REAL ESTATE COMMISSION

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
www.state.hi.us/hirec

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes.

Date: Friday, December 14, 2001

<u>Time:</u> 9:00 a.m.

<u>Place:</u> Kapuaiwa Room

HRH Princess Victoria Kamamalu Building

1010 Richards Street, Second Floor

Honolulu, Hawaii

Present: John Ohama, Chair

Michael Ching, Vice Chair Charles Aki, Member

Casey Choi, Member (Late Arrival)

Patricia Choi. Member

Alfredo Evangelista, Member Mitchell Imanaka, Member Iris Okawa, Member Peter Rice, Member

Calvin Kimura, Supervising Executive Officer

Alan Taniguchi, Executive Officer

Diane Choy Fujimura, Senior Real Estate Specialist

Cynthia Yee, Senior Condominium Specialist

Lorene Arata, Real Estate Specialist Gina Watumull, Condominium Specialist Cheryl Leong, Condominium Specialist Shari Wong, Deputy Attorney General

Irene Kotaka, Secretary

Lawrence Kamakawiwo'ole, Special Deputy Attorney General Nicki Ann Thompson, Hawaii Association of REALTORS

Brian Thomas Michael D. Jost

Leonore Lee, Sofos Realty Corporation Gwen Yang, Sofos Realty Corporation Richard Kuitunen, Sofos Realty Corporation

Edward Renaltner Diane Treskon

<u>Call to Order:</u> The Chair called the meeting to order at 9:05 a.m., at which time quorum

was established.

Chair's Report:

The Chair wished everyone present a "Merry Christmas" and a "Happy New Year!" He also thanked the Commissioners for their contributions to the Commission and said that he is looking forward to next year.

Executive Officer's Report:

Announcements, Introductions, Correspondence and Additional Distribution

Additions to the Agenda

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to add the following items to the agenda:

- 6. Licensing Questionable Applications
 - d. Daniel S. Kaneshiro
 - e. Vergel N. Adonis
 - f. Vergel N. Adonis Realty, Inc.
 - g. Lamont Jameson
- 7. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters
 - In the Matter of the Application for a Real Estate Salesperson's License of James H. Wodehouse, Jr., REC-LIC-2001-4
 - c. In the Matter of the Real Estate Broker's Licenses of Ronald D. Silverman and Hawaiian Properties, Ltd., REC-2000-74-L
 - In the Matter of the Real Estate Broker's License of Steven D. Weeks. REC-2000-45-L
 - e. In the Matter of the Real Estate Salesperson's License of Jon F. Anderton, REC-2000-171-L

Additional Distribution

The following materials were distributed to the Commissioners prior to the start of the meeting:

- 3. Executive Officer's Report
 - b. Minutes of Previous Meetings
- Committee Reports
 - a. Laws and Rules Review Committee
 - b. Education Review Committee
 - c. Condominium Review Committee
- 6. Licensing Questionable Applications
 - b. Edward A. Renaltner

Minutes of Previous Meetings

Upon a motion by Commissioner Ching, seconded by Commissioner Evangelista, it was voted on and unanimously carried to approve the minutes of the November 30, 2001 Real Estate Commission meeting as circulated.

Committee Reports:

Laws and Rules Review Committee

Upon a motion by Commissioner Evangelista, seconded by Commissioner Okawa, it was voted on and unanimously carried to accept the report of the December 13, 2001 Laws and Rules Review Committee meeting as follows:

- 1. Minutes of Previous Meetings **Accept** the minutes of the November 14, 2001 meeting.
- Program of Work, FY02
 Division and Department Programs RICO Real Estate Advisory
 Committee Recommend approval of Kenneth Chong to the Real Estate Advisory Committee.
- 3. Special Issues
 - a. Marcus & Associates, Inc. Request on Use of License Name Recommend approval of the request made by Marcus & Associates, Inc. to be allowed to create separate corporate entities under a blanket holding corporation and to continue to retain the use of "Marcus" in the name of each entity, subject to written approval from the legal representative of Marcus Nishikawa's estate.
 - b. California Department of Real Estate Criteria for Determining Rehabilitation – The Deputy Attorney General was asked to review the Criteria in preparation for discussion at the December 14, 2001 Real Estate Commission Meeting.
- 4. ARELLO, Other Organizations and Jurisdictions Wisconsin Real Estate Commission Renewal Denial Due to Tax Problem and Supervision **Recommend** that staff be allowed to inform applicants who have not yet obtained written proof of payment, a written payment plan or written proof of discharge that their applications will most likely be denied by the Commission. Also inform the applicants that they may withdraw their application and resubmit it once they have obtained written proof of payment, a written payment plan or written proof of discharge, provided that their examination score has not expired.
- 5. Next Meeting: Friday, January 4, 2002

9:30 a.m.

Conference Room 441 Ala Makani Place Kahului, Maui

Education Review Committee

Upon a motion by Commissioner Aki, seconded by Commissioner P. Choi, it was voted on and unanimously carried to accept the report of the December 13, 2001 Education Review Committee meeting as follows:

- 1. Minutes of November 14, 2001 Accept.
- 2. Continuing Education Administration, Curriculum, Courses, Providers, and Instructors Applications Course "Disclosure

Law in Hawaii," Author/Owner: Thomas J. Douma, Provider: Thomas J. Douma, Course Category: Real Estate Law, Course Clock Hours: 3 – **Recommend approval**.

- Prelicensing Education Administration, Curriculum, Schools, Instructors, and Equivalency – Barbara Dew Request – Committee members discussed their concerns with Herb Conley and Barbara Dew.
- Administration of Examinations ASI Test Problem –
 Recommend issuance of Commission's Final Order to bar individual from taking future exams for a period of two years and the individual will be allowed 60 days from the date of the proposed final order to respond and present oral arguments.
 Program of Work, FY02
 - a) Neighbor Island Outreach The next neighbor island outreach is scheduled for January 4, 2002, on the island of Maui. The meetings will be held in the Conference Room of the Maui Board of REALTORS' office, located at 441 Ala Makani Place, Kahului, Maui. The meeting times are as follows:

9:30 a.m. Laws and Rules Review Committee
10:00 a.m. Education Review Committee
11:00 a.m. Condominium Review Committee

- b) Real Estate Specialists' Office for the Day Kahului, Maui, January 4, 2002 1:00 p.m. in the Conference Room of the Maui Board of REALTORS, located at 441 Ala Makani Place, Kahului, Maui.
- 6. Next Meeting: Friday, January 4, 2002

10:00 a.m. Maui Board of REALTORS Conference Room 441 Ala Makani Place **Kahului, Maui**, Hawaii

Condominium Review Committee

Upon a motion by Commissioner Imanaka, seconded by Commissioner Rice, it was voted on and unanimously carried to accept the amended report of the December 13, 2001 Condominium Review Committee meeting as follows:

- 1. Minutes of November 14, 2001– Accept
- Condominium Governance and Management AOAO Registrations, 2001 – 2003 Biennium Registration, November 2001– **Recommend approval** to ratify effective dates for AOAO registrations received for the 2001-2003 biennium through November 30, 2001.
- 3. CPR Registration, Developer's Public Reports
 - a. November 2001 **Recommend approval** to ratify issuance of effective dates of the developer's public reports and extensions issued for the month of November 2001.

- b. Irrevocable Letter of Credit §514A-40(5), HRS; §16-107-9, HAR
 - 1) Recommend approval to issue an informal non-binding opinion that §16-107-9, HAR, requires a letter of credit be issued by a federally insured institution located in this State and elsewhere in the United States; provided for those letters issued by a non-Hawaii federally insured institution that the institution be either:
 - A nationally federally chartered bank and that a State of Hawaii federally insured financial institution confirm the letter of credit; or
 - An out-of-state federally insured financial institution and that a State of Hawaii federally insured financial institution confirm the letter.
 - 2) Require developers requesting to reduce their letters of credit to satisfy the same conditions for reducing a performance bond as previously approved by the Commission in the recorded minutes of July 24, 1997 at pages 9 and 10 and minutes of December 14, 1995 at page 3.
 - 3) Require the letter of credit be issued in the amount required by statute and, unless otherwise authorized by the Commission, that the only entity which can draw down on the letter be the Real Estate Commission.
 - 4) Notify projects with active developer's public reports with letters of credit of Commission's decisions on this matter and to condition any grants of extensions of and request for supplementary developer's public reports to comply with Commission's decisions on letters of credit. Delegate to staff to issue stop sales letters for non-compliance with Commission's decisions on letters of credit where construction has not been completed or where construction has been completed but the mechanic's lien period has not expired.
 - 5) Include proposed rules consistent with the above in the current draft 5 of the proposed rules; including a proposed rule to require the developer to increase the amount of a performance bond or letter of credit to cover any additional costs of construction.
- c. Request for Informal Non-Binding Opinion, §514A-39.5, HRS -- **Recommend approval** to issue an informal non-binding opinion that §514A-39.5, HRS, does allow the Commission to issue an effective date for a developer's contingent final public report with a separate registration number where:

- the proposed developer, Prince Tower at Queen Emma Gardens, LLC, will at the time of filing for a developer's contingent final public report, be the holder of a recorded option to purchase the Prince Tower Apartment in the Queen Emma Gardens Condominium Property Regime;
- 2) the present owner of the Prince Tower, Pacific Century Trust, as trustee for the Robert E. Black Memorial Trust, has the right to subdivide the only apartment in the Prince Tower into 235 individual apartments; for charitable trust and IRS regulations it cannot exercise the right to subdivide;
- 3) the declaration, floor plans, condominium map for the condominium property regime, which includes the Prince Tower, has already been recorded and the 235 individual apartments already specifically described. Further recommend that the approval be subject to the developer:
 - satisfying the statutory requirements for the issuance of an effective date for a developer's contingent final public report;
 - including adequate disclosures of all material facts pertaining to the project; including disclosures relating to Prince Tower's interrelationship with the condominium property regime as a whole:
 - c) consider characterizing the property to be offered for sale as the sale of undivided interests in the one commercial apartment comprising the Prince Tower which later shall be converted to the apartments described in the declaration.
- d. Hawaii Island Board of Realtors, Inc. Request for Opinion – Recommend acceptance of the withdrawal of the request.
- Neighbor Islands Outreach/Recodification Report and Condominium Specialists Office for the Day – January 4, 2002; Maui
- 5. Next Meeting: Friday, January 4, 2001 11:00 a.m.
 Maui Board of Realtors 441 Ala Makani Place Kahului, Maui

Licensing and Registration - Ratification:

Upon a motion by Commissioner Ching, seconded by Commissioner Okawa, it was voted on and unanimously carried to ratify the attached list

Chapter 91, HRS, Adjudicatory Matters: The Chair called for a recess from the meeting at 9:11 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Application for a Real Estate Brokers' Licenses of Ronald D. Silverman and Hawaiian Properties, Ltd.; REC-2000-74-L

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order.

In the Matter of the Real Estate Broker's License of Steven D. Weeks; REC-2000-45-L

Upon a motion by Commissioner Ching, seconded by commissioner Rice, it was voted on and unanimously carried to accept the Settlement Agreement After Filing of Petition for Disciplinary Action and Commission's Final Order.

In the Matter of the Real Estate Salesperson's License of Jon F. Anderton; REC-2000-171-L

Commissioner Ching recused himself from the meeting.

Upon a motion by Commissioner Okawa, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the Settlement Agreement After Filing of Petition for Disciplinary Action and Commission's Final Order.

Commissioner Ching returned to the meeting.

In the Matter of the Application for a Real Estate Salesperson's License of James H. Wodehouse, Jr.; REC-LIC-2001-4

Upon a motion by Commissioner Ching, seconded by Commissioner Evangelista, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and to issue its Commission's Final Order.

In the Matter of the Real Estate Salesperson's License of Hugh M. Howell, REC 2000-136-L

Upon a motion by Commissioner Ching, seconded by Commissioner Evangelista, it was voted on and unanimously carried to:

1. Accept and adopt all of the Hearings Officer's Findings of Fact with an amendment to Finding of Fact number 5, as follows:

"At or about the same time, however, the Respondent also transmitted other counteroffers in response to offers that had been submitted by other potential buyers."

The Commission makes this amendment because it finds that, according to the real estate industry's standard of practice, the seller's agent is not required to disclose the number of counteroffers to other buyers.

2. Accept and adopt all of the Conclusions of Law and amend the Hearings Officer's Recommended Order.

Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled Commission meeting at 9:25 a.m.

Commissioner C. Choi arrived.

<u>Licensing –</u>
<u>Questionable</u>
Applications:

Michael D. Jost

Michael D. Jost was asked if he wished to have his application for a real estate salesperson's license considered in executive session. Mr. Jost declined the offer.

Commissioner Imanaka recused himself from the meeting.

Mr. Jost stated that he came over from Maui to share a few words with the Commissioners regarding the judgment.

Mr. Jost stated that when the complaint was filed, he was not thinking about getting a real estate license. Mr. Jost explained that his wife owned K+M Produce. He chose not to request that his name be removed from the complaint. He stated that it is true that they do owe money to their creditors. They are not trying to hide from them. They cannot pay them the money owed currently. They did not want to spend money to fight the judgment because they do owe the money.

Mr. Jost stated that everything in the Complaint is not completely accurate. Mr. Jost referred to page 3, item 6 of the Complaint. Mr. Jost provided a copy of the General Excise Tax License for K & M Produce Co. Inc. dba The Big Chill Lobster Shack and Deli, which he states shows that the company was opened one year before the debts were created.

With regards to page 3, item 8, Mr. Jost stated that the actual date that the produce company shut down was on December 18, 1999. The lease began on November 30, 1998.

Commissioner Okawa asked Mr. Jost if the matter was still in litigation and pending in court. Mr. Jost replied that it was his understanding that they owe the money and they want to settle the matter. He believes that there is a judgment that was filed. On November 26, 2001, the motion went forward and the judgment was granted but the final documents have not been received as yet.

Commissioner Evangelista asked Mr. Jost if they had entered into any discussion to pay off the judgment. Mr. Jost stated that they are in the process of doing that now. Mr. Jost was then asked when the payment proposal would be completed. Mr. Jost stated that "Your guess is as good as there is." One possible scenario is that his daughter passed away six years ago and they have a wrongful death suit pending. When that is settled, they can pay off their creditors.

Commissioner Okawa asked Mr. Jost if his name appeared on the Judgment. Mr. Jost replied, "Yes." He stated that he never allowed it to be dismissed. It stayed on because he did not see any point in fighting it.

Mr. Jost stated that it was his understanding that because of the volume of business that they did, they did not fall under the PACA guidelines. They did not fight it. They never intended to deceive or defraud their purveyors. Mr. Jost stated that the \$27,000 debt was created in little over a month. They decided to close the company rather than incur any more debts.

Upon a motion by Commissioner Okawa, seconded by Commissioner Ching, it was voted on and carried to take this matter under advisement.

Commissioner Imanaka returned to the meeting.

Sofos Realty Corporation

Leonore Lee, attorney for S. Steven Sofos was present, along with Gwen Yang and Richard Kuitunen. The parties present were asked if they wished to have the real estate corporation application of Sofos Realty Corporation considered in executive session. They declined the offer.

Ms. Lee stated that Mr. Sofos is in Maui and was unable to attend the meeting today. He requested that she attend in his place.

Ms. Lee was asked if the license for Sofos Realty Corporation was voluntarily surrendered. Ms. Lee stated that Sofos Realty Corporation reorganized. It would have been more appropriate for them to inactivate the company rather than surrendering the license. Mr. Sofos will be the principal broker of Sofos Realty Corporation. There will be another principal broker for Sofos Commercial Brokerage. Because they had surrendered their license instead of placing it inactive, they have to start all over again.

> Ms. Lee was asked if there had been any activity by Sofos Realty Corporation after it surrendered its license on February 1, 2001. Ms. Lee responded that no real estate activity occurred. Ms. Lee stated that Sofos Commercial Brokerage and Sofos Property Management were formed. S. Steven Sofos is the principal broker of Sofos Commercial Brokerage. Richard Kuitunen is the principal broker of Sofos Property Management. If Sofos Realty Corporation is approved, S. Steven Sofos will become the principal broker of the corporation and another principal broker will be assigned to Sofos Commercial Brokerage.

Upon a motion by Commissioner Ching, seconded by Commissioner P. Choi, it was voted on and unanimously carried to take this matter under advisement.

Edward A. Renaltner

Edward A. Renaltner was asked if he wished to have his application for a real estate salesperson's license considered in executive session. He declined the offer.

Mr. Renaltner stated that he had nothing further to add. Diane Treskon was also present to answer any questions the Commission may have and stated that she did not have anything further to add.

Upon a motion by Commissioner Okawa, seconded by Commissioner P. Choi, it was voted on and unanimously carried to take this matter under advisement.

The Chair recessed the meeting at 9:47 a.m.

The Chair reconvened the meeting at 10:02 a.m. Reconvene:

Brian Thomas wished everyone a "Merry Christmas!"

Upon a motion by Commissioner Ching, seconded by Commissioner Rice, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(a)(1), HRS, "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;".

Upon a motion by Commissioner Okawa, seconded by Commissioner Aki, it was voted on and unanimously carried to move out of executive session.

Edward A. Renaltner

After a review of the information presented by the applicant, Commissioner Okawa moved to approve a conditional real estate salesperson license to Edward A. Renaltner (hereinafter "Applicant"). pursuant to Section 436B-19, Hawaii Revised Statutes, subject to the following conditions:

Recess:

Executive Session:

Licensing -Questionable Applications:

- 1. That during the term of parole, any violation of the terms of the parole, by the Applicant, shall be grounds for revocation of license.
- That any subsequent criminal conviction whether by nolo contendere or otherwise, of a penal crime directly related to the qualifications, functions, or duties of the licensed profession or vocation shall be grounds for revocation of license.
- 3. That failure to provide written notice within 30 days to the licensing authority of any judgment, award, disciplinary sanctions, order, or other determination, which adjudges or finds that the licensee is civilly, criminally, or otherwise liable for any personal injury, property damage, or loss caused by the licensee's conduct in the practice of the licensee's profession or vocation shall be grounds for revocation.
- 4. That the Applicant shall at all times be associated with and under the direct supervision of a principal broker for all real estate transactions.
- 5. That prior to reactivating the real estate salesperson license, the Applicant shall inform the principal broker with whom the Applicant will be associated with, that such a conditional real estate salesperson license has been granted and the terms of the conditional license. The principal broker shall acknowledge the terms of the Applicant's conditional license in writing.
- 6. That **any** change of association and/or employment by Applicant to another real estate broker shall be submitted in writing to the Commission with the new principal broker acknowledging the terms of the Applicant's conditional license within ten (10) days of the change.
- 7. That the Applicant shall advise the State of Hawaii, Circuit Court of the Fifth Circuit, through the Applicant's parole officer of the conditions set forth by the Commission.
- 8. And that the release of the Applicant from parole shall not imply any changes upon the conditions of the license.
- 9. Upon successful completion of parole, the Applicant must submit a written request to the Commission if the Applicant desires to have the conditions removed.

Commissioner Imanaka seconded the motion. The motion was voted on and unanimously carried.

Michael D. Jost

Commissioner Imanaka recused himself from the meeting.

After a review of the information presented by the applicant, Commissioner Ching moved to approve the real estate salesperson's license of Michael D. Jost. Commissioner P. Choi seconded the motion. Commissioners Aki, Evangelista, Ching, P. Choi, Rice, and C. Choi voted in favor of the motion. Commissioner Okawa and Ohama voted against the motion. The motion was carried.

Commissioner Imanaka returned to the meeting.

Daniel S. Kaneshiro

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the real estate salesperson's license application of Daniel S. Kaneshiro. Commissioner Okawa seconded the motion. The motion was voted on and unanimously carried.

Vergel N. Adonis

Commissioner Evangelista recused himself from the meeting.

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the restoration of Vergel N. Adonis' real estate broker's license. Commissioner Aki seconded the motion. The motion was voted on and carried.

Vergel N. Adonis Realty, Inc.

After a review of the information submitted by the applicant, Commissioner Chong moved to approve the real estate corporation application of Vergel N. Adonis Realty, Inc. Commissioner Aki seconded the motion. The motion was voted on and carried.

Commissioner Evangelista returned to the meeting.

Lamont Jameson

Commissioner Ching recused himself from the meeting.

After a review of the information submitted by the applicant, Commissioner Ohama moved to deny Lamont Jameson's request for an extension to sit for the real estate salesperson's licensing examination. Commissioner P. Choi seconded the motion. The motion was voted on and carried.

Commissioner Ching returned to the meeting.

Sofos Realty Corporation

Commissioner Evangelista recused himself from the meeting.

After a review of the information presented by the applicant, Commissioner Ching moved to approve the real estate corporation application of Sofos Realty Corporation. Commissioner Aki seconded the motion. The motion was voted on and carried.

Commissioner Evangelista returned to the meeting.

Committee Rep	orts: Education Review Committee
	Administration of Examinations – ASI Test Problem – Upon a motion by Commissioner P. Choi, seconded by Commissioner Rice, it was voted on and unanimously carried to approve the Real Estate Commission's Final Order in the matter of John B. Buie.
Next Meeting:	Friday, January 25, 2002 9:00 a.m. Kapuaiwa Room HRH Princess Victoria Kamamalu Building 1010 Richards Street, Second Floor Honolulu, Hawaii
Adjournment:	With no further business to discuss, the Chair adjourned the meeting at 10:31 a.m.
	Reviewed and approved by:
	/s/ Alan Taniguchi Alan Taniguchi Executive Officer
	<u>January 25, 2002</u> Date
[X]	Approved as circulated.
[]	Approved with corrections; see minutes of meeting.

APPROVED APPLICATIONS FOR REAL ESTATE REAL ESTATE COMMISSION MEETING ON DECEMBER 14, 2001

Brokers – Limited Liability Companies and Partnerships Maui-Realestate.com LLC Dan Cohen, PB	Effective Date 01/01/02
Melanie Jakahi Realtors, LLC Melanie Jakahi, PB	11/27/01
Ali'l Properties, LLC Joseph M. Przygodzinski, PB	11/28/01
Brokers - Sole Proprietor Frederic G. Berg	Effective Date 11/6/01
Steve S. Tawada	11/8/01
Randy Y. F. Yew	11/9/01
Riccardo A. Figliuzzi Jr.	11/21/01
Equivalency to Uniform Section of Examination Certificate	Expiration Date
Tawnya Jade Schor	11/28/03 11/30/03
James M. Taylor	11/30/03
Educational Equivalency Certificate	Expiration Date
Tawnya Jade Schor	11/20/03
Christopher Earl Coker James Alan Gerspacher	11/20/03 11/20/03
Carol Mary Lau	11/23/03
Carla Jean Young	11/29/03
James M. Taylor	11/30/03
Real Estate Broker Experience Certificate	Expiration Date
Julie M. Cecil	11/20/03
Dean K. Hamada	11/20/03
Rebecca A. Supon Harris Tien Zane	11/28/03 11/28/03
Roy W. Gillette, Jr.	11/27/03
Jacqueline E. Werner	11/28/03
Carla J. Ellis	12/03/03
Real Estate Broker (upgrade)	Effective Date
Patrick G. W. Young	11/15/01
Linda M. Kelly	11/20/01
Richard Henderson	11/19/01
Restoration – Real Estate Broker	Effective Date
Barbara A. Humphrey	11/9/01