive and helpful point-of-service business center for business registration and licensing assistance to as many businesses in Hawaii as possible. The BAC objectives for the fiscal year ending June 30, 2010, will be to: (1) continue to develop relationships with the business community; (2) explore better ways to accept business, employer and state tax registration filings from the remote BAC sites such as Maui and Hilo; (3) continue seeking ways to reach communities in need of business registration assistance and to market BAC's services; and (4) continue working closely with other state agencies (including cross-training) to help increase compliance with new laws.

ACCOMPLISHMENTS

BAC continues to support the temporary office in Hilo and the permanent offices in Maui and Oahu.

In FY10, the BAC has worked with accounting firms to see if BAC can set up a volunteer accounting assistance program similar to the volunteer lawyers program at the BAC. In addition, the BAC participated in workshops and counseling sessions throughout Hawaii, many with the military. The BAC has also expanded outreach services to other state agencies such as the Department of Health in Kapolei. We are striving to meet the needs of our community and look forward to continue to do so in the upcoming fiscal year.

The BAC continues to host the Hawaii State Bar Association volunteer lawyers project where HSBA attorneys come to the BAC Nimitz office and offer free legal services to BAC customers each Thursday. This is one of BAC's most popular programs. In addition, BAC has set up a feedback survey for users of the BAC and the response has been consistent in recognizing the quality and value of BAC to small businesses. We have received a number of letters of gratitude from businesses that began as small businesses seeking assistance from BAC and have grown to big businesses.

The BAC also hosts U.S. Small Business Administration representatives who offer financial services counseling to our customers once a week. The BAC continues to work with the Service Corps of Retired Executives ("SCORE"). SCORE is a nonprofit organization partially funded by the U.S. Small Business Administration. It provides business counseling and mentoring services free of charge. BAC customers are paired with a SCORE volunteer, who may be an attorney, accountant, marketing expert, business owner in the same industry as the BAC customer, or other expert, depending on the needs of the customer. SCORE volunteers meet in one-on-one sessions with the customer to offer advice. If no local SCORE volunteer fits the customer's needs, SCORE can find a volunteer with the requisite expertise through its nation-wide network of volunteers. These partnerships allow unique opportunities for small business owners to speak with experts on a one-on-one basis.

Securities Compliance Branch

The Securities Compliance Branch of the division is supervised by a specialist who is responsible for the work of six examiners, five licensing clerical staff, and two secretaries. The branch currently has approximately 76,150 securities salespersons and 1417 broker/dealer firms on record registered to sell securities. In addition, the branch has 58 state registered investment advisory firms and over 1600 registered investment adviser representatives on record. The branch also processed over 830 franchise offering circular filings and approximately 340 filings for the private placement of securities in FY10 and conducted 18 exams.

GOALS AND OBJECTIVES

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

With respect to investor education, in particular, we are currently in the process of (1) implementing rules and laws to take advantage of the new Dodd-Frank Wall Street Consumer Protection Act in order to apply for up to \$500,000 in federal funds for state investor education efforts; (2) continuing our partnerships with nonprofits and state agencies in order to expand outreach throughout Hawaii to Native Hawaiians, the military, labor unions and others; (3) continuing our efforts to keep our kupuna informed; (4) increasing investor education programs for our keiki; and (5) improving our website features and developing electronic media.

ACCOMPLISHMENTS

The staff is beginning training on the new provisions of the Dodd-Frank Wall Street Consumer Protection Act (“Dodd Frank Act”) and the Commissioner has worked throughout the year to make sure Hawaii interests are included in national positions on the act and the final implementation of the act. The Commissioner was on the cabinet of the national securities regulator organization (the North American Securities Administrators’ Association or NASAA) in FY10 as the head of the Investor Education Section, advocating for the passage of the Senior Designation provisions of the Dodd-Frank Act. The act now includes funds for investor education of up to \$500,000 per state. The Commissioner also led the NASAA Investor Education section to launch the first national effort to reach women in transition from widowhood, divorce, or other circumstances with investor assistance. One of the most significant changes in the Dodd-Frank Act for the states is that it expands jurisdiction of state regulators to investment advisers with assets under management of up to \$100 million, thus increasing the states’ exams and registration services to include larger and more complex firms. We will be working to accommodate the new demands on the Division and to get staff up to speed on the additional complexities. The act also places limitations on notice filings for securities violators. In addition, the Commissioner has worked with NASAA to advocate for a fiduciary standard for broker dealers to match that of investment advisers. This fiduciary standard for broker dealers continues to be a heated debate that has garnered the support of Senator Akaka. He continues to champion it as an improved standard to protect retail consumers and the Commissioner’s office continues to support his efforts. This will be a continuing debate as the US Securities and Exchange Commission looks to possibly implement new rules in the coming year.

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

The branch is also continuing its comprehensive training program for professional development of its securities examiners staff with an additional emphasis on the new requirements included in the Dodd-Frank Act. Currently, the branch is supporting training leading to the Certified Regulatory and Compliance Professional from the FINRA Institute at Wharton. The division currently has two certified examiners and one additional staff member preparing to be certified.

Last year, the branch developed the comprehensive State Investment Adviser Guide to help firms understand the state compliance requirements and the manner in which to prepare for a firm examination conducted by the state securities compliance branch. The guide was developed to help small firms with

limited resources to better understand the compliance requirements. The guide has been produced with an interactive index and is placed on our website at <http://hawaii.gov/dcca/sec/iag>. NASAA has now shown interests in making a similar guide a national resource and we are looking to assist NASAA in that effort.

Investor education continues to be another important component to securities regulation, and we continue to expand the outreach statewide to new audiences as well as difference community events. The division completed **35** presentations in FY10, and participated in **43** community events in FY10, through which we reached an estimated **90,712** consumers in Hawaii in FY10.

We have continued with the new union outreach program that we developed last year. This program was developed to combat investor affinity fraud perpetrated through unions. Affinity fraud that takes advantage of trusting relationships within tight knit groups has been increasing in Hawaii and throughout the nation. To combat this fraud within unions and to reach working families in unions, the branch developed investor education materials and presentations customized for union members. The branch actively continues to seek to work with union leadership to bring the message to the membership. This program has been so successful that the program has been replicated at the national level by NASAA.

In the past, the division also partnered extensively with the Hawaii Council on Economic Education (HCEE) to support financial literacy and investor education for our keiki. We have also supported two other HCEE programs. The first is **Na Wai Puapua'i** (Care for Our Future), a financial literacy and investor education curriculum that incorporates Native Hawaiian culture into the lesson plans. It includes traditional ʻōlelo noʻeau into the course work and was developed to be compliant with the No Child Left Behind Act, making it easier for teachers to adopt the curriculum. In the past, the program has reached **75** teachers who reported their intent to use the lesson plans for **2,163** students, exceeding the original teacher goal by 25%. We very much hope to look to re-implement this program in FY11. Outreaching to the Native Hawaiian community remains a priority for FY11 and we look forward to continue to build our relationships.

The branch maintains nearly 70 handouts, brochures, booklets, CDs, DVDs, guides & mini-guides covering a wide range of investor education topics from how to select an investment professional to how to avoid scams and fraud. We also have six investor protection presentations and 20 special large print handouts that have been notably popular with our seniors.

Securities Enforcement Branch

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

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

GOALS AND OBJECTIVES

As mentioned above, the goal of the Securities Compliance Branch and Securities Enforcement Branch is to become one of the most effective state securities regulatory agencies in the country. To that end, the Securities Enforcement Branch’s objectives are to: (1) investigate and prosecute state securities violations under the Uniform Securities Act; (2) intake complaints from the public and respond quickly and appropriately; (3) reduce case backlog; (4) inform consumers of enforcement matters and investment scams through participating in investor education; (5) develop and implement internal procedures that will improve the timely and effective resolution of cases, improving the branch’s overall effectiveness; (6) attend and develop training to keep professional staff current on emerging investigative techniques, legal analysis and trends in securities fraud and other securities violations; (7) draft and assist in securities legislation; and (8) work with the media to raise public awareness.

ACCOMPLISHMENTS

As a result of the enforcement work of the branch in FY10, the division issued three (3) preliminary orders to cease and desist with penalty recommendations of \$1,850,000, obtained two (2) final orders, and issued fourteen (14) consent agreements or orders, imposing \$3,814,908 in penalties. During the past fiscal year, the branch collected \$3,549,410 in fines and penalties.

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

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

The CRF financial summary relating to BREG for FY 09-10 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,107,166	\$866,151	\$4,973,317	\$8,816,269

CONCLUSION

The Business Registration Division continues to receive business filings, requests to purchase business documents, business registration inquiries, securities and franchise registration filings, securities and franchise inquiries and securities and franchise complaints that indicate an enduring need for the

essential government services involving the business registry, business action center, securities law enforcement, securities registration and investor education outreach. The demand for the division's services has necessitated improved information systems to handle the workload, more sophisticated online support, increased training to improve the quality of regulatory oversight, increased personnel and constant attention and commitment to the changing, increasingly complex needs for service. In addition, the division has worked extensively with NASAA to assist in the national regulatory reform effort and to promote and advocate positions that best support Hawaii's retail consumers. The Commissioner continues to work extensively with NASAA, having served on its cabinet in FY10 in an effort to reach as many consumers as possible to alert them to fraud, ways to protect themselves and where to turn for help. We look to continue to be involved with NASAA to make sure Hawaii's interests and concerns are included and advanced.

CABLE TELEVISION DIVISION (CATV)

website: www.hawaii.gov/dcca/catv

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

OVERVIEW

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

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

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

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

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

In 2010, the Hawaii State Legislature passed Act 199 which added broadband and telework responsibilities to CATV's responsibilities. CATV requested increased financial and personnel resources as authorized by Act 199, but its request was not acted upon; another request will be submitted shortly. CATV has convened four meetings (as of 12-9-10) of the Permitting Work Group that is assessing the State

as well as Counties approval and permitting processes that may impact deployment of broadband infrastructure and services. The discussion at these meetings has evolved and focused on the issue of pole attachments. Wireline providers have voiced deep concerns on their ability to attach additional fiber to poles based on calculations that deem a pole standard or sub-standard. Additionally, CATV will also convene the Broadband Advisory Council once members are appointed by the Hawaii State Senate and the House of Representatives.

In its franchise agreements with cable operators, the State requires that cable operators set aside a number of channels for public, educational and governmental access (“PEG”) and provide a percentage of gross revenues for PEG use. The State has delegated oversight of the access channels and funds to non-profit groups, one in each of the four counties.

Composition

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

GOALS and OBJECTIVES

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

- 1) Ensure consistent cable television regulatory policies and practices
 - Conduct regularly scheduled franchise fee and PEG reviews
 - Complete public procurement process for PEG services, consistent with chapter 103D, HRS
 - Collaborate on INET deployment
 - Convene periodic Cable Advisory Committee meetings
- 2) Monitor and participate in federal telecommunications legislation and rulemaking.
 - Continue working with Hawaii’s congressional delegation on federal legislation
 - Continue our working relationship with the FCC on DBS and other cable related matters
 - Continue to monitor federal issues that may have an impact to Hawaii cable television subscribers
- 3) Advocate for equivalent DBS, and other enhanced services.
 - Ensure that DirecTV and DishNetwork comply with FCC order regarding service to Hawaii
 - Monitor development and deployment of new advanced services
 - Ensure that Hawaii receives equivalent service as does the mainland
- 4) Broadband
 - Implement requirements of Act 199

- Continue to lead INET initiatives
- Advocate for Hawaii's Broadband future

ACCOMPLISHMENTS

Broadband – Hawaii Broadband Task Force (HBTF) and Act 199 - CATV Administrator was a member of the State's Broadband Task Force which developed the foundation for Act 199 that was passed by the 2010 Legislature. The HBTF met over 2 years to address many significant issues facing the deployment and expansion of world class broadband infrastructure and services in the State. Act 199 designated CATV to serve as the focal point for broadband issues affecting the State, and also created the Permitting Work Group and Broadband Advisory Council to address some of the broadband matters identified by HBTF. The Work Group has met periodically and will be submitting a report to the 2011 Legislature.

American Recovery and Reinvestment Act

Broadband Mapping Project – DCCA / CATV was awarded \$4.3M in ARRA funds to develop and maintain Hawaii's broadband map that will identify broadband services, speeds, and prices throughout the State. The data from Hawaii's map will be incorporated into the National broadband map that is part of the National Broadband Plan. The \$4.3M award funding will be expended over a 5 year period ending December 2014.

Hawaii Health Information Exchange (“HHIE”) – CATV's administrator is a member of the State's oversight committee relating to ARRA Health Information Exchange initiatives. The State of Hawaii designated the HHIE, a third party, non-profit organization, to implement the ARRA health information exchange initiatives. As a member of the State's oversight committee, the CATV administrator works closely with the HHIE to guide compliance with federal requirements.

Broadband Infrastructure to Department of Education schools, State Libraries, University of Hawaii Community College locations – CATV and the University of Hawaii together developed a grant to interconnect all DOE schools, state libraries, and community colleges with broadband capacity. The CATV will continue as a partner with UH, DOE and the State Library in the implementation of this \$34M ARRA award.

Public Computing Centers – CATV, the University of Hawaii and the State Librarian worked together to develop a grant to provision all state libraries and certain community colleges with equipment that would allow utilization of broadband capacity and services that are planned for these locations. These public computing centers would allow individuals without equipment or access to broadband, to access services such as the internet. CATV, the UH and the Hawaii State Library will continue to partner on the implementation of this \$1.5M ARRA award.

Institutional Network (“INET”) - CATV continues its leadership role in the development, expansion and enhancement of the INET. Working with the INET Partners [(1) the CATV Division, (2) the Information, Communications and Services Division (“ICSD”) of the Department of Accounting and General Services, (3) the University of Hawaii (“UH”) and (4) the Department of Education (“DOE”)], CATV continued its leadership role in the upgrade and expansion of the INET that existing cable television franchises in the deployment of broadband infrastructure for education and government applications. The

interconnection of the islands of Oahu, Maui, Kauai and Hawaii via submarine fiber provides the INET Partners with seamless, broadband networking capabilities between these islands.

As of the end of FY10 (June 30, 2010), TWE held approximately \$ 4.9 M in an interest-bearing account on behalf of the DCCA for INET purposes and broadband activities. These funds are the result of an agreement between the DCCA and Olelo regarding cable television franchise fees that are collected from Oahu cable television subscribers.

Oceanic Time Warner Cable of Hawaii (“Oceanic”) – Oahu Franchise Renewal - Oceanic submitted an application to renew its cable franchise for the island of Oahu. CATV along with its consultant held numerous meetings with various stakeholders and groups seeking comments on the renewal of the Oahu franchise. In addition CATV held four public meetings to ensure that the public had ample opportunity to provide input into the renewal process. CATV approved a new Oahu franchise agreement in January 2010. The new franchise requires Oceanic to utilize the latest technology to provide a wide diversity of information sources and services to the public. For example, in the renewed franchise order, CATV directed Oceanic to more than double the number of cable channels available for local uses (i.e., PEG channels, government use, and educational use) in the State, increasing the channels from six to fourteen.

Hawaiian Telcom (“Hawtel”) Application For a Cable Television Franchise - Hawtel submitted an application for a cable franchise on May 5, 2006 which was accepted by DCCA on June 21, 2006. On December 1, 2008 Hawtel filed voluntary petitions for Chapter 11 reorganization under the Bankruptcy Code. On October 28, 2010, Hawtel emerged from Chapter 11. Hawtel submitted a new application for a new cable franchise to CATV on November 5, 2010 and withdrew its prior application. CATV is reviewing and processing the new application.

Direct Broadcast Satellite (DBS) Service - CATV continues to be the State’s advocate for DBS service and other non-wireline services that would benefit Hawaii residents. Although DBS is regulated on the federal level by the Federal Communications Commission (“FCC”), CATV recognizes the importance of this service not only as a competitor to cable television service but also as a provider of unique services that Hawaii must have access to. CATV continues its advocacy with the FCC as well as with Hawaii’s congressional delegation on matters not only involving cable, but a wide range of broadband and telecommunications matters.

Franchise fee reviews and refunds - CATV has contracted with a certified public accounting firm to conduct reviews of the franchise fee payment process of the cable operators in each of the different franchise areas. Based on the results of reviews of the franchise fee calculation, collection, and payment process for all franchise areas, DCCA ordered refunds to cable subscribers over the past 8 years, totaling approximately \$1.4 million. CATV-DCCA is continuing these reviews periodically to ensure that the franchise fee collection process is being conducted accurately.

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

PEG Contracts and Public Procurement - In 2005 DCCA was informed that its contracts with PEG access organizations are subject to the State Procurement Code. In July 2007, DCCA through the State Procurement Office issued the 2007 RFP. Since the issuance of the RFP, protests to the RFP were submitted to SPO, and as a result SPO postponed the RFP process until the protests could be addressed. In addition lawsuits were filed to prevent the public procurement process from proceeding. The lawsuits were subsequently resolved, and the 2007 RFP was cancelled. In May 2010, DCCA through the State Procurement Office issued another RFP. Protests have been filed in this RFP, and SPO and DCCA worked on resolving the protests and completing the procurement process.

The DCCA's current contracts with the various PEG access organizations have been exempted from the procurement code by the SPO until December 31, 2010. The DCCA will be requesting a further extension of the exemption from the SPO in order to comply with state procurement law and to continue working with the SPO in the RFP process.

The CRF financial summary relating to CATV for FY-09 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$370,811	\$547,576	\$918,387	\$1,455,615

CONCLUSION

The year 2010 was a remarkable year for CATV, due in part to the rapid development of advanced technology by cable companies. The continued enhancement of the fiber to node architecture provided increased bandwidth capacity for traditional services such as video programming as well as for new interactive and digital services. Thus, given the nascent nature of digital technology relative to cable, CATV had and presently has the continuing task of monitoring the public's present needs and future interests.

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

DIVISION OF CONSUMER ADVOCACY (DCA)

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OVERVIEW

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

COMPOSITION

The DCA consists of 11 employees, ranging from an administrator, a secretary, a utilities/transportation officer, a utilities/transportation specialist, researchers, engineers, attorneys, and clerical support. The DCA is located on the third floor of the King Kalakaua Building, 335 Merchant Street. Its contact information is as follows: mailing address, P.O. Box 541, Honolulu, HI 96809; phone number, 586-2800; internet address, www.hawaii.gov/dcca/dca/.

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

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

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

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

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

Not counting the Legal Branch, the DCA is authorized to have up to nine exempt positions, under HRS § 269-52(1). Pursuant to Act 130, SLH 2010, funding was provided to restore four of the exempt positions, as well as four of the civil service positions that were abolished by the 2009 Legislature. The DCA also has a staff level position – the Public Utilities/Transportation Specialist – that assists the Public Utilities/Transportation Officer in managing the overall workload pertaining to matters filed before the regulatory agencies, such as the PUC and FCC. In addition to providing analysis on docketed filings, the Education Specialist is responsible for consumer education and outreach, which is accomplished by attending various community events throughout the State to gain public input about specific issues affecting consumers and to provide information on utility services. The Education Specialist is also responsible for updating and maintaining the DCA's web site and publishing a quarterly newsletter.

Given the DCA's historical difficulty in attracting and retaining staff, in 2008, the DCA received authorization to reorganize, tailoring the position descriptions to be better aligned with the position duties and work of the DCA. Since the restoration of the eight positions in FY2010, the DCA has worked on completing the necessary position descriptions that would allow the DCA to recruit for these positions.

GOALS AND OBJECTIVES

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

Consumer Advocacy

Goal

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

Planned Approach/Methods

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

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

1. Review of applications to ensure compliance with regulations;

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

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

Measures

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

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

Policy Advancement

Goal

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

Planned Approach/Methods

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

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

- Evidentiary or panel hearings are held by the PUC to take evidence provided orally by DCA witnesses or consultants hired by DCA to provide expert testimonies on specific technical issues.

Specific ongoing investigative dockets are discussed later in this report.

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

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

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

Measures

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

Education & Outreach

Goal

The DCA's goal is to encourage the public to be wiser consumers of public utility services by, among other things, emphasizing the possible effects that their consumption habits may have on utility rates and the environment. It is through the education and outreach process that the DCA aims to gather consumer input on utility issues and to encourage consumers to be more involved in utility proceedings. In addition, with Hawaii's Clean Energy Initiative, the consumers need to be aware that many of the benefits will not be immediately apparent in their bills. Thus, education of reasonable expectations is necessary to avoid misinformation from occurring.

Planned Approach/Methods

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

1. Update and improve its website with consumer-friendly and useful content;
2. Establish information booths and provide presentations at community events, such as home shows and public fairs throughout the State and build positive relationships with both business and individual community members;
3. Improve communications with consumers and the public through expanded distribution and publication of its newsletter; and
4. Hold informational seminars or use public service announcements to highlight different utility issues and topics.

Measures

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

ACCOMPLISHMENTS

In 2010, results of the DCA's efforts to protect and advance the interests of consumers were seen through its work on behalf of individual communities, as well as major utility issues that will have far-reaching impacts on people throughout the State. Several of these efforts are described below.

Rate Cases

The Gas Company, LLC's ("TGC") 2009 Test Year Rate Case

On April 30, 2008, TGC filed an application for approval to increase its rates (by approximately \$12,510,047 or 8.46% increase over revenue at present rates), establish a new commercial rate on the island of Kauai, restructure certain of its rates and schedules, and revise or update certain of its rules. The DCA, among other things, participated in public hearings held statewide, conducted inspections and witness interviews, developed testimonies, engaged in a negotiation process with TGC to resolve the outstanding issues of this proceeding, and answered numerous information requests of the PUC. On June 4, 2009, the PUC issued its Interim Decision and Order approving, which approved an increase in revenues over present rates of \$9,519,293 or approximately 11.03% for TGC. In so doing, the PUC approved the Parties' Joint Statement of Probable Entitlement in Support of Interim Rates, filed on May 22, 2009, as supplemented. Additional discovery and analysis was conducted in FY 2010 in order to continue to build the record in this rate case. The Commission filed its Final Decision and Order in this proceeding on April 20, 2010 and ultimately approved an increase of \$9,211,450, which reflected additional adjustments that resulted in a decrease of \$307,843 to TGC's final revenue requirements.

Hawaiian Electric Company, Inc.'s ("HECO") 2009 Test Year Rate Case

On July 3, 2008, HECO filed an application for approval to increase its rates (by approximately \$97,011,000, or 5.2%, over revenues at current effective rates) and to amend its rules. The DCA, among other things, participated in a public hearing, conducted inspections and witness interviews, developed testimonies, and engaged in a negotiation process with HECO and the Department of the Navy to resolve most of the outstanding issues of this proceeding (two outstanding issues – Informational Advertising Expense and the Overall Rate of Return – were argued at an evidentiary hearing held during the last week of October and the first week of November 2009). On August 3, 2009, the PUC rendered an interim decision, approving approximately \$61,098,000 in additional revenues, or a 4.71% increase over revenues at current effective rates for a normalized 2009 test year. Transcripts of the evidentiary hearing were filed with the PUC on November 23, 2009. The parties filed opening and reply briefs on January 5, 2010 and January 26, 2010, respectively. Subsequently, the Commission filed its second Interim Decision and Order on February 19, 2010, allowing HECO to include the costs associated with its newest generating unit that is meant to be fueled primarily with biofuel, which increased the approved revenue requirements by \$12,620,000. Additional work and analyses were done subsequent to the second Interim Decision and Order in FY 2010 addressing certain questions related to decoupling. The final decision and order in this proceeding is pending.

Molokai Public Utilities, Inc.'s ("MPUI") and Waiola O Molokai, Inc.'s ("WOMI") Rate Cases

On June 16, 2008, the PUC issued an order opening a proceeding to provide temporary rate relief to MPUI and WOMI, responding to the announcement in late March 2008 by Molokai Properties, Limited, pursuant to its announcement to cease all current business operations on Molokai, that it would no longer be able to subsidize its utility companies, and it was planning for their disposal within six months. During the fiscal year, the DCA participated in public hearings and meetings, interviewed customers, conducted analysis of the limited financial information available from the companies, and provided the PUC with a statement of position reluctantly stating non-opposition of the rate increases. On August 14, 2008, the PUC approved rate increases for the companies, effective on September 1, 2008. The PUC's Decision and Order required MPUI and WOMI to file rate increase applications within six months of the date of the Decision and Order if a third party was not found to take over the utilities.

On March 2, 2009, MPUI and WOMI filed rate increase applications with the PUC, requesting revenue increases of \$562,550 and \$308,781 over revenues at present rates for MPUI and WOMI, respectively. The DCA objected via statements regarding completeness of applications to MPUI's and WOMI's requests to waive the requirement to file audited financial statements in compliance with the PUC's rules. On April 2, 2009, the PUC denied MPUI's and WOMI's requests to file unaudited financial statements, requiring the companies to obtain independently audited financial statements and to file amended applications reflecting such audited financials.

On June 29, 2009, MPUI and WOMI filed amended applications for rate increase with the PUC, seeking net revenue increases of \$886,259 and \$473,431 for MPUI and WOMI, respectively, using the pro forma revenue amounts at present rates for the 2009-2010 test year. Based on the temporary rates authorized in the Temporary Rate Order, MPUI's proposed net revenue increase amounts to \$565,939, which is an approximate 74.6% increase from the pro forma revenue amount of \$758,958 at the temporary rate for the 2009-2010 test year. Based on the temporary rates authorized in the Temporary Rate Order, WOMI's proposed net revenue increase amounts to \$308,431, which is an approximate 106.96% increase from the pro forma revenue amount of \$288,360 at the temporary rate for the 2009-2010 test year.

During FY 2010, the DCA participated in the public hearings, and due to the presence of intervenors, the proceeding was rather contentious. DCA participated in the discovery process and submitted written testimonies. Due to ongoing litigation between the County of Maui and the Applicants, there was a mediation process that was ongoing and the parties to the proceedings before the Commission were asked to participate in this mediation process, which the DCA did. While an agreement was reached between the utility companies and the DCA, the County of Maui and West Molokai Association did not enter into that agreement. As there was not agreement among all of the parties, there were evidentiary hearings and briefs. The Commission filed its Interim Decision and Orders in the MPUI and WOMI cases on May 28, 2010, which adopted most of the settlement. This authorized MPUI to increase its rates on an interim basis by \$542,724, or an approximate increase of 125.2%. WOMI's authorized increase was \$241,478, or an approximate increase of 222.8%. The Commission filed its Final Decision and Order in the MPUI case on September 23, 2010, which allowed the \$548,682 increase that was agreed to in settlement. The final decision in the WOMI case is still pending. It is possible that additional work may be required as the County of Maui has appealed the MPUI final decision and order and is also likely to appeal the WOMI final decision and order when it is filed.

Kauai Island Utility Cooperative ("KIUC") 2010 Test Year Rate Case

On June 30, 2009, KIUC filed an application for general rate increase (by \$12,991,558 or 10.45% over revenues at present rates) and revised rate schedules and rules. During fiscal year 2009-2010, the DCA participated in the public hearing process, conducted extensive discovery, and submitted testimonies and supporting exhibits recommending various downward adjustments to KIUC's requested increase. After KIUC conducted its discovery and filed rebuttal testimonies, the parties in the proceeding (KIUC, Department of Defense, Marriott, and DCA) reached an agreement on all issues and no evidentiary hearing was required. The Commission filed its Interim Decision and Order on April 29, 2010. In its interim decision and order, the Commission authorized an increase of \$3,063,023, or an increase of 2.0%, which reflected certain downward adjustments to the settled upon revenues. Since there were no evidentiary hearings, there was no need to file briefs, opening or closing. After the parties conducted additional analyses to address Commission inquiries, the Commission filed its final Decision and Order on September 29, 2010, which confirmed the interim increase.

Maui Electric Company, Ltd.'s ("MECO") 2010 Test Year Rate Case

On September 30, 2009, MECO filed an application for approval to increase its rates (by approximately \$28,190,300, or 9.7%, over revenues at current effective rates) and to amend its rules. In fiscal year 2009-2010, the DCA, among other things, participated in the public hearing, conducted inspections and witness interviews, and filed testimonies and exhibits recommending various recommendations to HELCO's request. As the only two parties to the docket, MECO and DCA were able to reach a stipulated settlement that was submitted to the Commission in lieu of proceeding to an evidentiary hearing. The PUC filed its Interim Decision and Order on July 27, 2010, approving approximately \$10,296,200 in additional revenues, or a 3.28% increase over revenues at current effective rates for a normalized 2010 test year. The PUC's Interim Decision and Order adopted most of the provisions submitted by the parties, but included additional downward adjustments for certain items. The parties await the final decision and order.

Hawaii Electric Light Company, Co.'s ("HELCO") 2010 Test Year Rate Case

On December 9, 2009, HELCO filed an application for approval to increase its rates (by approximately \$20,934,500, or 6.0%, over revenues at current effective rates) and to amend its rules. The DCA, among other things, participated in the public hearing, conducted discovery, inspections and witness interviews, and filed its testimonies and exhibits that recommended various adjustments to HELCO's requested increases. As the only two parties to the docket, HELCO and DCA were able to reach a stipulated settlement that was submitted to the PUC in lieu of proceeding to an evidentiary hearing. The PUC filed its Interim Decision and Order on November 3, 2010, which adopted most of the provisions submitted by the parties, but included additional downward adjustments for certain items and required HELCO to file revised schedules that illustrate the resulting revenue requirements that reflect the PUC's additional adjustments. The re-calculated increase approximates \$5,157,000, or about a 1.46% increase. The PUC has created the opportunity for HELCO to file additional testimonies and support in December 2010 to reclaim some of the monies associated with the downward adjustments made by the PUC. The DCA will need to file a response to those additional testimonies and then the parties will await the PUC's final decision and order.

Small water and wastewater rate cases

In addition to the rate cases listed above, the DCA provided analysis and recommendations to the PUC for other public utility rate cases during the fiscal year 2009-2010, each of which involves analysis and preparation that spans six to eleven months:

Kapalua Water Company, Ltd.; and
Hawaii Water Service Company.

Generic and Other Proceedings

Feed-in Tariff Investigative Proceeding

On October 24, 2008, the PUC initiated an investigation of the implementation of feed-in tariffs for the HECO Companies. Included in the Energy Agreement signed by the Governor, the Department of Business, Economic Development, and Tourism, the HECO Companies, and the DCA on October 20, 2008, is a commitment by the HECO Companies to implement feed-in tariffs "to dramatically accelerate the addition of renewable energy from new sources" and to "encourage increased development of alternative energy projects." (Energy Agreement, summary, at 3.) To expedite the process, the PUC directed the HECO Companies and the DCA to submit to the PUC a joint proposal on feed-in tariffs that addresses all of the factors identified in the Energy Agreement within sixty days of the date of this Order. During the fiscal year 2008-2009, the DCA filed a Joint Proposal on Feed-in Tariffs, issued and responded to numerous information requests, prepared and filed a statement of position, participated in technical meetings and an evidentiary hearing, and prepared and filed post-hearing briefs. On September 25, 2009, the PUC issued a Decision and Order in the proceeding, establishing several policy principles to further guide the development of a set of feed-in tariffs. The DCA participated in various technical meetings to further clarify the parties' positions and also participated in the development of the actual initial FIT rates for 2 of the 3 defined tiers. The PUC approved the tier 1 and 2 rates and the web site serving as the intake source for FIT applications were opened in November 2010. Additional work will be required to develop the Tier 3 rates and to evaluate the effectiveness of the FIT program and rates.

Decoupling Investigative Proceeding

On October 24, 2008, the PUC initiated a proceeding to investigate the implementation of a decoupling mechanism for the HECO Companies, pursuant to the recommendation of the signatories to the Energy Agreement. Generally, decoupling is a regulatory tool designed to separate a utility's revenue from changes in energy sales. During the fiscal year 2008-2009, the DCA developed an initial decoupling proposal, filed a joint proposal with the HECO Companies, issued and responded to numerous information requests, and participated in technical meetings and an evidentiary hearing. The DCA also prepared and filed post-hearing briefs and responded to the PUC's information requests. The PUC filed an Order on February 19, 2010 that approved the joint proposal submitted by the DCA and the HECO Companies and required the production of a proposed decision and order for the PUC to approve. This proposed decision and order was filed on March 23, 2010, and the PUC filed its final decision and order on August 31, 2010. The actual implementation of decoupling has been made contingent on the PUC being able to approve electric rates that reflect a return on equity that has been adjusted for decoupling. The PUC has not yet filed a decision and order in any of the HECO Companies' rate cases with a return of equity adjusted for decoupling.

HECO's Outage Proceeding

On Friday, December 26, 2008, an island-wide power outage occurred on Oahu. By Order filed on January 12, 2009, the PUC initiated an investigative proceeding to, among other things, examine the performance of HECO before, during, and after the power outage. The DCA and its engineering experts participated in technical meetings with HECO and its expert consultants and reviewed the reports and data supplied by HECO and its consultants. The DCA also attended additional technical meetings with HECO and its experts and issued information requests to further understand the technical details of the generating units and the procedures used to operate the system before, during, and after the power outage. The DCA filed its Statement of Position on January 14, 2010, observing that HECO could not have reasonably avoided the outage and reduced the restoration time, but made various recommendations to improve HECO's system and procedures to possibly minimize the likelihood of future outages and the time required to restore service. There were additional discovery between the parties and discussion. HECO filed its reply statement of position on April 5, 2010. The parties await the final decision and order.

Depreciation rates for the HECO Companies

MECO, HELCO, and HECO have filed applications seeking to modify the depreciation rates used for financial and ratemaking purposes on September 9, 2009, November 9, 2009, and March 29, 2010, respectively. All of the companies are proposing depreciation rates that will lower the recorded expenses. As a result of contracting issues, the DCA was not able to process the applications requesting decreases in MECO and HELCO's depreciation rates before the completion of the DCA's analysis in the MECO and HELCO rate cases. However, the DCA was able to reach an agreement with MECO and HELCO to allow the lower depreciation rates proposed by MECO and HELCO to be used in the rate cases to allow the benefits to be experienced by ratepayers sooner rather than later. The DCA conducted discovery in each of the cases and submitted testimonies and exhibits in each of the proceedings in November and December 2010. The Companies are seeking to file rebuttal testimonies and have expressed an interest to discuss settlement to avoid having an evidentiary hearing.

Hawaiian Telcom Reorganization

On January 4, 2010, Hawaiian Telcom, Inc. and Hawaiian Telcom Services Company, Inc. (collectively referred to as “HT”) filed an application seeking Commission approval of its bankruptcy and reorganization plan. This application was made necessary due to HT’s inability to make its debt interest payments. After getting approval of a reorganization plan and refinancing from the U.S. Bankruptcy Court, HT filed its application with the PUC and also filed an application with the Federal Communications Commission. After conducting discovery and analysis, the DCA filed its statement of position on May 26, 2010. In its statement, the DCA found that the transaction was in the public interest but made several recommendations to better protect the consumers of HT’s regulated services. HT filed its reply and the PUC filed its Decision and Order on September 22, 2010 and generally adopted all of the DCA’s recommendations with the additional of certain other conditions. Due to the nature of the Bankruptcy Court’s ruling, as well as the presence of various creditors, HT needed to confirm that the conditions would not cause a rejection of its reorganization plan. HT made its compliance filing in November 2010 and has emerged from bankruptcy.

Clean Energy Scenario Planning

On May 14, 2009, the PUC filed an order opening an investigation into amendments into integrated resources planning. This order is consistent with one of the commitments agreed to by the State and the HECO Companies as part of the clean energy initiative. There is a perceived need to improve upon the processes related to long-term energy planning to include, at a minimum, more transparency yet ensure that the proceedings move along expeditiously to allow the plans developed as a result of the procedures not becoming stale. The DCA participated in workshops, discovery, and filed its preliminary statement of position along with the other various entities in this proceeding, such as the HECO Companies, KIUC, Life of the Land, DBEDT, and Blue Planet, to name a few. Subsequently, there was additional discovery and workshops, and final statements of position were filed on or about December 21, 2009. There were panel hearings held on various days in February 2010. After the transcripts of the panel hearing were received, the parties filed their opening and reply briefs during the months of August and September 2010. Due to the complex nature of this proceeding, the PUC may ask additional discovery or require additional procedural steps, but as of the end of 2010, there are no more procedural steps, other than the PUC’s final decision and order.

Energy Efficiency Portfolio Standards

On March 8, 2010, the PUC filed an order initiating an investigation to establish energy efficiency portfolio standards, consistent with Act 155, Session Laws of Hawaii 2009. One of the main objectives of this investigation is to determine how to comply with Act 155, which requires that Hawaii be able to demonstrate that, by 2030, 4,300 gigawatt hours of electricity have been saved as a result of energy efficiency measures. In 2010, the DCA participated in various workshops before participating in an informal discovery process and exchanged its informal statement of position with other entities in the proceeding that include, but is not limited to, DBEDT, the HECO Companies, KIUC, Blue Planet, and R.W. Beck (the public benefits fund administrator). A number of other procedural steps remain before the PUC is expected to file its final decision and order in this proceeding.

Advocacy through Participation on Committees and Boards

Enhanced Wireless 911 Services

The DCA has been an active participant in the State's implementation of an order issued by the FCC mandating that enhanced 911 ("E-911") services be provided by wireless telecommunication carriers. The passage of Act 159 (SLH 2004) provided the framework to implement the State's wireless E-911 system to route emergency calls to emergency responders along with the wireless callers' identification and location. Act 159 (SLH 2004) also established a Wireless Enhanced 911 Board that oversees the collection and distribution of money collected by the E-911 special fund. As a member of the board, the Executive Director of the DCA has continued to be an active participant in the implementation of this system which is critical to the public safety of both Hawaii residents and visitors.

One Call Center Advisory Committee

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

Hawaii Energy Policy Forum

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

Hawaii Clean Energy Initiative

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

As part of HCEI, the Executive Director of DCA also participates in the Steering Committee, which deals with the high level planning associated with various aspects of the technical committees that are

analyzing various areas (electricity, end-use efficiency, transportation, fuels, outreach) that are expected to be integral to the success of HCEI.

The DCA also participates in the Technical Advisory Group (“TAG”) that is responsible for evaluating the energy efficiency process that has been transitioned from the HECO Companies to a third-party administrator. As part of this process, the TAG currently meets on a quarterly basis and evaluates various aspects of the measures being implemented to help plan, evaluate, and implement energy efficient programs in the service territories of the HECO Companies. Using the monies collected through the Public Benefits Fund surcharge, the TAG evaluates the use of the monies to help Hawaii’s efforts to reduce its over-reliance on imported fossil fuels.

Education and Outreach

During the past year the DCA has continued to focus on expanding its education and outreach activities. This has allowed the DCA to increase its ability to educate consumers and extend its reach into communities throughout the State.

The DCA continued distributing its newsletter at public fairs and festivals throughout the State, and has vastly increased its electronic distribution list during the 2009–2010 fiscal year. DCA targets those events most likely to produce consumers interested in utility and conservation matters, increasing the overall number of consumers reached. The DCA also used other communications tools such as press releases, its web site, and other in-house produced publications to reach the public. These tools were used to highlight various utility issues and to encourage greater participation in PUC public hearings, energy conservation and efficiency efforts, and to help consumers make wise choices when purchasing telecommunications services.

Document Management System

The DCA, in partnership with the PUC, developed a new docket and document management system to improve internal efficiencies and to make documents filed with the PUC available to the public in electronic format. This new system may be found at: <http://dms.puc.hawaii.gov/dms/>.

Financial Summary

The CRF financial summary relating to DCA for fiscal year 2009-2010 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$905,326	\$825,554	\$1,730,880	\$2,229,529

CONCLUSION

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

DIVISION OF FINANCIAL INSTITUTIONS (DFI)

website: www.hawaii.gov/dcca/dfi

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

OVERVIEW

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

DFI is charged with the supervision and regulation of all Hawaii State-chartered and State-licensed financial institutions, including banks, foreign banking agencies and representative offices, savings and loan associations, trust companies, financial services loan companies (both depository and non-depository), and credit unions. DFI also licenses and regulates escrow depositories, money transmitters and mortgage servicers. DFI has also begun licensing mortgage loan originators and mortgage loan originator companies who are required to be licensed effective January 1, 2011. In supervising financial institutions authorized to take deposits, DFI works closely with the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Bank of San Francisco, the Office of Thrift Supervision, and the National Credit Union Administration.

DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and re-accredited in 1995, 2000, and 2005. The CSBS accreditation program sets high standards for state banking regulators nationwide. DFI's status as a fully accredited agency is currently under review by CSBS due to the recently implemented employee furlough days and the restrictions on out-of-state travel for training purposes.

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

Composition

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

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

and inquiries. The Licensing and Regulatory Analysis Branch Manager also assists the Deputy Commissioner in administrative matters such as legislation, training, and budgetary items.

GOALS and OBJECTIVES

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

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

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

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

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

Performance Measurement. DFI currently measures performance in two ways. The first is empirical – that is, absolute measurements based on the fiscal health and regulatory compliance of the State's DFI-regulated institutions using both regular financial and examination based measurements. The second is the measurement of throughput at the Division – that is, how many complaints have been answered, how many applications processed, etc. The first measurement - empirical - is critical, especially in the current climate of global turmoil in the financial services industry, and demonstrates performance in DFI's key area of responsibility - to ensure the safety and soundness of Hawaii-chartered financial

institutions. The second measurement, while informative, is less useful, and in many ways does not accurately reflect either effort or results as it does not measure the complexity and changing nature of the work. It continues to be under review for possible modification or replacement.

ACCOMPLISHMENTS

The Banking Industry in Hawaii. The national mortgage crisis that began in 2007, evolved into a full-scale financial crisis in 2008 that continued into 2010. Unprecedented economic disruptions both nationally and globally resulted in the failure, government take-over, government-assisted acquisition, or government assistance of some of the world's largest financial companies ranging from the government-sponsored enterprises Federal National Mortgage Association and Federal Home Loan Mortgage Corporation; AIG, the nation's largest insurance company; the investment banks Bear Stearns and Lehman Brothers; to a large number of depository institutions including IndyMac Bank and Washington Mutual. Despite sweeping federal legislation and regulatory actions to restore liquidity and stability to the U.S. financial system, the number of bank failures in the U.S. in 2009 was at its highest level since 1992. Problems in the banking industry continued through 2010. While Hawaii-chartered financial institutions were not immediately impacted by the national financial market disruptions, the increasing rate of residential mortgage loan foreclosures, disappointing business conditions sparked by precipitous declines in visitor arrivals, and falls in stock and other monetary asset values resulted in deteriorating balance sheets at a number of Hawaii financial institutions. In 2010, DFI monitored the impact of the disruptions and of numerous federal initiatives on the overall industry and on individual institutions, and actively worked with the individual institutions and the federal banking regulators to proactively address emerging issues. Heightened supervisory oversight will continue through 2011.

Implementation of New Federal Laws Continues to Expand and Impact DFI's Regulatory Role. The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") was enacted in 2010 in response to the global financial crisis and is considered the most sweeping change to financial regulation in the United States since the Great Depression. It affects almost every aspect of the U.S. financial services industry, including consumer protection; systemic risks; large, complex institutions; liquidation procedures for systemically significant financial companies; executive compensation and corporate governance; mortgage practices; proprietary trading; hedge funds; credit rating agencies; and the structure and powers of the federal financial regulatory agencies. It has been estimated that the Dodd-Frank Act requires the federal agencies to adopt over 200 rules. In addition, a major overhaul of the global capital standards, Basel III, is being proposed by the international financial regulators to strengthen capital requirements and address the risk of systemically significant institutions.

DFI manages its programs and trains its staff to ensure compliance with statutes such as the Dodd-Frank Act as well as federal laws relating to money laundering, privacy for consumer financial information, and corporate governance. DFI must monitor the implementation of all federal statutes and the numerous new rules related to those statutes as well as any changes to the Basel capital standards to determine what the impacts are on the institutions DFI regulates and supervises. DFI then develops the necessary procedures and trains its staff to effectively ensure compliance and the safety and soundness of the institutions DFI regulates. The new laws, rules and regulations, the evolution of the industry, radical shifts in economic conditions and the continuous impact of key drivers such as corporate governance concerns, advances in financial service products, delivery channels, providers, and the attendant opportunities and

risks associated with these developments, mandate that DFI's regulatory and supervisory roles must constantly adapt to meet the new regulatory challenges associated with the changing conditions.

Supervision of the Money Transmitter Industry in Hawaii. As noted in previous reports, with the passage of Act 153 of the 2006 Session Laws of Hawaii (SLH), money transmitters were required to be licensed by DFI on or before July 1, 2007. There are currently 39 money transmitters, operating from over 1,200 locations, licensed to do business in Hawaii, a large and diverse population attesting to the impact of this segment of the financial services industry on Hawaii's consumers. In 2010, DFI Field Examination Branch staff performed examinations of four money transmitters, two of which were joint examinations with other states and performed at the licensees' principal offices outside the State of Hawaii. One of the two out-of-state examinations also included brief reviews of the money transmitter's Hawaii branch and authorized delegate.

Mortgage Broker Regulation. DFI, like many other states, has long recognized the significant impact the mortgage broker industry was having on Hawaii consumers and the local economy and had advocated for the adoption of laws to actively regulate and supervise mortgage brokers and solicitors (aka mortgage loan originators) by introducing bills to that effect in the 2005, 2006, 2007 and 2008 legislative sessions – these bills were not passed by the Legislature. Subsequent to the 2008 legislative session, the federal *S.A.F.E Mortgage Licensing Act of 2008 (SAFE Act)* was enacted on July 30, 2008. The *SAFE Act* called for many of the positive regulatory provisions advocated by DFI and the Mortgage Broker Task Force over the previous years (e.g., background checks, pre-licensing testing, periodic field examinations, continuing education). Chapter 454F, Hawaii Revised Statutes – the Secure And Fair Enforcement for Mortgage Licensing Act, as amended by Act 84, 2010 SLH, Hawaii's version of the federal statute is being implemented by DFI, with the assistance of industry participants and CSBS, the industry association for all state financial service regulatory agencies in the United States. As required by the *SAFE Act*, Hawaii now participates in the Nationwide Mortgage Licensing System ("NMLS"). This online system is designed to replace each state's existing mortgage licensing application forms, systems, and processes. Persons wishing to apply for a license, or amend, surrender/cancel or renew a license do so through NMLS. Hawaii's new program expects to process applications to license more than 1,000 federal and State *SAFE Act* compliant local and national mortgage loan originators, mortgage loan originator companies and branches before the current January 1, 2011 deadline established by the federal statute.

Mortgage Servicer Regulation. DFI introduced a bill in the 2009 legislative session to regulate servicers of residential mortgage loans secured by real property located in Hawaii to ensure that the servicers conduct those activities responsibly and with the requisite accountability to borrowers. Regulation of this industry was viewed to be necessary in light of the anticipated wave of foreclosures impacting homeowners in Hawaii. The bill was signed into law as Act 106, 2009 SLH, however the Legislature established a delayed effective date of July 1, 2010. Non-exempt mortgage servicers were required to be licensed by DFI effective on or before that date. While consolidation in the mortgage servicing industry indicated an initial estimate of approximately 20 mortgage servicers that would be licensed under this new law, as of November 2010, DFI had licensed a total of 53 mortgage servicers, with belated applications still being received.

Continued Development of DFI's Emergency Preparedness Program. DFI continues to develop, implement, and rehearse multiple level emergency preparedness contingency plans. Maintaining and safeguarding the adequate supply of currency to the public as well as efficient access to deposit accounts is the main objective of these plans. As the overall State of Hawaii coordinator for financial institutions

operating in Hawaii, DFI is a strategic partner in HawaiiFIRST, a financial industry business continuity planning coalition established to address Homeland Security issues affecting the local financial industry, to develop and maintain relationships with city, county, State and federal agencies, and private industries that have an impact on the local business community, and to enhance the financial industry's capability to respond to and recover from disasters. DFI, together with HawaiiFIRST, also continues to maintain and periodically test a statewide emergency communications plan which includes all Hawaii depository financial institutions.

To ensure that DFI's staff has the ability to work remotely during emergencies, including an H1N1 pandemic, DFI has replaced nearly all of its desktop computers with laptops. The laptops, coupled with VPN access to the Department's network via a browser and wireless broadband access to the Internet, provide for establishment of remote work sites and/or telecommuting operations in the event of an emergency, permitting the continuation of secure communication with city, county, State and federal agencies, and the private sector, to facilitate the financial industry's ability to respond to and recover from disastrous situations.

DFI will continue to work with the State's financial institutions (primarily as a strategic partner with HawaiiFIRST), State Civil Defense, federal regulators, the Hawaii Bankers Association, the Hawaii Credit Union League, and others to ensure that robust and comprehensive emergency preparedness plans are developed, implemented and maintained going forward.

Reaccreditation. DFI is accredited by CSBS, the industry association for all state financial service regulatory agencies in the United States. CSBS administers its national accreditation program for state financial service regulatory agencies to ensure that the management and staff of these agencies are knowledgeable, appropriately organized, staffed, funded and trained to carry out their responsibilities, which include the authorizing, regulating and supervising of state-chartered financial institutions. DFI was originally accredited by CSBS in 1990. Each year thereafter, DFI has been required to file a comprehensive report on the Division's activities, which is evaluated by CSBS, to retain the Division's accredited status for another year. Every 5 years the CSBS staff visits DFI on site in Honolulu to conduct an exhaustive review of every facet of the Division's operations; interview managers, supervisors and staff; and evaluate the overall effectiveness of the program. DFI underwent such an examination in March of 2005, and received reaccreditation in late 2005. DFI was scheduled for an on-site reaccreditation review in December 2010, however, DFI has been working with CSBS to determine whether the employee furloughs and other spending restrictions will result in possible DFI accreditation probation, suspension or revocation, and what the impact any of these actions would have on an on-site reaccreditation review. Accordingly an on-site review has not yet been scheduled.

Bank, Financial Services Loan Company, and Escrow Depository Examination Programs. Until the furloughs that were imposed in the final quarter of 2009, DFI continued to expand its role in conducting examinations of banks and depository financial services loan companies. This expanded role not only was necessitated by cutbacks in federal agency examination staffing and the addition of new State-chartered and intra-Pacific banks to the Hawaii market, but is also a critical element in the CSBS reaccreditation review. Until the furlough schedule was implemented, DFI examiners took many lead roles during safety and soundness examinations, but DFI examiners have only been able to take a limited lead role in one examination in late-2010, and it is unlikely that assuming any full lead roles will be feasible until the furloughs end. DFI continued to work closely with the Federal Reserve Bank of San Francisco and with the FDIC in developing and coordinating the year-round examination program for Hawaii's two largest

banks. In addition, DFI continued to participate in consumer compliance examinations conducted by the Federal Reserve Bank of San Francisco, and began participating on a regular basis in consumer compliance examinations with the FDIC. DFI also independently conducted numerous escrow depository compliance examinations and nondepository financial services loan company compliance examinations, as well as investigations arising out of complaints. Due to the continuing economic stresses affecting the local economy and the financial industry in 2010, DFI was involved jointly with federal agencies in monitoring progress in ongoing formal and informal supervisory actions imposed in 2009, as well as taking new supervisory actions in 2010 against various regulated institutions.

The CRF financial summary relating to DFI for FY 10 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,891,653	\$293,787	\$2,185,440	\$2,822,798

CONCLUSION

During 2010, while DFI maintained its established regulatory, supervisory, and licensing programs, and devoted considerable resources to developing and implementing the new mortgage servicer and mortgage loan originator programs, continued emphasis was directed towards responses to ongoing deterioration across all aspects of the global financial services sector.

The impact of the “sub-prime mortgage crisis” which has now led to the current “global financial crisis”, with its attendant disruption to the normal pattern of financial services product delivery, has affected both our local economy and all financial institutions operating in the State. DFI continues to aggressively respond to these rapidly changing global and local economic conditions and pursues the active regulation and supervision of Hawaii-chartered financial institutions to preserve their safety and soundness and protect the rights of depositors, borrowers, consumers and other members of the community. The DFI staff looks forward to the challenge.

INSURANCE DIVISION (ID)

website: www.hawaii.gov/dcca/ins

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

OVERVIEW

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

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

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

Type of License	Licenses as of June 30, 2010	Licenses as of June 30, 2009
Adjuster	1,071	901
Captives	162	163
Certificate of Authority (Insurer)	1002	997
Fraternal Benefit Society	7	7
HMO (Health Maintenance Organizations)	2	2
Independent Bill Reviewer	19	17
Life Settlement Broker*	--	88
Life Settlement Provider*	--	51
Limited Lines Motor Vehicle Rental Company Producer	24	28
Limited Lines Producers	904	900
Managing General Agent	19	14
Mutual Benefit Society	6	6
Nonresident Producers	31,755	30,761
Producers	6,523	6,416
Reinsurance Intermediary Broker	16	16
Reinsurance Intermediary Manager	0	0
Service Contract Provider Registration	120	122
Surplus Lines Broker	1,242	1,144
Vehicle Protection Product Warrantor Registration	14	13
TOTAL:	42,887	41,646

* Act 177, SLH 2008.

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

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

Composition

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

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

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

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

Financial Surveillance and Examination Branch. The Financial Surveillance and Examination Branch (FS&E) conducts a continuous program of financial analyses and examinations of Hawaii-domiciled insurance companies, agencies and mutual benefit societies, to determine financial condition, solvency and compliance with applicable laws and regulations in an effort to safeguard consumer interests and maintain integrity in the industry. The FS&E functions also include licensing and renewing more than 1,000 domestic, foreign and alien insurers; processing and collection of more than \$100 million of Premium and Surplus Lines taxes on behalf of the General Fund and Workers' Compensation levies on behalf of the Department of Labor & Industrial Relations; processing and administration of Qualified High Technology Business Investment Tax Credits; authorization and monitoring of accredited and trusted reinsurers; registration of purchasing groups and foreign risk retention groups; self-insurance regulation; maintenance of security deposits; and monitoring of market share and competitive standards of foreign mergers and acquisitions.

The Insurance Division is subject to review by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Program which requires state insurance departments to regulate domestic insurers' corporate and financial affairs. The FS&E introduces legislation and administrative rules to ensure that the Insurance Division has adequate statutory and

administrative authority and the resources necessary to carry out that authority. Accredited insurance departments undergo a comprehensive review every five years by an independent review team, as well as interim annual reviews, to ensure they continue to meet NAIC standards. The Hawaii Insurance Division was first accredited by the NAIC in 1996 and re-accredited in 2001 and 2006. The FS&E is comprised of a manager, nine examiners, a certification specialist, and an office assistant.

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

Insurance Fraud Investigations Branch. The Insurance Fraud Investigations Branch (IFIB) conducts a statewide program for the prevention, investigation, and prosecution of motor vehicle insurance fraud cases and complaints relating to motor vehicle insurance fraud. Effective July 1, 2009, the jurisdiction of the IFIB was expanded to all lines of insurance, except workers' compensation, pursuant to Act 149, Session Laws of Hawaii, 2009. The IFIB reviews referrals submitted by the insurance industry, other agencies, and members of the public and initiates an investigation in all cases where there is reason to believe that a crime may have been or is currently being committed. State law requires any insurer or insurer's employee or agent who believes that a fraudulent claim is being made to refer the case to the Fraud Branch within 60 days.

The IFIB consists of an administrator, a staff attorney, five investigators, two forensic investigators, and a legal clerk. The IFIB also employs special deputy attorneys general to initiate criminal prosecutions. By employing deputies who are trained in criminal prosecution, all cases receive prompt attention and representation in the criminal justice system.

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

Licensing Branch. The Licensing Branch (LB) oversees the examination process and issues licenses to qualified applicants for various insurance licensees. The major license types are producer, nonresident producer, and adjuster licenses; the LB maintains records of these licensees. The LB is responsible for continuing education deficiency notices, license renewal notifications, processing of remittance checks, and confirmation and cancellation of these insurance licenses. The LB also works with

the Commissioner's advisory board on continuing education requirements for producers. The LB is comprised of a licensing assistant, seven licensing clerks, and an office assistant.

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

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

ACCOMPLISHMENTS

Compliance and Enforcement Branch. During 2009, consumers and the Insurance Industry saved or recovered \$967,846.93 from insurers and agents with the assistance of the Insurance Division's Compliance and Enforcement Branch. A total 472 complaints were received for the following classes of insurance:

Motor Vehicle Insurance: Received the largest number of complaints with 247 or 52% of the total. Of this amount complaints involving personal injury protection coverage for medical and other related benefits accounted for 114 cases. One hundred and eight (108) cases involved claims handling in the following categories: 22 for material damage claims, 24 for claim payment or settlement/resolution delays, 10 concerning coverage and liability disputes, and 52 for claim denials and other miscellaneous claim issues. Complaints other than claims total 25 in the following categories: 10 in the area of premiums and underwriting, 2 for policy cancellations or non-renewals, and 13 miscellaneous. Two hundred and thirty eight (238) cases were resolved or referred to the appropriate agency for resolution, while 9 cases remain pending.

Life/Annuity Insurance: There were 61 complaints received or 13% of the total. Of this amount, 16 involved misrepresentations and marketing issues, 17 involved policy servicing, 6 involved claims handling, 10 involved underwriting issues, 1 involved surrender values, 2 involved the inappropriate replacement of existing policies, and 9 involved miscellaneous issues. Forty eight (48) cases were resolved or referred to the appropriate agency for resolution, while 13 cases remain pending.

Workers' Compensation: There were 24 complaints received or 5% of the total. Of this amount, 20 involved claim handling and payment delays and 4 involved underwriting or premium billings. All 24 cases were resolved or referred to the appropriate agency for resolution.

Fire/Homeowners Insurance: There were 44 complaints received or 9% of the total. Of this amount, 10 involved underwriting, rating, cancellations, or nonrenewals, 4 involved policyholder service

and sales, and 30 involved claims. Forty two (42) cases were resolved or referred to the appropriate agency for resolution, while 2 cases remain pending.

General Liability: There were 9 complaints received or 2% of the total. Of this amount, 4 involved claims, 3 involved underwriting and policyholder service, and the remaining 2 cases involved marketing and sales practices. All cases were resolved or referred to the appropriate agency for resolution.

Miscellaneous: In addition to the above categories, there were 87 complaints received or 19% of the total, relating to other classes of insurance (disability, marine, surety, and miscellaneous). Sixty six (66) cases were resolved or referred to the appropriate agency for resolution, while 21 cases remain pending.

Assigned claims program: There were 79 applications for benefits under the assigned claims program that were received and reviewed. Of this amount, 52 applications were assigned to servicing carriers for further handling; 25 applicants did not meet eligibility requirements and 2 applications remain under review.

Review of Licensee's Criminal and Regulatory History: There were 1,262 applications and renewal applications for producer licenses reviewed by the Compliance and Enforcement Branch to screen for felony conviction or administrative action history.

Disciplinary Action: There were 66 formal actions involving the Compliance and Enforcement Branch. Of this amount 51 were letters of caution, 12 were stipulated agreements, 1 was a license revocation, 1 was a consent order, and 1 was a suspension. A total of \$18,000.00 was levied in fines.

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

Financial statements and reports submitted by 21 domestic insurers and two mutual benefit societies are subject to in-depth analytical procedures on a quarterly basis and financial examinations are conducted at least once every five years. Analytical procedures and examinations provide a means to detect early warning signs of financial difficulty and allow for the introduction of remedial measures and prevention of future insolvencies. Analytical and examination procedures are subject to accreditation review by the NAIC.

The following is a summary of other activities of FS&E during 2009 and 2008 (dollar amounts are rounded to the nearest thousand):

	<u>2009</u>	<u>2008</u>
Number of Active Licensees	1,005	990
Direct Premiums Written in Hawaii*	\$4,934,028,000	\$4,610,997,000
Surplus Lines Premiums Written in Hawaii	\$ 224,593,000	\$ 266,611,000
Premium Tax Returns Processed	7,000+	7,000+
Premium Taxes & Levies Collected**	\$ 109,322,000	\$ 103,419,000
Total Hawaii Investments***	\$5,568,686,000	\$5,686,506,000

* Includes annuities.

- ** Net of premium tax credits.
- *** Includes bank balances.

Health Insurance Branch. The Health Insurance Branch is responsible for regulating health insurers, including health maintenance organizations and mutual benefit societies.

The Health Insurance Branch receives inquires and complaints pertaining to federal and state laws governing health insurance, including long-term care insurance. From July 1, 2009 to June 30, 2010, one-hundred-fifty-seven (157) complaints were received. Of the 157 complaints, ninety-four (94) were resolved and twenty-seven (27) are still pending. Of the remaining thirty-six (36) complaints, the Health Insurance Branch had no jurisdiction for twenty-five (25) complaints, eight (8) were withdrawn, and three (3) were referred to the appropriate agency for resolution. Of the total complaints, sixty-seven (67) involved reimbursement timeliness; twenty-eight (28) involved claims appeals; ten (10) involved termination of coverage; nine (9) involved denial of coverage; eight (8) involved rate increases; five (5) involved policy coverage; four (4) involved unfair marketing; three (3) involved provider networks; two (2) involved drug formularies; and the remaining twenty-one (21) involved miscellaneous issues. The complaints during this period resulted in consumers saving over \$164,000.

In addition, the Health Insurance Branch reviews premium rate filings of managed care plans pursuant to Hawaii Revised Statutes (HRS), chapter 431, Article 14G. The Health Insurance Branch received twenty-five (25) rate filings during the period July 1, 2009 through June 30, 2010.

The Health Insurance Branch also reviews long-term care advertising filings issued by long-term care insurers licensed in the state. The filings are reviewed for compliance with HRS chapter 431:10H (Long-Term Care Insurance). The Health Insurance Branch received and reviewed one-hundred-fifty (150) long term care advertising filings during the period July 1, 2009 through June 30, 2010.

The Health Insurance Branch also conducts independent external reviews of managed care plan coverage decisions that are appealed by the plan member pursuant to HRS chapter 432E, HRS. From July 1, 2009 to June 30, 2010, twenty-two (22) requests for an external review were received.

Insurance Fraud Investigations Branch. During the fiscal year 2009-2010, the Fraud Branch received 252 referrals from insurance companies, various agencies and the public. Of the referrals accepted for prosecution, criminal indictments were obtained against 40 individuals with a fraud amount totaling \$274,744 for the fiscal year. The Fraud Unit obtained restitution orders totaling \$37,427 for the cases that reached final disposition. In addition, the Fraud Unit obtained fines payable to the State of Hawaii totaling \$5,450, payments in the amount of \$6,395 to the Crime Victim Compensation Fund, probation services fees in the amount of \$2,100 and community service totaling 1,400 hours.

The Fraud Branch endeavored to meet its statutory mandate to prevent insurance fraud by making available copies of its informational brochure on the topic of auto insurance fraud to the public. Several Fraud Unit investigators also interacted with the public by participating at Chaminade University's annual Criminal Justice Expo. Presentations were also made to the Hawaii Chapter of Association of Certified Fraud Examiners and the American Society for Industrial Security. The Fraud Branch also met with various insurance companies involved with the Hawaii Association of Special Investigative Units and the National Insurance Crime Bureau to discuss current issues and trends. Investigators also received training regarding the National Crime Information Center.

Rate and Policy Analysis Branch. During fiscal year 2009-2010, 3,512 rate filings and 4,710 policy filings were reviewed; in the preceding year (fiscal year 2008-2009), 3,860 rate filings and 4,093 policy filings were reviewed. The RPA Branch also reviewed and analyzed approximately 7,900 motor vehicle insurer reports and other insurer certifications or statements.

Hawaii participates in the National Association of Insurance Commissioners' (NAIC) filing process known as SERFF or the System for Electronic Rate and Form Filing. Hawaii began accepting life insurance products via SERFF in 2001; limited property and casualty lines in 2007 and all lines in 2008. A total of 3,135 electronic filings were processed through SERFF during the fiscal year; in the preceding fiscal year, 1,892 electronic filings were processed through SERFF.

During the fiscal year, the rating organizations and insurers participating in the Insurance Division E-Transmittal filing system submitted 39 filings for approval or acceptance.

Act 104, Session Laws of Hawaii (SLH) 2004, established Article 30, Hawaii Revised Statutes (HRS) chapter 431, which permits Hawaii to join with other states to regulate designated insurance products through an interstate insurance product regulation compact (IIPRC). The Commission for the IIPRC became effective May 2006 when 26 states representing a total exceeding forty percent of the premium volume for life, annuities, disability income, and long-term care insurance products established similar statutes. A total of 36 jurisdictions are currently members of IIPRC. The IIPRC has since adopted bylaws, operating procedures, and 57 product standards on life and annuity products and has reviewed 219 filings for approval this fiscal year.

Article 14, HRS chapter 431, as amended in 1990, permits rating organizations to develop advisory prospective loss costs. Member insurers of a rating organization must determine the appropriateness of the loss costs to their insured policyholders and file the final rates it will use as a result of its own independent company decision-making process.

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

Terrorism Coverage: As a result of the events that transpired on September 11, 2001, many reinsurers did not provide coverage for catastrophic losses resulting from acts of war and terrorism. On November 26, 2002, the President signed into law the Terrorism Risk Insurance Act of 2002 (TRIA), a federal reinsurance program for acts of war and terrorism by foreign persons impacting commercial policyholders. On December 22, 2005, TRIA was extended by the Terrorism Risk Insurance Extension Act of 2005 (TRIEA) with several changes to the program. On December 26, 2007, TRIA was extended to 2014 by the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA) and amended by eliminating the requirement that the act of war and terrorism be committed by foreign persons. Nationwide, commercial policyholders have the option to purchase coverage for a federally declared act of terrorism as reinsured by the federal government.

Hurricane Coverage: As a result of the discontinuation of policies through the Hawaii Hurricane Relief Fund, catastrophe modelers have developed hurricane models to be reflective of Hawaii projected hurricane losses for the purposes of insurance ratemaking. Specific Hawaii models of two nationwide catastrophe modeling firms have been reviewed and accepted for use. Following the southeastern states' devastating hurricane losses of 2005, hurricane models utilized by reinsurance intermediaries for the

purchase of reinsurance have been significantly altered, resulting in substantial increase in the cost of reinsurance for all property insurers with hurricane exposures throughout the United States and globally.

Long-Term Care Insurance: Pursuant to Act 233, SLH 2007, insurers transacting long-term care insurance business on or after January 1, 2008 were required to comply with new and amended disclosure standards and actuarial ratemaking standards. One new insurer filed to transact long term-care insurance business. There are 96 insurers with rates and forms on file in Hawaii; however, some insurers may not be issuing new policies.

Medicare Supplement Insurance: Pursuant to the Medicare Prescription Drug, Improvement and Modernization Act (MMA) of 2003, enacted December 8, 2003, Medicare supplement plans no longer offer prescription drug coverage. As of January 2006, Medicare eligibles were able to enroll in federal Medicare Part D. Pursuant to the Medicare Improvement for Patients and Providers Act (MIPPA) of 2008, revised standardized benefit plans will be in effect June 1, 2010. Hawaii Medicare supplement insurance laws were amended in conformance with MIPPA. Thus, companies were required to cease new issues of existing plans effective June 1, 2010, and new plans complying with the revised federal standards were required to be filed. There are 7 licensed issuers of Medicare supplement insurance in Hawaii with one or more standardized plans under the new guidelines.

Commercial Multiperil: On July 23, 2009, Hawaii Insurance Bureau (HIB), Inc.'s loss costs associated with the major Businessowners coverages were approved with an overall impact of -0.7%. On October 5, 2009, HIB's updates to the loss costs for the Market Segments Hardware and Home Improvement Stores Program were approved with an overall impact of -27.9%. Amendments to Insurance Services Office, Inc.'s (ISO) Capital Assets and Agricultural Capital Assets Programs were approved on December 8, 2009. HIB introduced commercial lines manual, Division Twelve market segments multistate rules in Hawaii and loss costs and rating factors for two new Market Segments programs, which were approved on February 22, 2010. The two new Market Segments are (1) Dry Cleaning and Laundry Facilities and (2) Florists. On March 19, 2010, HIB's commercial package modification factor revisions were approved with an overall +19.4% impact.

Commercial Property: On April 29, 2010, HIB's advisory loss costs for class-rated and specifically-rated properties were approved with an overall impact of -8.2%. The filing was based on AIR-Worldwide Corporations' Hawaii Tropical Cyclone Model.

Crime: On July 7, 2009, ISO's revised crime loss costs were approved with an overall impact of -25.0%. On May 3, 2010, HIB's revised loss costs were approved with an overall impact of -15.0%.

General Liability: On April 29, 2010, revisions to HIB's commercial general liability loss costs for premises and products were approved with impacts of -10.0% and -8.9%, respectively.

Homeowners: On January 28, 2010, revisions to HIB's homeowners loss costs excluding the peril of hurricane were approved with an overall impact of +3.1%.

Inland Marine: American Association of Insurance Services' new loss costs for golf carts, grounds care vehicles, snowmobiles, and mobility assistance vehicles and added rating for boat and outboard motors were approved August 24, 2009. On March 25, 2010, revisions to ISO's commercial inland marine loss costs were approved with an overall impact of -18.5%.

Workers' Compensation: On September 30, 2009, revisions to the National Council on Compensation Insurance, Inc.'s workers' compensation loss costs, to reflect experience and statutory benefits as of January 1, 2010, were approved with an overall impact of -4.10%. This was the seventh consecutive year that advisory loss costs decreased based on Hawaii employers claims experience.

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

Motor Vehicle: Pursuant to Act 251, SLH 1997 (Act 251), all authorized insurers were required to implement at least a 20 to 35% reduction on the premiums approved for policies effective on July 1, 1996, for those insureds with only the mandatory minimum coverages required under the Act. As a result of Act 251, Hawaii went from state rank of second highest in average premiums in 1997 to fifteenth in 2006 based on the NAIC 2008 report.

On September 23, 2009, HIB's revised personal auto advisory loss costs were approved with an overall impact of -8.30%. However, increased limits rating factors were simultaneously adjusted with an overall impact of +4.4%.

Eleven insurance companies write more than 95% of the private passenger insurance market. During this fiscal period, five major insurers filed and received approvals for overall rate revisions ranging from -20.8% to -0.2%. Most of these private passenger automobile insurers have introduced alternate rating systems that take into consideration anticipated losses for mandatory coverages: bodily injury liability, property damage liability and personal injury protection based on vehicle make and model.

On March 4, 2010, revisions to the commercial automobile loss costs filed by Hawaii Insurance Bureau, Inc. were approved with an overall impact of -6.8%.

GOALS, OBJECTIVES, and POLICIES

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

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

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

1. The ID will strive to meet the mandated statutory requirements for the Insurance Code through proper personnel and case load management.

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

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

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

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

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

7. President Obama signed into law the Patient Protection and Affordable Care Act of 2010 ("PPACA"). The requirements of PPACA are many and specific time frames for states to meet those

requirements are set. One of these is the State option of establishing of a health exchange. The Division was awarded a \$1 million dollar grant from the federal Department of Health and Human Services (“DHHS”) to study the idea of creating a health insurance exchange in Hawaii. Health insurance exchanges are part of PPACA and are designed to allow individuals and small businesses to purchase federally qualified health plans written by private insurer and obtain federal subsidies. Exchanges must also provide a front end for Medicaid. The Division formed a task force to study exchange-related issues and expects to procure at least one consultant to assist its effort. An important issue is whether the exchange can be enabled through legislation in the 2011 legislative session.

8. The Insurance Division received another \$1 million dollar grant from DHHS to build a computer system that can report data relating to health premium rate regulation. The Division is exploring various options to meet this goal including using the National Association of Insurance Commissioner’s System for Electronic Rate and Form Filing and modifying the Division’s current database to enable the reporting. The Division does not expect to spend the entire \$1 million on this project.

9. The passage of the Nonadmitted Reinsurance and Reform Act of 2010, requires states to have in place by July 21, 2010, a working mechanism in place whereby surplus lines premium taxes are collected and distributed in a uniform manner. The Division is working with other states through the NAIC to timely accomplish this mandate.

Financial Summary

The CRF financial summary relating to INS for FY10 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,605,862	\$2,415,192	\$7,021,053	\$9,366,957

CONCLUSION

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

OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

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

OVERVIEW

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

OAH also is responsible for conducting administrative hearings for (1) 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; (2) due process hearings involving the Individuals with Disabilities Education Act (IDEA) under a Memorandum of Agreement with the Department of Education; (3) certain kinds of condominium disputes under the provisions of HRS sections 514A-121.5 and 514B-161, 4) certain kinds of motor vehicle dealer, distributor and manufacturer disputes under HRS Chapter 437-A, and 5) appeals of benefit determinations from the Employer-Union Health Benefits Trust Fund under a Memorandum of Understanding.

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

COMPOSITION

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

ACCOMPLISHMENTS

The following table summarizes the CRF-related activities conducted by OAH for the 2009-2010 fiscal year:

Type of Proceeding Conducted	Number
Pre-hearing conferences	127
Status conferences	90
Motions	33
Hearings	91
Oral arguments on written exceptions	21

The following table summarizes the number of cases and the relative percentage of CRF-related activities conducted by OAH for the 2009-2010 fiscal year.

DCCA Divisions Referring Matters to OAH	Cases Filed	%
Insurance Division (denial of personal injury protection benefits)	139	52%
Regulated Industries Complaints Office (disciplinary proceedings and citations for unlicensed activities)	79	30%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, violations of securities laws)	13	5%
Professional and Vocational Licensing (license denials)	15	6%
Office of Administrative Hearings (condominium disputes)	5	2%
Office of Administrative Hearings (procurement protests)	11	4%
Other CRF-related hearings	3	1%

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

GOALS and OBJECTIVES

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

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

1. Revising the Office of Administrative Hearings data base to include additional data fields so that all pending cases can be tracked for timeliness throughout the entire hearings process;
2. Physical inventories of all Office of Administrative Hearings cases in February and July of each year, and

3. Specific procedures for the disposition of cases in which no action has been taken by the parties.

The secondary goal and objective of the Office of Administrative Hearings is to make all of the decisions issued by the Boards, Commissions, Programs, and Divisions that are part of the CRF, available to the public. While redacted decisions had been posted online since January 2005, it was taken off line in 2009. The Office of Administrative Hearings is working with the DCCA's Information Systems and Communications Office to have the redacted decisions posted online.

CONCLUSION

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

OFFICE OF CONSUMER PROTECTION (OCP)

Website: www.hawaii.gov/dcca/ocp

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

OVERVIEW

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

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

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

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

Composition

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

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

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

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

OCP's investigation section receives cases from CRC and gathers evidence to determine whether violations of consumer laws have occurred. Investigators' tasks include site inspections, witness interviews, document collection, evidentiary analysis, report writing and the service of subpoenas. See Table 3, Number of OCP Complaints Filed; Table 4, Numerical Breakdown of Dispositions of All OCP Cases; and Table 5, OCP Complaints by Subject Matter for FY 09-10 statistics.

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

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

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

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

OCP also provides the following services:

Consumer Education

In an effort to enhance consumer awareness of various consumer problems, OCP continuously strives to promote consumer education. The office issues press releases on a variety of consumer topics, and prepares and distributes written materials to provide specific consumer information. OCP also provides consumer information through its website and its Consumer Dial Information Service, in which interested parties can call 24 hours a day and receive information on a variety of topics. In addition, OCP staff has participated in numerous educational forums in which thousands of consumers and business persons have received extensive information about consumer protection in Hawaii.

Neighbor Island Assistance Requests

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

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

GOALS AND OBJECTIVES

During the next five years, OCP will strive to fulfill its statutory mandate by fostering a fair and safe marketplace for consumers and businesses alike. In this regard, it will continue to investigate allegations relating to unfair or deceptive trade practices, enforce Hawaii's consumer laws, and educate consumers and businesses on their respective rights and responsibilities. The specific goals and objectives will include:

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

ACCOMPLISHMENTS

Consumer Education

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

Most recently, OCP has focused on the growing problems of identity theft and mortgage fraud by providing important information to thousands of Hawaii residents on how to avoid being victimized.

Cases

OCP handled significant cases in 2010 involving nearly every area of consumer protection. It filed and resolved numerous cases relating to alleged violations of Hawaii's laws governing mortgage fraud, unaccredited degree granting institutions, identity theft, gift certificates, car rentals, credit practices, marketing protection, living trusts, door-to-door sales, refund and exchanges, and unfair or deceptive trade practices. OCP's involvement successfully resulted in recovering approximately 1.3 million dollars from respondents for having engaged in alleged unfair or deceptive trade practices and approximately one half million dollars in restitution for Hawaii consumers.

LEGISLATION

OCP testified and provided input on virtually every measure relating to consumer protection at the Hawaii Legislature, including those relating to mortgage fraud, gift certificates, and credit practices.

The CRF financial summary relating to OCP for FY 10 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,180,258	\$111,882	\$1,292,140	\$747,231

CONCLUSION

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

Table 1: Laws Enforced by OCP

HRS §209-9	Price Gouging
HRS §290-11	Towing
HRS §437	Motor Vehicle Sales – Spot Delivery
HRS Chapter 437D	Motor Vehicle Rental
HRS Chapter 446	Debt Adjusting
HRS Chapter 446E	Unaccredited Degree Granting Institutions
HRS Chapter 457G	Occupational Therapists
HRS Chapter 467B	Charitable Solicitations
HRS Chapter 476	Credit Sales ⁵
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices ⁶
HRS Chapter 480D	Collection Practices ⁷
HRS Chapter 48E	Mortgage Rescue Fraud Prevention Act
HRS Chapter 480F	Check Cashing
HRS Chapter 481A	Uniform Deceptive Trade Practice Act
HRS Chapter 481B	Unfair and Deceptive Practices, including Unsolicited Goods; Commercial Mail Order Buying Clubs; Offers of Gifts or Prizes; Aid to Handicapped; Refunds and Exchanges; Solar Energy Devices; Sales of Computers; Sensitivity Awareness Group Seminar; Credit Repair Organizations; Gift Certificates; Ticket Sales
HRS Chapter 481C	Door-to-door Sales
HRS Chapter 481D	Going Out of Business Sales
HRS Chapter 481F	Sale of Fine Prints
HRS Chapter 481H	Water Treatment Units
HRS Chapter 481K	Assistive Technology Warranty Act
HRS Chapter 481L	Motor Vehicle Lease Transactions
HRS Chapter 481M	Rent-to-Own
HRS Chapter 481P	Telemarketing Fraud Prevention Act
HRS Chapter 481 X	Service Contracts
HRS Chapter 486N	Health Clubs
HRS §487-5	Laws Enacted and Rules Adopted for the purpose of consumer protection ⁸
HRS Chapter 487A	Plain Language Law
HRS 487J	Social Security Number Protection
HRS 487H	Notification of Security Breaches
HRS 487R	Destruction of Personal Information Records
HRS Chapter 506	Reverse Mortgage Loan
HRS Chapter 521	Landlord Tenant Code ⁹

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

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

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

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

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

Act 137 (2008) Mortgage Rescue Fraud Prevention Act
 Act 282 (1997) Assistive Device Warranty Act
 Act 222 (2000) Service Contracts

Table 2: OCP Information Requests

REQUEST AND INQUIRIES	FY 07-08	FY 08-09	FY 09-10
Requests for Prior Complaint History	5,494	5183	4916
Requests for Landlord/Tenant Information	7,722	7783	7286
Complaint Inquiries	10,833	15897	10120
Requests for Records Review	12	8	20
TOTAL	24,061	28,871	22,342

Table 3: Number of OCP Complaints Filed

COMPLAINANT	FY 07-08	FY 08-09	FY 09-10
Public	1,479	1773	1904
OCP	76	67	85
TOTAL	1,555	1,840	1,989

Table 4: Numerical Breakdown of Dispositions of All OCP

DISPOSITIONS	FY 07-08	FY 08-09	FY 09-10
Complaint Withdrawn	10	8	14
Legal Action & Referrals to Legal	372	292	170
Advisory Contact	18	38	37
Civil Dispute/Personal Matter	38	52	66
Monetary Threshold	0	1	1
Complainant Uncooperative	38	17	43
Consumer Complaint Resolved	92	47	65
Respondent Died or Bankrupt	61	44	298
Business vs. Business	28	42	26
No Jurisdiction	12	18	13
Refer to Investigation	260	396	151
Other	2	0	2
Warning Letter	38	48	56
Insufficient Evidence	434	378	379
Transferred to Other Gov't. Agency	481	709	1123

DISPOSITIONS	FY 07-08	FY 08-09	FY 09-10
No Violation	26	14	26
Information Only/Inquiry	118	130	136
Total	2,028	2,234	2,606

Table 5: OCP Complaints by Subject Matter
A complaint may cover multiple subject matters

SUBJECT	FY 07-08	FY 08-09	FY 09-10
Animals	3	4	7
Breeders	1	1	0
Pet Grooming	0	1	0
Pet Shops	1	3	2
Kennels/Boarding	0	0	0
Refund Law – Refunds/Exchanges/Merchandise Credit	40	39	68
Gift Certificates	189	26	19
Rebate	10	5	4
Apparel/Accessories	9	17	5
Laundry/Dry Cleaning/Laundromats	6	2	3
Dressmaker/Tailors	0	1	2
Fabric/Notions/Etc.	1	1	0
Shoes/Etc.	2	5	3
Clothes	5	10	3
Appliances	8	8	22
Refrigerator/Freezer/Stove/Range	11	25	11
Water Heaters/Air Conditioners	1	0	2
Washer/Dryer	5	14	7
Radio/Stereo/Tape Deck/CD Player	1	5	1
TV/VCR	13	7	3
Sewing Machine	0	0	0
Vacuum Cleaner	8	6	4
CB Radios	0	0	0
Computers/Software	19	24	25
Health Services/Products	19	12	18
Exercise Devices	2	1	1
Exercise/Health Clubs/Clinics	19	10	10

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Office of Consumer Protection (OCP)

SUBJECT	FY 07-08	FY 08-09	FY 09-10
Health Foods	1	2	1
Weight Reduction	0	3	0
Cosmetics/Beauty Products	5	3	4
Wigs/Hairpieces	2	0	1
Entertainment/Music	5	6	2
Concerts/Events	6	1	1
Ticket Sellers/Promoters	4	2	2
Theaters	1	1	0
Night Clubs/Discotheques	0	0	2
Musical Instruments/Lessons	2	4	0
Audio Records/Tapes/CD/Etc.	0	1	3
Buying Clubs - Record/Tape/CD/Video	0	0	0
Video Records/Tapes/CD/Etc.	3	5	10
Florists/Nurseries	2	2	0
Food/Drink	17	16	10
Food Stores/Markets	7	10	10
Drive Inns	1	1	0
Caters/Deli	1	0	1
Bakery	0	0	0
Restaurants	12	12	8
Banquet Halls	2	0	0
Bars/Cocktail Lounges	1	0	0
Energy/Fuels	0	0	0
Solar Energy	1	0	0
Gas, Propane, Etc.	2	5	4
Energy Saving Devices	0	0	0
Identity Theft	8	24	48
Identity Theft – Security Breach Notification	42	36	19
Identity Theft – Social Security Theft	1	2	0
Identity Theft – Destruction of Personal Information/Records	2	4	1
Identity Theft – Security Freeze	0	2	0
House Materials/Goods/Services	17	8	8
Beds & Mattresses	9	6	2
Furniture	25	9	14

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Office of Consumer Protection (OCP)

SUBJECT	FY 07-08	FY 08-09	FY 09-10
Cookware	0	1	3
Drapery	0	0	1
Carpet/Rugs	1	4	4
Clocks	0	1	1
House Hardware/Fixtures	12	9	4
Woodwork/Metal craft/Glass/Etc.	5	6	4
Interior Decorators	3	1	0
Lawn Care Products/Yard Service	3	2	1
Upholsters	1	0	1
Water Purifiers/Filters	1	26	23
Cleaning Services	6	8	3
House Construction/Remodeling	4	1	6
Vermin/Bug Extermination	0	2	0
Tools	3	0	4
Insurance	17	18	16
Extended Warranties	30	16	13
Service Agreements/Contracts	57	44	55
Jewelry	11	16	9
Precious Stone & Metals	0	4	2
Watches	1	2	1
Medical	8	9	6
Hospitals/Clinics	14	13	8
Pharmacies	0	2	2
Convalescent/Nursing Homes	1	0	1
Medical Equipment	3	4	2
Medical Service Companies	0	5	1
Medical Laboratories	1	2	0
Home Care Facilities	1	0	0
Psychiatric Counseling/Group Therapy	1	0	0
Other Counseling/Group Therapy	2	0	0
Occupational Therapists (457G)	0	0	0
Morticians, Cemeteries & Other	1	0	0
Moving & Storage	4	8	17
Private Storage Company	0	0	1

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Office of Consumer Protection (OCP)

SUBJECT	FY 07-08	FY 08-09	FY 09-10
Bill of Lading	0	0	0
In-transit Storage	0	0	0
Delivery Service	4	218	5
Air Cargo Service	0	1	0
Multi-Product Retailer/Wholesalers	4	15	5
Buying Clubs	0	0	1
Department Stores	1	2	3
Photography	2	2	3
Photo Studios	0	0	0
Film Processing	0	0	0
Camera/Equipment	0	1	2
Photographic Services	1	2	6
Professional Services	1	6	7
Attorneys/Legal Services	2	4	14
Accountants/Bookkeeping	0	2	0
Tax Services	5	3	2
Medical Professional	1	3	8
Adoption Agencies	0	0	0
Printers	1	2	2
Regulated Services (Trade & VO Caption)	5	13	1
Protection Devices	0	3	0
Fire/Burglar Alarms	1	1	3
Heat/Smoke Detectors	0	0	0
Locks (Windows, Doors, Etc.)	2	2	2
Fire Extinguisher	0	0	0
Recreation/Toys/Game/Etc.	6	9	11
Arts & Crafts	1	6	4
Boats & Airplanes	12	2	4
Toys	0	9	6
Surfboards	1	0	1
Video Games	1	7	2
Camping Equipment	0	0	0
Sporting Goods	0	3	5
Recreational Rentals	5	0	1

2010 Compliance Resolution Fund Report

Office of Consumer Protection (OCP)

SUBJECT	FY 07-08	FY 08-09	FY 09-10
Transportation	4	1	3
Cabs	1	1	5
Moving Companies/Storage	2	3	8
Pedi-Cabs	0	0	0
Tour Buses and Limos	1	0	0
Automobiles	19	29	7
Car/Truck Rental	37	18	20
Car/Truck Lease	1	1	1
Moped Rentals	2	1	2
Other Transportation Rentals	1	0	2
Towing	28	27	39
Parking	5	10	10
Body/Paint Shops	9	4	8
Auto Parts/Repair	16	17	18
Rust proofing/Undercoating	0	0	1
Glass Tinting	1	1	1
Vehicle (Incl Mopeds) New & Used Sales	4	22	13
Warranties	32	21	11
Travel/Vacations	7	40	64
Air Travel Services (Airlines, Etc.)	35	19	7
Ocean Travel Services (Cruises & Ships)	6	3	0
Discounted Tickets - Travel/Entertainment	1	5	14
Hotels & Motels	16	13	20
Bed & Breakfast	5	6	3
Tour Services	7	7	4
Travel Clubs	0	0	0
Passports & Visas	0	0	0
Utilities	3	0	1
Gas Provider	2	2	2
Electric	2	1	1
Telephone/Cellular/Pagers	70	56	54
Water	2	3	3
Cable	4	1	6
Telecommunications/Electronic Devices	8	8	4

2010 Compliance Resolution Fund Report

Office of Consumer Protection (OCP)

SUBJECT	FY 07-08	FY 08-09	FY 09-10
Dating Services	2	4	6
Investment/Financial	11	5	3
Chain Letter	0	0	0
Consumer Credit	5	9	114
Credit Card	34	56	43
Checking Accounts	1	7	6
Debit Accounts	1	3	3
Promissory Notes	2	0	0
Buying on Account	0	1	0
Information to Obtain Credit/Credit Cards	0	1	0
Discount Coupons/Books	2	3	1
Financial Institutions	1	5	4
Credit Reporting Agency	1	4	3
Credit Repair	2	3	6
Collection of Debts	5	22	9
Advance Fee Loans	0	3	3
Bank/Savings & Loan/Industrial Loan Companies	2	3	6
Escrow Services	0	2	1
Loan/Mortgages	52	31	204
Investment/Opportunity Scheme	7	14	12
MLM/Pyramids/Endless Chain Schemes	4	1	3
Referral Sales	0	1	0
Get Rich Programs	3	1	0
Work-at-Home Programs	1	0	1
Coins/Currency	5	4	5
Stocks & Bonds	3	0	1
Oil/Gas Lottery	0	0	0
Art	2	6	2
Securities	2	2	1
Tax Planning/Devices	0	0	2
Contract Sellers	0	0	0
Pawn Shops	3	0	0
Auctioneers	1	1	1
Second Hand Dealers	0	1	3

2010 Compliance Resolution Fund Report

Office of Consumer Protection (OCP)

SUBJECT	FY 07-08	FY 08-09	FY 09-10
Real Estate	11	39	52
Sweepstakes/Lottery/Games of Chance	31	26	16
Contests	1	1	2
Gambling	0	0	0
Education/Information	2	3	1
Schools (Elementary, High)	0	1	1
Degree Granting Schools	54	2	6
Unaccredited Degree Schools	9	8	6
Trade/Vocational Schools	3	28	6
Home Study	0	0	0
Correspondence Schools	0	0	0
Dance Schools	0	0	1
Modeling Schools	6	1	1
Day Care Centers	0	1	1
Employment	9	6	5
Resume Preparation	0	0	0
Modeling Agency	1	0	0
Regular Periodic Information Service	1	0	0
Magazine	9	9	4
Subscription Services	13	12	13
Newspaper	1	1	1
TV Broadcasting	0	1	1
Radio Broadcasting	0	0	0
Computer Information Services	10	2	1
Internet Transactions	173	257	423
Internet Fraud Complaint Center	143	358	717
Books/Encyclopedia	2	2	4
Self-Improvement Seminars	1	2	1
Encounter Group Therapy	0	0	0
Charitable Solicitations	3	2	4
Environmental Claims	0	1	0
Religious	1	0	0
Emergency: Prize/Freeze/Gouging/Rent Termination	0	0	0
Rent to Own	1	1	0

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Office of Consumer Protection (OCP)

SUBJECT	FY 07-08	FY 08-09	FY 09-10
Elderly Issues	34	13	11
Civil Procedures/Statutory Constructions	0	1	0
Multistate Projects	16	11	15
Spamming	0	0	1
MS – Newspaper Advertisement	6	7	8
MS – Other Regular Printed Media Ad (Magazine, Etc.)	9	4	4
MS – Television/Cable	0	4	4
MS – Info Commercial	3	1	3
MS – Telemarketing	8	13	10
MS - 1-900 Numbers	0	0	0
MS – Direct Mail	3	5	0
MS – Information Brochure	0	1	0
MS – Response Card/Letter	0	1	2
MS – Home Presentation (Door-to-Door)	0	2	3
MS – Radio	0	0	1
MS – Product Show	0	1	1
MS – Information/"How To" Seminar	0	1	2
MS – Mail Order	10	4	6
TOTAL COUNT	1,856	2,258	2,771

Table 6: OCP Neighbor Island Assistance FY 09-10

DIVISION	HILO	MAUI	TOTAL
Division of Financial Institutions	5	4	9
Business Registration	19	17	36
Cable Television	3	1	4
Insurance Division	11	3	14
Division of Consumer Advocacy	0	1	1
Professional & Vocational Licensing	20	24	44
Regulated Industries Complaints Office	66	61	127
Non-Departmental Related	143	151	294
Other DCCA Divisions	9	4	13
TOTAL	276	266	542

PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

website: hawaii.gov/dcca/pvl

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

OVERVIEW

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations for forty-seven (47) different professions and vocations. Twenty-five (25) licensing regulatory boards and commissions are administratively attached to DCCA/PVL, as well as twenty-two (22) licensing programs (those without a board or commission). The division provides staff support to the licensing regulatory boards, handles applications, licenses, reviews and processes renewals, and maintains license records. The division provides guidance for proper implementation of the licensing laws and administrative rules for the forty-seven (47) licensing areas. Additionally, PVL responds to phone inquiries on whether a person or entity is properly licensed. This is a service that can assist consumers in making a decision on whether or not to utilize the services of the person or entity.

PVL's projects to promote accessibility for licensing information on the Internet are very user friendly. PVL continues to explore ways to enhance public accessibility to licensing information, the licensing process, and the licensee roster. PVL's web page, a site that provides general licensing information for all 47 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://hawaii.gov/dcca/pvl>. The website also includes a Geographical Report of current licensees by licensee type, by island, and by type of entity. It is updated regularly to reflect the number of current licensees who have been issued licenses by PVL. It is a useful tool for those who are interested in the breakdown of licensees by their professions and their geographic locations.

Public accessibility to licensee information is enhanced by the PVL's License Search and List Builder sites, both of which are fully interactive sites. The License Search site enables the public to obtain basic information about businesses and individuals that hold professional and vocational licenses issued by PVL including license ID number, whether the license is active or inactive, current status, original date of licensure, expiration date of licensure, current and former persons/businesses/tradenames, information on "conditional license" codes and descriptions, and any formal disciplinary action information against the licensee. The List Builder site enables the public to access and order a licensee roster online. The roster may be ordered by license number, license name, and other identifying public information. Lists are available for download within twenty-four (24) hours of making the request. Updates to the online information to both sites occur within thirty (30) minutes of the update to the PVL licensing database. Feedback received on these sites indicates that the sites benefit a wide range of users, including consumers, licensees, employers, and government agencies, both in Hawaii and out-of-state. Links to other DCCA sites provide easy access to additional useful consumer information, such as a licensee's complaints history. The website address for PVL's Online Services is http://hawaii.gov/dcca/pvl/e_services.

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

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

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

Composition

PVL is divided into four branches: ***Licensing Branch (Phone 586-3000)*** is comprised of the Applications Section and the Records Section. The Applications Section assists with the review, processing, and issuing of applications for licensure and maintains records of licensing applications. The Applications Section staff, on behalf of the boards, commissions, and programs, conducts highly intensive reviews of all initial licensing applications, determines the status of such applications, and, in some instances, makes the final determination to either issue or defer issuing licenses. The Applications Section also performs customer service duties by answering the main public call-in line of the division. The Records Section is responsible for renewing licenses and maintaining records of all licensees. The Records Section staff is also involved with performing customer service duties by assisting the public with licensing information at the walk-in counter. Both sections of the Licensing Branch utilize the PVL computerized licensing database to provide immediate information pertaining to applicants and licensees. 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 licensing examinations on behalf of the boards, commissions, and programs, confirms the validity and reliability of exams, revises board constructed examinations to ensure their continued validity and reliability, and advises boards, when necessary, on the technical aspects of examinations. In addition, the Examination Branch transmits and verifies to various testing organizations the eligibility information of applicants seeking licensure in Hawaii who have been deemed approved to sit for the examination. The Examination Branch also oversees that the approved applicants are provided the necessary pre-examination information and generates and provides the applicants their post-examination score reports. Moreover, the Examination Branch reviews and processes requests by applicants for special examination accommodations with regard to the Americans with Disabilities Act. In addition, the Examination Branch maintains the examination records for applicants and licensees.

Administration Branch (Phone 586-2690) serves as the liaison between the director of the department and the twenty-five (25) boards, commissions, and twenty-two (22) regulatory programs administratively attached to DCCA. On a daily basis, the Administration Branch (comprised of a professional staff of a Staff Attorney, Executive Officers, Program Specialists, and Secretaries) 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 twenty-two (22) programs (absent the necessity of board meetings) on behalf of the director of the department. There are also substantial coordination and facilitation activities performed by the Administration Branch with other state, county, and federal agencies involved with licensing and regulatory issues.

Real Estate Branch (Phone 586-2643) serves as the liaison between the director of the department and the Real Estate Commission, and performs the same functions as the Administration Branch for real estate licensing and regulation and condominium property regimes. With the largest volume of applicants, licensees, and registrations, the Branch (comprised of a professional staff of a Supervising Executive Officer, an Executive Officer, Real Estate Specialists, Condominium Specialists, Secretarial and Clerical staff) administers the Real Estate Recovery Fund, Real Estate Education Trust Fund, and the Condominium Education Trust Fund. The Branch also administers education and research programs in the field of real estate and condominiums. Information on the programs, financial reports, and the Commission's annual report may be reviewed at the Branch's website: <http://hawaii.gov/hirec>.

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

Accomplishments and Performance Measures

This year additional improvements were made to existing PVL online systems and its website as follows:

New license types were added to the online renewal system which included Travel Agency (active and inactive), Uniform Athlete Agent (active), Private Detective (active and inactive), Private Detective Agency (active and inactive), Guard (active and inactive), and Guard Agency (active and inactive).

In addition, in December 2009, inactive online renewal forms were added for the following licensing areas: Activity Desk, Audiologist, Barber, Barber Shop, Beauty Operator, Beauty Shop, Beauty Instructor, Hearing Aid Dealer and Fitter, Naturopath, Pharmacist, Pharmacy, Pharmacy – misc. permit, and Pharmacy – wholesale prescription drug distributor.

In June 2010, inactive online renewal forms were also added for the following licensing areas: Licensed Social Worker, Licensed Clinical Social Worker, Massage Establishment, Massage Therapist, Nursing Home Administrator, Psychologist, Psychologist – industrial, and Veterinarian.

A new webpage for the soon to be established Respiratory Therapist (RT) Program was added to the division's webpage. The licensure of respiratory therapists will be effective July 1, 2011. The webpage includes contact information, important announcements, and the RT statute. The application form will soon be available on the RT website.

Significant Online User Activities

In pursuing the division's objective of improving and expanding customer online services, PVL saw the number of online renewals increase for businesses and professionals. In FY 10, the online renewal user rate was 82.81%, while the corresponding FY 08 biennial renewal user rate was 76.48%, resulting in a 6.33% increase in the user rate. In FY 09, the online renewal user rate was 81.29% while the corresponding FY 07 biennial renewal user rate was 67.71%, resulting in a 13.58% increase in the user rate.

PVL continued its Customer Appreciation Credit (CAC) by offering licensees a 25% CAC discount through FY 10 online renewals. At the end of FY 10, total savings to licensees was \$787,039. In FY 09, the total savings was \$553,440; in FY 08, the total savings was \$689,983. In FY 07 and FY 06, a 10% CAC discount was offered. In FY 07, the total savings was \$109,024 and in FY 06, the total savings was \$188,140. Since the inception of the CAC in FY 06 through FY 10, total savings for licensees that renewed online amounted to \$2,337,255. The CAC discount was designed to serve as an appreciation to PVL licensees who used the online system and as an incentive for more licensees to adopt the online renewal process. The performance of this project will continue to be measured by the ability to afford the CAC discount to all licensees and by seeing an increase in our online renewal user rate.

PVL continued to absorb transaction fees that otherwise would have been passed on to licensees who used the online renewal system. With the online system, licensees were provided the ability to pay by Echeck and by credit card, all of which were related service fee items charged by our online system provider. However, instead of charging our licensees these transaction fees, PVL continued to bear the costs by using our online renewal revenue to pay the online vendor. For FY 10, PVL bore a \$381,122 transaction fee cost. The total to-date transaction fee cost borne by PVL since the inception of the online renewal system (FY 01) is \$1,749,929.

For PVL's License Search online system, there were 3,345,822 "hits" during FY 10. This service is a very popular, valuable, and useful tool for those who want information on licensees. The public can check to see if a licensee is currently licensed and find out if there are any formal disciplinary actions against the licensee, in addition to other pertinent information.

Significant Branch Activities

The Examination Branch worked with numerous testing organizations and national board associations on the review and processing of requests for special testing arrangements regarding the Americans with Disabilities Act. There is a high level of sensitivity in efforts to balance the needs of the applicant and the need to protect the integrity of the examinations. In addition, several testing agencies developed new processing procedures that, in turn, impacted the Examination Branch's procedures. Internal procedures and instructions were modified accordingly with close coordination with other PVL staff such as the Executive Officers and Licensing Branch so all changes and transitions were as smooth and seamless as possible. Moreover, the examination results for the various licensure examinations continued to be processed and provided to applicants in a timely manner (some as quickly as within 24 hours of testing) which supported applicants in obtaining licensure.

The Licensing Branch was able to continue reaching the high percentage rate of 90% for the timely processing of new licenses and, moreover, was able to attain 97% on-time processing of renewed licenses even with the continued staff shortage in the Records Section.

For the Real Estate Branch (REB), and in line with PVL's objectives of improving and expanding the division's online services, REB continued with its implementation of the online continuing education (CE) system which provided real estate licensees the ability to view the number of CE hours required and earned for the current licensing period, their CE history, and the ability to search for future CE courses being offered by approved CE providers. Real estate licensees may also access and print their own course completion certificates for the current and previous bienniums, whereas in the past this was done by the CE providers. Additionally, real estate principal brokers and brokers-in-charge could monitor and view the current CE hours, CE history, and license status of all licensees associated with the brokerage. The system is updated daily and is simple to use.

The Real Estate Commission (REC) concluded its meetings with the Consumer-Broker Relationships Ad Hoc Committee (CBRAHC) that had convened to review and study Hawaii's current laws and rules. A report is being drafted by the CBRAHC of its findings and recommendations for potential rule amendments.

The REB/REC, with participation from industry representatives, continued its review and study of the potential impact on mandatory criminal history and background checks for licensure and renewal. Further, through a working relationship with industry groups, the number of CE hours licensees must complete to keep their real estate licenses on an active status were increased from 10 to 20 hours. For a comprehensive report on the FY 10 matters addressed by the Real Estate Commission and the Real Estate Branch, please refer to <http://hawaii.gov/dcca/real/main/reports> to view their Annual Report for fiscal year ending June 30, 2010.

Significant Legislative Activities

PVL had a busy 2010 Legislative Session. While having introduced two administration bills of which only one passed (restoration of certain forfeited licenses), we also monitored and testified on numerous other bills that impacted PVL. Such bills were relating to the motor vehicle industry licensing act, real estate licensees, veterinary medicine, contractors, electricians, pharmacists, remote dispensing pharmacies, condominiums, diversion program for chemically dependent nurses, nursing, mortgage, athletic trainers, mixed martial arts, construction sites, activity desks, respiratory therapists, solar energy devices, and private guards.

Administration bill:

Act 11, SLH 2010, relating to restoration of certain forfeited professional and vocational licenses, amends Chapter 442, HRS, and Chapter 467, HRS, by establishing time limits to restore forfeited chiropractic examiner licenses and individual real estate broker and salesperson licenses. Act 11 took effect on April 1, 2010.

Other bills affecting PVL:

Act 3, SLH 2010, relating to the motor vehicle industry licensing act, amends Chapter 437, HRS, by requiring motor vehicle dealers to possess or have the right to possess a legal ownership certificate before selling a new or used vehicle. Act 3 took effect on March 15, 2010.

Act 9, SLH 2010, relating to real estate licensees, amends Chapter 467, HRS, by increasing the continuing education requirement for real estate licensees from ten to at least twenty hours in a two-year period. Act 9 will take effect on January 1, 2011.

Act 13, SLH 2010, relating to veterinary medicine, amends Chapter 471, HRS, by permitting the board of veterinary medicine to revoke or suspend a license or fine a licensee for conduct or practice that violates recognized principles of veterinary medical ethics. Act 13 took effect on July 1, 2010.

Act 28, SLH 2010, relating to contractors, amends Chapter 444, HRS, by requiring licensed electrical or plumbing workers to display their licenses while on construction job sites to provide for the identification and enforcement of licensing requirements to protect public safety and comply with the law. Act 28 took effect on April 16, 2010.

Act 35, SLH 2010, relating to electricians, amends Chapter 448E-5, HRS, by revising the minimum requirements for licensing electricians beginning July 1, 2013. Act 35 took effect on July 1, 2010.

Act 44, SLH 2010, relating to owner-builders, amends Chapter 444, HRS, by adding a new section to include an owner-builder exemption. Act 44 took effect on July 1, 2010.

Act 50, SLH 2010, relating to pharmacist licensure, amends Chapter 461, HRS, by broadening the practical experience requirements for a pharmacist license to include experience obtained in U.S. territories and the District of Columbia. Act 50 took effect on April 23, 2010.

Act 51, SLH 2010, relating to remote dispensing pharmacies, amends Chapter 461, HRS, by removing certain restrictions on the types of drugs that may be dispensed from remote dispensing pharmacies. Act 51 took effect on April 23, 2010.

Act 53, SLH 2010, relating to condominiums, amends Chapters 514A and 514B, HRS, by specifically providing board of directors with the authority to install or allow the installation of solar energy or wind energy devices on the common elements to further reduce Hawaii's dependence on energy generated from fossil fuels. Act 53 took effect on April 23, 2010.

Act 54, SLH 2010, relating to diversion program for chemically dependent nurses, amends Chapter 334D, HRS, by placing the program under the oversight of the board of nursing. The Act also allows the board to recognize alternative program sponsors and clarifies disciplinary and reporting requirements. Act 54 took effect on April 23, 2010.

Act 57, SLH 2010, relating to the practice of nursing, amends Chapter 457, HRS, by defining the practice of nursing, directing the board of nursing to adopt certain provisions of the National Council of State Boards of Nursing Model Nursing Practice Act and Model Nursing Administrative Rules. Act 57 took effect on April 24, 2010.

Act 66, SLH 2010, relating to public accountancy, amends Chapter 466, HRS, by requiring peer reviews as a condition of certified public accountancy permits to practice. Act 66 took effect on April 29, 2010.

Act 84, SLH 2010, relating to the secure and fair enforcement (SAFE) for mortgage licensing act, repeals Chapter 454, HRS, and makes amendments to Chapter 454F, HRS. The Act makes amendments to the application, licensing, and regulatory requirements of the SAFE act, establishes the mortgage recovery fund to protect consumers injured by violations, and includes mortgage loan originator companies in the regulatory system. Act 84 took effect on July 1, 2010.

Act 108, SLH 2010, relating to athletic trainers, requires the auditor to perform a sunrise analysis of the proposed regulation of athletic trainers. Act 108 took effect on May 14, 2010.

Act 117, SLH 2010, relating to mixed martial arts, amends Chapter 440E, HRS, by including amateur mixed martial arts under the regulation of mixed martial arts by the department of commerce and consumer affairs. Act 117 took effect on July 1, 2010.

Act 121, SLH 2010, relating to construction sites, creates a construction site inspection task force to analyze the feasibility and potential complications of implementing a task force to investigate and inspect construction sites for unlicensed contractors, undocumented workers, and workplace safety violations. Act 121 took effect on July 1, 2010.

Act 125, SLH 2010, relating to pharmacies, creates a task force to conduct a study to determine feasibility of lowering the age at which vaccinations may be administered by pharmacists; assess the feasibility of requiring every pharmacy and remote dispensing pharmacy to have the capacity to transmit and maintain prescriptions and prescription information electronically; and develop a plan for pharmacy participation in the Hawaii Health Information Exchange. The task force shall cease to exist on June 30, 2011. Act 125 took effect on May 19, 2010.

Act 150, SLH 2010, relating to activity desks, amends Chapter 468M, HRS, by establishing record keeping and trust account requirements for client trust accounts held by activity desks. Act 150 took effect on July 1, 2010.

Act 164, SLH 2010, relating to the motor vehicle industry licensing act, amends Chapter 437, HRS, by increasing the grounds for license revocations. Act 164 took effect on July 1, 2010, provided that section 437-A, HRS (Dispute resolution) shall take effect on January 1, 2011.

Act 178, SLH 2010, relating to healthcare, establishes licensing and regulatory standards for respiratory therapists. Act 178 shall take effect on July 1, 2011, provided that section 466D-5, HRS, took effect on June 28, 2010, and section 5 of Act 178 took effect on July 1, 2010.

Act 185, SLH 2010, relating to contractors, amends Chapter 444, HRS, by subjecting a contractor to revocation, suspension, or nonrenewal of its license for knowingly or intentionally employing a person on any project or operation who is not eligible to work in the United States under federal law. Act 185 took effect on June 30, 2010.

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Act 201, SLH 2010, relating to solar energy devices, amends Chapter 196, HRS, by requiring private homeowner associations to revise their rules by July 1, 2011, so as not to impose conditions or restrictions that render a solar energy device more than 25 per cent less effective; increase the cost of installation, maintenance, and removal of a solar energy device by more than 15 per cent; or until June 20, 2015, require an encumbrance on title because of the placement of the solar energy device. Act 201 took effect on July 1, 2010.

Act 208, SLH 2010, relating to private guards, amends Chapter 463, HRS, by establishing registration requirements, including training, instruction, and continuing education for guards and individuals acting in a guard capacity. The board shall adopt rules to effectuate the provisions of this Act. Act 208 took effect on July 6, 2010.

Hawaii Administrative Rules Activities

In FY 10, amendments to the following rules were adopted: HAR Chapter 71, relating to Public Accountancy and HAR Chapter 88, relating to Naturopathy.

Significant Division Activity

PVL continues to make progress in its scanning and imaging project that converts existing licensing document files into electronic format. The conversion of the documents into electronic format protects and preserves historical documentation from damage or destruction. The conversion also has allowed staff to retrieve and review documents in a more expeditious manner at their desks thereby eliminating the time delay that comes with physically pulling files. This subsequently provides for more effective and timely service to our clients. However, even with the scanning of files, the hardcopy file is still sometimes required. Thus, PVL has started a massive project of reorganizing the basement of licensee files into a more efficient and logical filing system. Currently, approximately half of the entire population of files has been reorganized.

Financial Overview

The CRF financial summary relating to PVL for FY 09-10 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,396,326	\$836,103	\$4,232,429	\$4,542,231

GOALS AND OBJECTIVES (Action Plan) for FY 2011

PVL will continue to be fiscally conscious and protect our special fund so that it remains solvent to provide efficient and timely services.

PVL will continue to look for other ways to enhance and improve its online systems for renewals, License Search, List Builder, and PVL’s webpage to be more user friendly, informative, and efficient.

PVL has begun to convert downloadable application forms to online fillable application forms. This is a very tedious project and attention to detail is of utmost importance. There are more than 250 application forms that will be converted.

PVL will continue the scanning and imaging of licensee files so that new documents for a current licensee file are added and new licensee files are scanned and will continue the reorganization of the hardcopy files.

PVL will also be exploring avenues to streamline the Licensing Branch and the Examination Branch functions and services for improved operational efficiency. PVL will be addressing the information that is made available to the public for thoroughness and clarity in an effort to decrease the amount of inquiries that are generated. PVL will also be reviewing the timeframes for the various steps in the licensure process to ensure greater accountability and consistency in staff performance.

The Real Estate Branch (REB) will continue to improve the offering and delivery of real estate preclicensing and continuing education courses to stay in line with the increase in CE hours. REB will begin to offer all real estate licensing applications in a pdf form-fillable format for easy online completion and printing. Rule making will be started for Hawaii Administrative Rules (HAR) Chapter 99 for real estate brokers and salespersons and Hawaii Revised Statutes 514B. REB has collected, worked with industry members, and is currently drafting proposed HAR § 99 amendments. For the condominium program, REB solicited and collected suggestions from stakeholders in the condominium community, and is currently compiling and drafting proposed rule amendments for HRS 514B. REB will further work to enhance online public access to condominium projects and AOUO registrations. The Program of Work for the Real Estate Commission and the REB also includes the development and implementation of a new registration program for condominium projects. For a comprehensive report on the FY 2010 goals and objectives of the Real Estate Branch and the Real Estate Commission, please refer to <http://hawaii.gov/dcca/real/main/reports> to view their Annual Report for fiscal year ending June 30, 2010.

PVL will continue the design phase for a new online surety system that will allow insurance companies the ability to submit liability and worker's compensation insurance updates for contractor and pest control licensees. This has been a difficult project to move forward due to the complexity of designing a system that in the front end, will verify the surety is licensed to do business in this State and is authorized to write these lines of insurance. Integration with the DCCA Insurance Division license provider database appears to provide a solution. Also, dedication of resources to this project has been strained because of the need to attend to other online priorities. The staff of DAGS/ICSD, who are critical to the design and subsequent development phase, face similar strain on their resources and the likelihood of reduced staffing. We remain committed however, to forge ahead.

PVL will also pursue several rule amendment initiatives through the formal rule adoption process including amendments to HAR Chapter 53, relating to Fees; amendments to HAR Chapter 99, relating to Real Estate Brokers and Salespersons; adoption of amended rules for HAR Chapter 89, relating to Nurses; adoption of amended rules for HAR Chapter 92, relating to Optometrists; adoption of amended rules for HAR Chapter 97, relating to Private Detectives and Guards; adoption of amended rules for HAR Chapter 110, relating to Physical Therapists; and proposed new rules for Mixed Martial Arts and Respiratory Therapists.

Finally, we are also hopeful we will be able to fill the remaining vacancies we have in the Records Section of the Licensing Branch so that we can sustain our processing time for renewals at prior levels in

the middle to high ninetieth percentile without the need for staff overtime. The Applications Section will continue as well, to strive to attain a higher processing time percentile for new licenses.

CONCLUSION

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

The PVL staff and the regulatory licensing boards of PVL continue to maintain high performance standards, uphold consumer protection, work well as a team, and be responsive to increased demands.

Table 1: PVL Statistical Overview

	FY 08-09	FY 09-10
No. of applications received	13,310	11,568
No. of applicants licensed	10,097	9,788
No. of licenses renewed	68,782	62,096
No. of changes processed	222,350	203,365
No. of calls received by Licensing Branch	101,161	88,978
No. of current licensees	128,895	131,816
Total licensee population (all statuses - i.e. Current, forfeited, delinquent)	326,222	335,210

Table 2: Total Number of Current PVL Licensees

Boards and Commissions (shown by asterisk *), and Programs	FY 08-09	FY 09-10
Accountants*	2,714	2,663
Activity Desks	775	728
Acupuncturists*	632	626
Barbering and Cosmetology*		
Barbers	1,310	1,247
Barber Shops	189	178
Beauty Operator*	8,106	7,789
Beauty Instructor	95	87
Beauty School	12	11
Beauty Shops	1,287	1,174
Boxing (all categories)*	103	100
Cemeteries and Pre-Need Funeral Authorities	27	30
Chiropractors*	622	596
Collection Agencies	568	638
Contractors*	12,255	12,796
Dentists*	1,499	1,473
Dental Hygienists	912	921
Dispensing Opticians	186	198
Electricians (all categories)*	2,676	2,835
Plumbers (all categories)*	1,190	1,069
Electrologists	19	19
Elevator Mechanics*	203	220

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Employment Agencies	56	84
Engineers, Architects, Surveyors, and Landscape Architects:*		
Engineers	5,553	5,497
Architects	2,277	2,164
Surveyors	210	204
Landscape Architects	156	152
Hearing Aid Dealers & Fitters	107	110
Marriage and Family Therapists	193	224
Massage Therapists*	7,143	7,603
Massage Establishments	752	845
Medical and Osteopathy*		
Physicians	8,441	8,081
Podiatrists	75	72
Osteopaths	655	717
Physician Assistants	176	176
Emergency Medical Technicians	620	561
Mobile Intensive Care Technicians	450	434
Mental Health Counselors	187	208
Mixed Martial Arts		
Mortgage Brokers	702	346
Mortgage Broker Branch Offices	121	71
Mortgage Solicitors	5,804	1,855
Motor Vehicle Dealers*	270	286
Motor Vehicle Salespersons	1,554	1,522
Motor Vehicle Repair Dealers*	920	812
Motor Vehicle Mechanics	2,095	1,852
Naturopaths*	100	106
Nursing*		
Registered Nurses (RN)	20,626	19,748
Licensed Practical Nurses (LPN)	3,038	2,695
Advanced Practice Registered Nurse (APRN)	966	957
APRN with Prescriptive Authority	199	211
Nurse Aides	6,805	7,340
Nursing Home Administrators	138	144
Occupational Therapists	524	605
Optometrists*	377	377
Pest Control Operators*	186	193
Pest Control Field Representatives	212	243
Pharmacists*	1,992	2,028
Pharmacies	296	244
Wholesale Prescription Drug Distributors	66	58
Miscellaneous Permit	311	312
Physical Therapists*	1,218	1,394
Port Pilots	10	10
Private Detective Agencies*	38	38
Private Detectives	111	112
Guard Agencies	74	79
Guards	93	99
Psychologists*	844	898
Real Estate Appraisers	589	547
Real Estate Brokers*	6,184	6,484
Real Estate Salespersons	12,436	13,319
Real Estate Branch Offices	87	92
Condominium Hotel Operators	22	26
Social Workers	1,591	2,719
Speech Pathologists*	527	507
Audiologists	65	63

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Travel Agencies	1,381	1,213
Uniform Athlete Agents	1	2
Veterinarians*	410	428
TOTAL	135,414	132,565

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

License Types	FY 06-07	FY 07-08	FY 08-09	FY 09-10
Accountant		2,029 (84.8%)		2,203 (90.4%)
Activity Desk		129 (69.5%)		170 (75.9%)
Acupuncturist	309 (58.97%)		478 (86.59%)	
Architect		1,888 (95.98%)		2,004 (97.6%)
Audiologist		50 (83.3%)		55 (94.8%)
Barber		627 (55.5%)		709 (62.6%)
Barber Shop		87 (52.1%)		96 (58.5%)
Beauty Operator		4,198 (64.2%)		4,832 (71.5%)
Beauty Instructor		62 (91.2%)		61 (82.4%)
Beauty Shop		599 (63.3%)		665 (65.5%)
Chiropractor		407 (75.9%)		434 (80.7%)
Contractor	3,003 (34.55%)		5,927 (58.85%)	
Dental Hygienist		635 (81.5%)		747 (88.4%)
Dentist		1,090 (79%)		1,257 (88.6%)
Dispensing Optician		133 (83.65%)		151 (90.4%)
Electrologist	6 (54.55%)		10 (62.50%)	
Elevator Mechanic		128 (72.32%)		161 (81.3%)
Emergency Medical Technician (basic)		414 (90.2%)		462 (86%)
Emergency Medical Technician (paramedic)		319 (83.7%)		353 (86.5%)
Guard				44 (62.9%)
Guard Agency				35 (67%)
Hearing Aid Dealer and Fitter		70 (84.3%)		86 (85.1%)
Landscape Architect		135 (94.41%)		142 (97.9%)
Land Surveyor		180 (96.77%)		193 (97.5%)
Marriage and Family Therapist		120 (83.9%)		
Massage Establishment		442 (77%)		500 (79.5%)
Massage Therapist		4,943 (80.24%)		5,130 (80.5%)
Mental Health Counselor		133 (88.67%)		
Mortgage Branch Office	35 (39.33%)		38 (74.51%)	
Mortgage Broker	284 (60.17%)		355 (89.42%)	
Mortgage Solicitor	1,853 (67.88%)		1,840 (89.41%)	
Motor Vehicle Auction		2 (66.67%)		4 (80%)
Motor Vehicle Broker		1 (100%)		1 (100%)
Motor Vehicle Branch		30 (85.71%)		27 (87%)
Motor Vehicle Consumer Consultant		5 (71.43%)		4 (80%)
Motor Vehicle Dealer		150 (73.89%)		175 (80.3%)
Motor Vehicle Salesperson		1,049 (81.57%)		947 (86.7)
Naturopath		71 (85.5%)		85 (94.4%)
Nurse, Advanced Practice Registered (APRN)	455 (63.02%)		596 (73.22%)	
Nurse, Licensed Practical (LPN)	1,330 (60.37%)		1,588 (70.52%)	
Nurse, Registered (RN)	10,440 (70.28%)		13,267 (80.49%)	
Nursing Home Administrator		94 (78.33%)		101 (80%)
Occupational Therapist	204 (54.69%)		349 (81.54%)	
Optometrist				303 (89.1%)
Osteopath		418 (83.1%)		432 (81.5%)
Pest Control Field Representative		123 (86.62%)		146 (84.9%)
Pest Control Operator (inactive status only)		6 (75%)		3 (30%)
Pharmacist		1,540 (88.8%)		1,748 (90.9%)
Pharmacy		166 (73.1%)		121 (52.6%)

Professional and Vocational Licensing Division (PVL)

Pharmacy – Misc. Permit		149(63.4%)		188 (70.7%)
Pharmacy – Wholesale Prescription Drug Dist.		34 (72.3%)		36 (70.6%)
Physical Therapist	569 (59.02%)		854 (80.41%)	
Physician		5,191 (76.6%)		5,820 (80.6%)
Plumber			703 (73.60%)	
Podiatrist		41 (63.1%)		50 (71.4%)
Private Detective				68 (73.9%)
Private Detective Agency				22 (68.8%)
Professional Engineer		4,751 (96.33%)		5,138 (97.7%)
Psychologist		608 (82.14%)		715 (84.7%)
Real Estate Branch Office	85 (80.95%)		57 (73.08%)	
Real Estate Broker	4,626 (81.47%)		5,519 (94.89%)	
Real Estate Salesperson	10,695 (86.49%)		11,057 (96.73%)	
Social Worker	658 (52.68%)			678 (81.5%)
Speech Pathologist		340 (79.8%)		400 (90.3%)
Travel Agency				593 (71.4%)
Uniform Athlete Agent				1 (100%)
Veterinarian		312 (82.32%)		340 (85.9%)
TOTAL	34,552 (67.71%)	34,160 (79.27%)	42,638 (81.29%)	39,174 (82.81%)

Table 4: Total Number of Email Inquiries

Boards and Programs	FY 08-09	FY 09-10
Accountancy	695	792
Activity Desk	74	58
Acupuncture	120	103
Barbering and Cosmetology	627	668
Boxing	0	0
Cemetery and Pre-Need Funeral Authority	131	10
Chiropractor	175	219
Collection Agency	495	578
Contractor	984	1,038
Dentist and Dental Hygienist	333	292
Dispensing Optician	29	40
Electrician and Plumber	167	114
Electrologist	1	1
Elevator Mechanic	5	2
Employment Agency	14	19
Engineer, Architect, Surveyor, and Landscape Architect	789	428
Exam Branch	48	81
Hearing Aid Dealer and Fitter	17	19
Marriage and Family Therapist	175	196
Massage Therapy	849	961
Medical and Osteopathy	1,301	1,613
Mental Health Counselor	282	207
Mixed Martial Arts		256
Mortgage Broker and Solicitor	935	1,245
Motor Vehicle Industry	210	243
Motor Vehicle Repair	69	81
Naturopathy	144	176
Nurse Aide	75	106
Nursing	1,594	1,521
Nursing Home Administrator	24	8
Occupational Therapist	135	93
Optometry	462	284

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Professional and Vocational Licensing Division (PVL)

Pest Control	32	18
Pharmacy and Pharmacist	1,605	1,563
Physical Therapy	923	658
Private Detective and Guard	62	71
Psychology	244	343
Professional Vocational Licensing (PVL)	1008	1,679
Real Estate	5,229	5,410
Real Estate Appraiser	518	486
Social Worker	188	248
Speech Pathology and Audiology	136	118
Time Share	435	440
Travel Agency	107	108
Uniform Athlete Agent		2
Veterinary	128	102
TOTAL	21,574	22,701

REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

website: www.hawaii.gov/dcca/rico

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

OVERVIEW

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

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

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

RICO's functions can be divided into two main categories: (1) education, information, complaint intake and alternative dispute resolution functions 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.¹⁰ RICO staff consists of intake investigators, field investigators, attorneys and support staff. Approximately one-fifth of RICO's full-time positions are located in the four neighbor island offices. The primary functions of the RICO branches are generally described as follows:

Consumer Resource Center (Education, Information, and Intake)

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

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

¹⁰ See, Section 26-9, Hawaii Revised Statutes.

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

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

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

Field Investigation Branch

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

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

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

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

Legal Branch

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

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

State Certified Arbitration Program The State Certified Arbitration Program (SCAP), more commonly known as the lemon law program, provides an arbitration forum for a consumer to resolve a warranty-related dispute with a motor vehicle manufacturer without having to hire an attorney.

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

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

GOALS, OBJECTIVES & POLICIES

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

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

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

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

ACCOMPLISHMENTS

Enforcement Action: RICO continued its efforts to bring more serious disciplinary enforcement actions for the boards' review and action. In FY2010, these efforts yielded a 30% increase in the number of board orders that were issued to 214, and an increase in the number of board revocations by over 100%, from 30 to 62.

Increased Medical Enforcement. RICO continued its initiatives relating to medical licensee enforcement, resulting in Hawaii now being ranked 10th in the nation in terms of number of serious disciplinary actions taken.

Legislation: Although RICO did not submit bills for consideration during the 2010 legislative session, it participated in a number of bills that impact licensees.

Act 5, Relating to Motor Vehicle Express Warranty. The Act amends the definition of "motor vehicles" in Chapter 481I, Hawaii Revised Statutes, to include motorcycles.

Act 13, Relating to Veterinary Medicine. The Act authorizes the Board of Veterinary Medicine to revoke or suspend a license or fine a licensee for conduct or practice that is contrary to the recognized principles of medical ethics of the profession as adopted by the Hawaii Veterinary Medical Association and the American Veterinary Medical Association.

Act 28, Relating to Contractors. The Act requires all licensed individuals employed on a construction job site by an electrical or plumbing contractor to visibly display their license on their person while on the construction job site.

Act 44, Relating to Owner-Builders. The Act amends Chapter 444 by authorizing the sale or lease of a property by an owner-builder prior to the expiration of the current one-year prohibition period due to an eligible unforeseen hardship as determined by the Contractors License Board, add an exemption to the one-year prohibition on sales for construction or improvements performed pursuant to a building permit where the estimated value of the work to be performed is less than \$10,000; defines "completion" as the date of final inspection approval by the county and requires an owner-builder to comply with the requirements set forth in the owner-builder disclosure statement and provides for fines for failure to comply.

Act 54, Relating to Diversion Program for Chemically Dependent Nurses. The Act amends Chapter 334D, Hawaii Revised Statutes, by authorizing the Board of Nursing to recognize alternative sponsors for diversion programs; clarifying the function of the diversion program; allowing the Board to take disciplinary action against a nurse who is noncompliant with the program; providing for handling of program records.

Act 121, Relating to Construction Sites. The Act requires the Department of Commerce and Consumer Affairs to convene a Task Force to analyze the feasibility and potential complications of investigating and inspecting construction sites for unlicensed contractors, undocumented workers and workplace safety violations. The Task Force is required to report its findings to the Legislature 60 days prior to the 2011 regular legislative session.

Act 150, Relating to Activity Desks. The Act establishes recordkeeping and trust requirements for client trust accounts held by activity desks; clarifies that activity desks shall include registration numbers on all advertising materials; requires an activity desk to obtain full payment for activities at the time of booking or within three business days thereafter, except where direct payment is arranged; requires that sums paid to an activity shall be held in trust; and increases the required amount of bond or letter of credit from \$100,000 to \$250,000.

Act 164, Relating to the Motor Vehicle Industry Licensing Act. The Act creates a new part within Chapter 437, to establish a resolution process for disputes among automobile dealers, manufacturers, and distributors. The process allows dealers, manufacturers and distributors to request a hearing from the Office of Administrative Hearings. The new part sets forth hearing procedures for these disputes, reciprocal rights and obligations among dealers, manufacturers and distributors, requirements for the sale or transfer of franchises, and requirements for cancellation of franchise agreements.

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

Enforcement Prosecutions:

RICO Proceedings Filed FY10	
Petitions for Disciplinary Action	52
Settlement Agreement and Order	91
Citations (Unlicensed Activity)	50
Complaints (Unlicensed Activity)	38
Consent Judgments (Unlicensed Activity)	44
Assurance of Voluntary Compliance	19
Miscellaneous/Special Proceedings	7
Total	301

RICO Proceedings Outcomes FY10		
Board Orders (total)		214
Revocation Orders	62	
Suspension Orders	11	
Assurance of Voluntary Compliance		22
Unlicensed Activity Judgments and Orders		183
Fines Assessed	\$1,534,054	
Restitution Assessed	\$975,809	
Total Proceeding Outcomes		419

The CRF financial summary relating to RICO for FY10 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,025,554	\$487,588	\$4,513,142	\$4,830,795

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

	2008	2009	2010
Telephone Requests for Complaints History, License Status and Business Registration	60,473	54,950	59,423
Complaint Inquiries & Forms issued by CRC	11,926	10,916	18,087
TOTAL	72,399	65,866	77,510

Table 2: Complaints Filed With RICO

	2008FY	2009FY	2010FY
Accountants	8	5	11
Activity Desks	23	21	37
Acupuncturists	3	4	0
Barbers & Cosmetologists	72	44	46
Boxing	0	1	2
Cemeteries and Pre-Need Funeral Authorities	1	3	4
Chiropractors	4	3	2
Collection Agencies	14	23	10
Contractors	366	397	363
Dentists and Dental Hygienists	21	18	21
Dispensing Opticians	0	2	2
Electricians & Plumbers	21	21	28
Electrologists	0	0	0
Elevator Mechanics	0	0	0
Employment Agencies	1	0	0
Engineers, Architects, Surveyors and Landscape Architects	15	26	17
Hearing Aid Dealers & Fitters	0	0	2
Marriage and Family Therapists	0	0	0
Massage Therapists	84	72	60
Medical (including Osteopathy)	63	80	49
Mental Health Counselors	1	0	0

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Regulated Industries Complaints Office (RICO)

Mortgage Brokers & Solicitors	43	24	21
	2008FY	2009FY	2010FY
Motor Vehicle Industry	23	47	33
Motor Vehicle Repair	45	51	44
Naturopaths	1	4	1
Nursing	39	30	30
Nursing Home Administrators	1	1	2
Occupational Therapist	0	0	0
Optometrists	2	3	0
Pest Control	8	4	5
Pharmacy	25	15	42
Physical Therapists	2	2	2
Pilotage	0	0	0
Private Detectives & Guards	3	1	6
Psychologists	5	8	9
Real Estate Appraisers	3	4	4
Real Estate (including Condominiums)	123	181	180
Respiratory Therapists (effective 7/1/2011)	--	--	0
Social Workers	3	8	3
Speech Pathologists & Audiologists	0	0	1
Subdivision	0	0	0
Time Share	1	18	4
Travel Agencies	13	89	6
No Rules Combat (Chapter 440D repealed and replaced by Chapter 440E (Mixed Martial Arts, 7/1/2009)	40	33**	0
Uniform Athlete Agents (effective 7/1/08)	0	0	0
Veterinarians	3	7	2
	1080*	1,244*	1,049*

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

Table 3: Assistance by Neighbor Island RICO Offices in FY 2010

AGENCY	HILO	KAUAI	KONA	MAUI	TOTAL
Division of Financial Institutions	18	3	6	1	28
Business Registration	472	685	644	229	2,030
Cable Television	5	0	0	2	7
Insurance Division	44	23	59	15	141
Division of Consumer Advocacy	31	13	10	0	54
Professional & Vocational Licensing	475	415	663	328	1,881
Office of Consumer Protection	264	436	177	203	1,080
Non-Department Related	313	673	402	147	1,535
Totals	1,622	2,248	1,961	925	6,756

Table 4: RICO State Certified Arbitration Program (“SCAP”) Activity

TOTAL NO. OF COMPLAINTS January-December 2009	
CHRYSLER (Dodge)	2
FORD	2
GM	7
Chevrolet	4
GMC	2
Saturn	1
HONDA (Acura)	1
ISUZU	1
KIA	2
MASERATI	2
MERCEDES-BENZ	3
NISSAN	5
TOYOTA	1
VOLSWAGEN	2
TOTALS	28
Cases arbitrated	15
Cases settled	7
Cases withdrawn/dismissed	6
*Approximately \$551,000 was recovered by consumers.	

*Of the cases arbitrated, 5 arbitrations were in favor of the manufacturer and 10 were in favor of the consumer.