

REAL ESTATE COMMISSION
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

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

Date: Friday, October 31, 1986

Time: 9:00 a.m.

Place: Board Room, Second Floor, Kamamalu Building, 1010 Richards Street, Honolulu, Hawaii

Present: G. A. "Red" Morris, Chairman
Yukio Takeya, Member
Joseph Blanco, Member
Gloria J. Damron, Member
Peter Yanagawa, Member
Yoshiko Kano, Member
Michele Matsuo, Member

Calvin Kimura, Executive Secretary
Cynthia Yee, Information Officer
Irene Kotaka, Secretary
Russell Wong, Incoming Assistant Information Officer
Susan Sato, Deputy Attorney General
Virginia Lea Crandall, Hearings Officer
Rodney Maile, Hearings Officer
Victoria Scurlock Marks, RICO Attorney
Darryl Teruya, RICO Attorney

Eileen Luko, HAR Education Officer
Marcus Nishikawa,
Suzy Steelman, Licensee
Bert Warashima, Attorney for Steelman
Rudy T. Hirota, Licensee
Charles Brower, Attorney for Hirota
James MacIntosh, Attorney for Hirota in Bankruptcy Proceedings
Susie Tamashiro, Licensee
Lester K. M. Leu, Attorney for Tamashiro
Richard Kuitnen, License Applicant

Excused: Constance Smales, Member
Douglas Sodetani, Member

Call to Order:

The meeting was called to order at 9:10 a.m. by Chairman G. A. "Red" Morris. Quorum was established.

Minutes:

The minutes of the September 26, 1986 meeting was distributed to the members for their review prior to the meeting.

Upon a motion by Commissioner Takeya, second by Commissioner Kano, the Commission unanimously approved the minutes of the September 26, 1986 Meeting with the corrections as circulated by the Executive Secretary. A copy of the corrections is attached hereto.

Hearings Officer's Reports:

RE-84-66, SUZY E. STEELMAN

Commissioner Kano was excused due to a possible conflict of interest.

Oral exceptions were presented by Ms. Steelman and her attorney, Bert Warashima. The State was represented by RICO attorney, Victoria Scurlock Marks.

The Ms. Marks stated that the sanctions imposed upon Ms. Steelman were very fair. Ms. Marks cited that the Kauai Board of Realtors had disciplined her more severely. The State supported the hearings officer's decision.

Mr. Warashima argued that the sentence is too severe. He cited the Bond case in which there was an intentional misuse of money and stated that the decision in the Bond case was more lenient. He also stated that the decision was based on one person's testimony as no other witnesses were present at the hearing.

Mr. Warashima produced, over the objection of Ms. Marks, a letter from Donna Apisa, principal broker of Prestige Resorts, Ltd. Chairman Morris allowed the letter to be circulated among the Commissioners.

Minutes of the October 31, 1986 Meeting

After hearing the oral exceptions, Commissioner Blanco moved, Commissioner Takeya seconded the motion, it was voted and unanimously carried to order a six month suspension with five of the six months stayed if the fine of \$500 is paid.

Commissioner Matsuo was excused from the meeting at 9:15 a.m. A quorum was still maintained. Commissioner Kano returned to the meeting.

RE-83-11, RE-83-88, RUDY T. HIROTA

Commissioner Takeya was excused due to a possible conflict of interest.

Oral exceptions were presented by licensee, his attorney, Charles Brower, and his attorney in the bankruptcy proceedings, James MacIntosh. The State was represented by RICO attorney, Victoria Scurlock Marks.

Upon a motion by Commissioner Damron, second by Commissioner Kano, it was voted and unanimously carried to approve the hearings officer's recommended order. Mr. Hirota will be subject to license revocation with revocation stayed for one year.

Commissioner Takeya returned to the meeting.

RE-85-255, RE-86-52, SUSIE C. TAMASHIRO,
dba T & T Realty

Oral exceptions were presented by the licensee and her attorney, Lester K. M. Leu. The State was represented by RICO attorney, Darryl Teruya.

After hearing the oral exceptions, Commissioner Yanagawa moved, Commissioner Damron seconded the motion, it was voted and unanimously carried to accept the hearings officer's recommendation of a \$100 fine and a letter of reprimand.

RE-LIC-83-18, DOROTHY GIBSON

Commissioner Takeya was excused due to a possible conflict of interest.

Minutes of the October 31, 1986 Meeting

Upon a motion by Commissioner Damron, second by Commissioner Yanagawa, it was voted and unanimously carried to accept the hearings officers recommended decision.

Commissioner Takeya returned to the meeting.

RE-LIC-86-4, ANNE GROSS

Commissioner Blanco was excused due to a possible conflict of interest.

Hearings Officer, Rodney Maile, requested that the Commission decide whether to adopt the postmark rule or the mailbox rule.

The mailbox rule means all documents put into the mailbox as of the deadline date would be considered acceptable. The postmark rule means that documents would have to be postmarked by the first working day of the new year.

After a discussion, Commissioner Damron moved, Commissioner Yanagawa seconded the motion, it was voted and unanimously carried to adopt the postmark rule and adopt the hearings officer's recommended decision. In that, restoration of forfeited license applications postmarked as of the first working day of the new year will be considered acceptable as of December 31 of the previous year.

Commissioner Blanco returned to the meeting.

RE-84-221, JAMES SALMON

Upon a motion by Commissioner Takeya, second by Commissioner Kano, it was voted and unanimously carried to accept the hearings officers recommended decision. Mr. Salmon's license shall be suspended for a period of time to run concurrently with the two-year suspension period previously imposed by the Commission in RE-86-279.

RE-83-265, RICHARD B. ELSNER

Upon a motion by Commissioner Takeya, second by Commissioner Kano, it was voted and unanimously carried to accept the hearings officer's recommended decision. Mr. Elsner's broker's license will be suspended for two years.

RE-85-45, BARRY K. MACHADO

Upon a motion by Commissioner Blanco, second by Commissioner Damron, it was voted and unanimously carried to accept the settlement agreement. Mr. Machado shall pay a fine of \$1,000 with \$500 of the fine suspended according to the terms of the agreement. Mr. Machado shall also make restitution to Mr. Lorry Cannon in the amount of \$4,000 with \$1,000 to be paid within 30 days of the Commission's final order and the balance of the restitution to be paid in three increments of \$1,000 per month.

RE-85-163, TRIAD MANAGEMENT, INC., THOMAS O. METZ

Upon a motion by Commissioner Damron, second by Commissioner Kano, it was voted and unanimously carried to accept the settlement agreement. The licensees shall pay a total fine of \$5,600, of which \$750 shall be payable within 30 days of the approval of the settlement agreement. The remaining sum will become due if Triad or Mr. Metz fails to provide proof of bonding by November 28, 1986. Triad and Metz must provide proof that they informed the condominiums which they manage that they do not have a bond.

RE-LIC-86-3, CARLTON J. SPENCER

Upon a motion by Commissioner Yanagawa, second by Commissioner Blanco, it was voted and unanimously carried to accept the settlement agreement. Mr. Spencer's license will be restored upon payment of all required fees.

Executive Session:

Upon a motion by Commissioner Blanco, second by Commissioner Takeya, it was voted and unanimously carried to enter into Executive Session, pursuant to Section 92-4, at 10:47 a.m. to discuss recovery fund issues with the legal counsel, Sidney Ayabe, and to discuss with the Commission's Deputy Attorney General on issues pertaining to the Commissions powers, duties, privileges, etc.

Upon a motion by Commissioner Takeya, second by Commissioner Blanco, it was voted and unanimously carried to move out of the executive session at 11:10 a.m. and to resume the Commission Meeting.

Recovery Fund:

RAYMOND AND NANCY CHAU VS. ESTER CHU REALTY AND ESTER CHU, CIVIL NO. 81806, FIRST CIRCUIT

The Commission reviewed the recommendation received from the Recovery Fund's attorney, Sidney Ayabe. Commissioner Takeya moved to pay from the Recovery Fund a total of \$25,000.00 for the claim against the licensee. Commissioner Blanco seconded the motion, it was voted and unanimously carried.

HOPPER ENTERPRISES, INC., EDWARD & JOANNE MILBURN VS. PHILIP HENRY, ET AL., CIVIL NO. 7217, SECOND CIRCUIT

The Commission reviewed Consultant Ayabe's recommendation. Commissioner Takeya moved to pay from the Recovery Fund a total of \$30,000.00 for the claim against the licensee, Robert F. Allan. The motion was seconded by Commissioner Blanco, voted and unanimously carried.

HALLMARK PROPERTIES, INC.

The Commission previously reviewed this matter at its May 31, 1984 Meeting with a recommendation for a pro-rata distribution of the balance against the licensee. Claimant Raymond Gakiya appealed the decision for pro-rata distribution. The Appellate Court agreed with the Commission's position of pro-rata distribution.

Commissioner Takeya moved to recommend recovery fund payments as follows:

1. Creighton S. Q. Chang vs. Hallmark Properties, Inc., et al., Civil No. 71125, First Circuit, \$1,555.89
2. Raymond M. Gakiya vs. Hallmark Properties, Inc., et al., Civil No. 70718, First Circuit, \$ 1,649.85
3. Robert P. Mokuau and Dianne K. Mokuau vs. Hallmark Properties, Inc., Civil No. 70707, First Circuit, \$1,583.80
4. Mark T. Yamamura, et al., vs. Hallmark Properties, Inc., Civil No. 64742, First Circuit, \$ 6,967.94
5. Mark T. Yamamura, et al., vs. Hallmark Properties, Inc., Civil No. 64743, First Circuit, \$18,242.52

The motion was seconded by Commissioner Blanco, voted and unanimously carried.

WALTER WONG, dba TRADEWIND REALTY

Commissioner Takeya moved to accept Consultant Ayabe's recommendations as follows:

1. Pay from the Recovery Fund for the two outstanding court orders:
 - a. Satoshi Shiraki, \$5,293.86
 - b. Rose B. N. Tom, \$20,180.60
2. Henry F. Ching vs. Walter Wong, dba Tradewind Realty - File a Motion for Reconsideration. If a Motion for Reconsideration is not granted, file an appeal.

The motion was seconded by Commissioner Blanco, voted and unanimously carried.

DEBORAH ANN CHARBONNEAU VS. ARTHUR MARCELIN, CIVIL NO. 82-604, FIRST CIRCUIT

Commissioner Takeya moved to approve the settlement agreement for \$15,000. Commissioner Blanco seconded the motion, it was voted and unanimously carried.

Deputy Attorney
General's Report:

RE-86-116-11 and RE-86-70-11
WBC CORPORATION, WILLIAM & BEVERLY COX

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, voted and unanimously carried to dismiss the complaint against WBC Corporation and William and Beverly Cox with the Attorney General's Office to inform the parties concerned.

Committee Reports:

EDUCATION COMMITTEE

Upon a motion by Commissioner Blanco, second by Commissioner Kano, it was voted and unanimously carried to accept the recommendations of the October 15 and 30, 1986 Education Committee Meetings as circulated as follows:

1. Solicit bids for Commission Bulletin.
2. In-house drafting/publication of Trust Account brochure.
3. Request to Dean Bess and UH Foundation a general accounting of all expenditures and balances for Real Estate Chair and Research Center. Plus position statement from UH-CBA on Real Estate Chair.
4. Recommended budget for Research Center with deferred items.
5. Russell Wong, new consultant as Assistant Information Officer at the rate of \$1,666.67 per month for three months and \$1,833.33 per month for nine months, one year contract from November 3, 1986.

The preliminary draft of the Hawaii Association of Realtors Educational Calendar was distributed by Eileen Luko.

The next Education Committee Meeting will be on November 25, 1986, after the tentatively scheduled public hearing and the Laws and Rules Review Committee Meeting.

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Blanco, seconded by Commissioner Yanagawa, it was voted and unanimously carried to accept the recommendations as follows:

1. For broker experience requirement, the ten transactions submitted shall have been completed through applicant's Hawaii principal broker or broker-in-charge.
2. Neighbor island commissioners to hold informal discussions on new agency rules prior to Honolulu Public Hearing and submit feedback to the formal hearing.
3. Accept Jack Rolls proposal for the "pertinent facts study" for \$4,000.00 plus gross excise tax.
4. Refer back to Laws and Rules Committee issue on definition of "person" under Chapter 467-2 Exceptions, HRS and whether this includes corporations. In addition, the circumstances that a licensee can be employed by the "person" under the "Exception."

Licensing:

Ratification of Corporations, Branch Offices and Tradenames

The Executive Secretary informed the Commission that based on a July 19, 1983 PVL policy, the Commission need not ratify corporations, branch offices, and tradenames. The list is distributed for information only.

Restorations:

| | |
|--------------------|----------|
| Beltran, Pedro | Salesman |
| Daygee, David | Salesman |
| Garcia, Stephen G. | Salesman |
| Kim, Moonie Y. H. | Salesman |
| Kraft, James S. | Broker |
| Kurosaki, Alvin A. | Broker |
| Loo, Daniel V. | Salesman |
| Smith, John H. | Salesman |
| Sue, Harold K. O. | Salesman |
| Tripp, Anson A. | Salesman |
| Umetsu, Eric S. | Salesman |
| Ward, James S. | Salesman |
| Wong, John J. H. | Broker |

After a review of information submitted by the applicants, a motion was made by Commissioner Damron, seconded by Commissioner Yanagawa, voted and unanimously carried to have the real estate

license of those listed above restored upon producing evidence of successfully completing a Commission-approved real estate course.

JOSEPH N. DONAGHY II Salesman

After a review of the information submitted by the applicant, Commissioner Damron moved, Commissioner Yanagawa seconded the motion, it was voted and unanimously carried to approve restoration of license upon successfully passing the real estate examination.

PATRICK ELISARY Salesman

After a review of the information submitted by the applicant, Commissioner Blanco moved, Commissioner Yanagawa seconded the motion, it was voted and unanimously carried to approve restoration of license upon successfully completing the required real estate courses.

ROBERT C. FREITAS, JR. Salesman

After a review of the information submitted by the applicant, Commissioner Damron moved, Commissioner Blanco seconded the motion, it was voted and unanimously carried to approve restoration of license upon successfully passing the real estate examination.

ALICE D. JURGENSEN Broker

After a review of the information submitted by the applicant, Commissioner Damron moved, Commissioner Blanco seconded the motion, it was voted and unanimously carried to approve restoration of license upon successful completion of a Commission-approved course.

PAULA MONSEY Salesman

After a review of the information submitted by the applicant, Commissioner Blanco moved, Commissioner Yanagawa seconded the motion, it was voted and unanimously carried to approve restoration of license upon successfully passing the real estate examination.

SYLVESTER PEROS, JR. Salesman

After a review of the information submitted by the applicant, Commissioner Blanco moved, Commissioner Yanagawa seconded the motion, it was voted and unanimously carried to approve restoration of license upon successfully passing the real estate examination.

Old Business:

ZOEVAE HOLI HOLIDAE Broker

Applicant was previously ordered to take a RECCAL course.

After review of the information submitted by the applicant, Commissioner Damron moved, Commissioner Kano seconded the motion, it was voted and unanimously carried to approve restoration of license upon successful completion of a Commission-approved real estate course or submission of proof of having taken and completed a GRI course.

DAVID P. HUFFMAN

Applicant was previously ordered to take the RECCAL course and requested that he be able to substitute with the examination.

After review of the information submitted by the applicant, Commissioner Blanco moved, Commissioner Yanagawa seconded the motion, it was voted and unanimously carried to approve restoration of license upon successfully passing the real estate examination.

Questionable Applications:

LB JR, Ltd., dba Help-U-Sell of Hawaii

Upon review of the information provided by applicant, Commissioner Yanagawa moved, Commissioner Damron seconded, it was voted and unanimously carried to deny application because the name contains the initials of the officers of the corporation who have salesmens license.

MARYL DEVELOPMENT, INC.

Upon review of the information provided by applicant, Commissioner Damron motioned, Commissioner Yanagawa seconded, it was voted and unanimously carried to approve the application for corporate license.

RICHARD H. KUITNEN

Commissioner Takeya was excused due to possible conflict of interest.

Mr. Kuitnen provided oral testimony.

This matter was deferred to the next meeting due to a lack of quorum. Chairman Morris left the meeting at 11:45 a.m. at which time Vice-Chairman Takeya presided over the meeting.

RICHARD J. HIDALGO

Upon review of the information submitted by the applicant, Commissioner Yanagawa moved, Commissioner Kano seconded the motion, it was voted and unanimously carried to deny application for broker experience certificate because the ten transactions did not go through a principal broker.

CRAIG T. BURRELL

Upon review of the information presented by the applicant, Commissioner Blanco moved, Commissioner Damron seconded the motion, it was voted and unanimously carried to approve the application for a salesman's license.

RALPH C. HEDGES

Upon review of the information presented by the applicant, Commissioner Damron moved, Commissioner Kano seconded the motion, it was voted and unanimously carried to approve the application for the salesmans license.

KENT B. HARRISON

Upon review of the information presented by the applicant, Commissioner Damron moved, Commissioner Kano seconded the motion, it was voted and unanimously carried to deny application for salesmans license as applicant did not submit complete application with 90 days of the examination as his fee check had bounced.

Miscellaneous:

NAR Convention

Upon a motion by Commissioner Blanco, second by Commissioner Damron, it was voted and unanimously carried to pay for Chairman Morris's per diem to attend the National Association of Realtors Convention in New York.

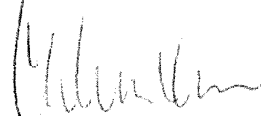
Adjournment:

With no further business to discuss, the meeting was adjourned at 12:45 p.m.

Respectfully submitted,


Irene S. Kotaka, Secretary

Reviewed and approved:


Calvin Kimura, Executive Secretary

11/20/86
Date