

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, March 20, 1987

Time: 9:15 a.m.

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

Present: G. A. "Red" Morris, Chairman
Joseph Blanco, Member
Gloria J. Damron, Member
Douglas Sodetani, Maui Member
Constance Smales, Public Member
Michele Matsuo, Public Member
Peter Yanagawa, Member

Calvin Kimura, Executive Secretary
Cynthia Yee, Information Officer
Irene Kotaka, Secretary
Grant Tanimoto, Deputy Attorney General
Virginia Lea Crandall, Hearings Officer
Richard Marshall, RICO Attorney
Gary W. K. Au Young, Recovery Fund Attorney

Eileen Luko, HAR Education Director
Steve Gilbert, Real Estate Research and Education Center, Acting Director
Brian Thomas, Honolulu Board of Realtors Liaison
Barbara Dew, HAR President-Elect
John Ramsey, Consultant
Ira Gordon, Licensee
Ralph LaFountaine, Licensee's Attorney

Excused: Yukio Takeya, Hawaii Member
Yoshiko Kano, Kauai Member

Call to Order: The meeting was called to order at 9:15 a.m. by Chairman G. A. "Red" Morris. Quorum was established.

Approval of
Minutes:

The minutes of the February 26, 1987 Public Hearing and the February 27, 1987 Commission Meeting were distributed to the members for their review prior to the meeting.

Upon a motion by Commissioner Sodetani, second by Commissioner Damron, the Commission unanimously approved the minutes of the February 26, 1987 Public Hearing and the February 27, 1987 Commission Meeting as circulated.

The motion was voted on and unanimously carried.

Additions to
Agenda:

Restoration - Over 2 years

Jeannie Anderson
Thomas Q. Woo

Commissioner Blanco moved to add the applications listed above to the agenda. Commissioner Matsuo seconded the motion. The motion was voted and unanimously carried.

Hearings Officer's
Reports:

IRA GORDON, RE-84-229 - Oral
Argument on State Motion for Reconsideration

Ira Gordon and his attorney, Ralph LaFountaine were present to present Oral Arguments. Richard Marshall, RICO Attorney, was present to present oral arguments on behalf of the State.

Mr. Marshall requested a motion for reconsideration based on the amount of evidence in support of the violation of Section 16-33-3(c), which is the failure to ascertain and disclose pertinent facts. Mr. Marshall stated that the findings of fact proved that the respondent committed a violation in not getting the dual representation in writing. Mr. Marshall cited a recent settlement agreement in the matter of Catherine Aiu, where the respondent failed to inform clients of dual representation in writing.

Mr. Marshall also informed the Commission of an article written up in the Hawaii Legal Reporter which stated that the Commission had dismissed charges against a real estate agent who had failed to obtain a written consent from both parties before representing them. Mr. Marshall also stated that if the Commission felt that the sanctions were too excessive in the circumstances where all parties were informed of the dual representation, he suggested finding a violation but imposing little or no sanctions.

Mr. Ralph LaFontaine represented the respondent, Mr. Gordon. Mr. LaFontaine stated that their position was and is that there was no dual representation. He also stated that he was not aware of the Catherine Aiu case.

Commissioner Damron asked Mr. Marshall if a licensee could represent a purchaser in one transaction and at another time represent that person as a buyer. Mr. Marshall responded that there should be no problems with brokers or salespersons in different capacities in separate transactions as long as the transactions are not interrelated.

Commissioner Sodetani asked Mr. Marshall if the settlement agreements approved by the Commission sets a precedent. Mr. Marshall stated that while not as persuasive as a decision, it is assumed that the Commission reviewed the agreement and approved it. The Hearings Officer, Lea Crandall, later clarified the difference between a settlement agreement and a final order. She stated that precedent is set by cases that go to a hearing where the facts are discussed and the law is stated. Past settlement agreements are used as a basis for determining sanctions but they do not set a precedent.

Chairman Morris asked if Mr. Gordon had represented himself as an investment counselor and if it was stated on his business card. Ms. Crandall produced an exhibit of Mr. Gordon's business card which stated, "Investment Counselor."

Commissioner Damron moved to deny the motion for reconsideration. Commissioner Sodetani seconded the motion. The motion was voted on and carried. Chairman Morris opposed the motion.

THOMAS M. LUNSFORD, RE 86-163
SETTLEMENT AGREEMENT

Commissioner Sodetani moved to accept the settlement agreement of a \$1,500 fine, with \$1,000 suspended if the balance of the restitution is made within 30 days. Commissioner Blanco seconded the motion. The motion was voted and unanimously carried.

Committee Reports:

EDUCATION COMMITTEE

Upon a motion by Commissioner Blanco, second by Commissioner Sodetani, it was voted and unanimously carried to accept the following recommendations of the March 11 and 19, 1987 Education Committee Meetings as circulated:

1. Approve that staff reconcile its internal record keeping of the Education Fund income and expenses with DCCA's fiscal records as of December 31, 1986; authorize Commissioner Yanagawa to be responsible for monitoring and coordinating the Commission's internal education fund accounting with the DCCA's fiscal department records and to retain the necessary professionals towards these ends.
2. Approve in concept a visual presentation campaign (including video, advertisements, brochures, public service announcements) for education on the agency issue and that the Education Committee Chairman is authorized to select, retain and expend up to \$50,000 of the education fund for the services of a media or public relations firm to coordinate the visual presentation.

3. Approve the amendment to Dr. Robert Allen's existing contract relating to the formation of the Commission's Five Year Plan, include compensation for additional services for a written report to the Commission, relating to the findings of the curriculum committee, in the amount up to \$2,500 at \$30.00/hour.
4. Approve payment of a daily \$50.00 honorarium or subsidy to each licensing exam item writer for the April 8, 9, and 10 writing session.
5. Approve increased funding request from the Research Center for additional contract research and research materials in the amount of \$10,706.38. The amount is subject to the Center providing the Commission with written information on the Center's itemized expenses and budget.
6. Approve not publishing the schools' passing rates until such time as ETS institutes a different procedure for encoding school codes on the answer sheet.

Commissioner Damron moved to require the Real Estate Research and Education Center to submit their program of work and budget by June 15, 1987 for consideration at the annual symposium. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, second by Commissioner Smales, it was voted and unanimously carried to accept the following recommendations of the March 19, 1987 Laws and Rules Review Committee Meeting as follows:

1. Approve Commissioner Blanco's developing a specific proposal and meeting with the media companies to solicit bids to coordinate dissemination of information on the new agency law and rules.

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2. Approve the definitions of "subagent" and "buyer's agent" and include it in the agency rules.
3. Approve retroactive pay increase as stipulated in Russell Wong's contract since he has performed satisfactorily during the probationary period as stipulated in his contract.
4. Approve the following travel:
 - a. April 29, 1987 to May 1, 1987, Las Vegas, Nevada, NARELLO Director's Meeting - Red Morris and Joseph Blanco
 - b. May 12 - 15, 1987, Princeton, New Jersey, ETS Annual Meeting - Joseph Blanco and Calvin Kimura
 - c. May 20 - 22, 1987, Chicago, Illinois, REEA Annual Conference - Cynthia Yee and Constance Smales
 - d. May 26 - 29, 1987, San Francisco, California, NARELLO Western District Conference - Red Morris, Yukio Takeya, Peter Yanagawa, Michele Matsuo, Yoshiko Kano, and Calvin Kimura

SUNNYVALE BOARD OF REALTORS VS. DENNIS MORENO, CIVIL NO. 618897, SUPERIOR COURT, CALIFORNIA

Commissioner Sodehani moved to authorize Chairman Morris to work with Sidney Ayabe, Esq., to determine how the Commission should enter into the above-mentioned case as a friend of the court and Commissioners Damron, Smales, and Yanagawa were appointed to the subcommittees to look into the source of funding. Commissioner Matsuo seconded the motion. The motion was voted on and unanimously carried.

MISREPRESENTATION AND PERTINENT FACTS SEMINAR

The Executive Secretary reported on the Misrepresentation and Pertinent Facts Seminar. Over 50 people attended the Kauai seminar, over 100 people attended the Maui seminar, and over 75 people attended the seminar in Hilo. There are currently 600 people signed up to attend the seminar on Oahu with an anticipated 800 in attendance. In order to maintain the quality and control of the seminar, enrollment will be limited. The Commission may, at another date, schedule another seminar.

Licensing:

Restorations:

Ardo, Carolyn M.	Salesman
Carr, Clarke	Salesman
Fujii, Rod N.	Broker
Kurashige, Irwin M.	Salesman
Reindollar, Charles	Broker

After a review of the information submitted by the applicants, Commissioner Sodetani moved that restoration of license be approved upon successfully passing the respective examinations. Commissioner Blanco seconded the motion. The motion was voted on and unanimously carried.

Topliss, Larry T.	Broker
McCormack, Jeanene J.	Salesman

After a review of the information submitted by the applicants, Commissioner Yanagawa moved that restoration of license be approved upon producing evidence of successful completion of the "How to Avoid Misrepresentation and Non-Disclosure of Pertinent Facts" Seminar and the "Agency Disclosure--How to Comply with the New Law" Seminar. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

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Anderson, Jeannie Broker

Commissioner Smales was excused from the discussion.

After a review of the information submitted by the applicant, Commissioner Yanagawa moved that restoration of license be approved upon producing evidence of successful completion of the "How to Avoid Misrepresentation and Non-Disclosure of Pertinent Facts" Seminar and the "Agency Disclosure--How to Comply with the New Law" Seminar. Commissioner Sodetani seconded the motion. The motion was voted on and carried.

Commissioner Smales returned to the meeting.

Harrell, Clifford W. Salesman

After a review of the information submitted by the applicant, Commissioner Blanco moved that restoration of license be approved upon successfully passing the salesman's examination. Commissioner Yanagawa seconded the motion. The motion was voted on and unanimously carried.

Caldito, Richard Salesman

Commissioner Sodetani was excused from the discussion.

After a review of the information submitted by the applicant, Commissioner Blanco moved that restoration of license be approved upon successfully passing the salesman's examination. Commissioner Yanagawa seconded the motion. The motion was voted on and carried.

Commissioner Sodetani returned to the meeting.

Crew, Richard P. Broker

After a review of the information submitted by the applicant, Commissioner Blanco moved that restoration of license be approved upon producing evidence of successful completion of the "How to Avoid

Misrepresentation and Non-Disclosure of Pertinent Facts" Seminar and the "Agency Disclosure--How to Comply with the New Law" Seminar. Commissioner Yanagawa seconded the motion. The motion was voted on and unanimously carried.

Soares, Virginia Salesman

After a review of the information submitted by the applicant, Commissioner Blanco moved that restoration of license be approved upon producing evidence of successfully completing a Commission-approved real estate course. Commissioner Yanagawa seconded the motion. The motion was voted on and unanimously carried.

Woo, Thomas Q. Salesman

After a review of the information submitted by the applicant, Commissioner Blanco moved that restoration of license be approved upon producing evidence of successfully completing a Commission-approved real estate course. Commissioner Yanagawa seconded the motion. The motion was voted on and unanimously carried.

QUESTIONABLE APPLICATIONS

U. Yamane, Limited

After a review of the information submitted by the applicant, Commissioner Blanco moved that the application for corporation be approved. Commissioner Yanagawa seconded the motion. The motion was voted on and unanimously carried.

Lawrence Penfold

After a review of the information submitted by the applicant, Commissioner Blanco moved that the salesman application be approved due to the repealing of the residency requirement. Commissioner Yanagawa seconded the motion. The motion was voted on and unanimously carried.

Old Business:

MAY MEETINGS

Due to the number of conferences and conventions that the Commissioners will be attending during the month of May, it will be difficult to obtain a quorum. Therefore, the Commission has decided to reschedule the May 28, 1987 Laws and Rules Review Committee Meeting to June 4, 1987. The Commission meeting scheduled for May 29, 1987 has been rescheduled to June 5, 1987. The annual symposium will be held on June 25 and 26, 1987.

Next Meeting:

June 5, 1987, 9:00 a.m.
Exam Conference Room
Second Floor, Kamamalu Building
1010 Richards Street
Honolulu, Hawaii


Adjournment:

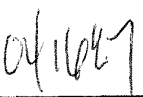
With no further business to discuss, Chairman Morris adjourned the meeting at 12:05 p.m.

Respectfully submitted,


Irene S. Kotaka, Secretary

Reviewed and approved:


Calvin Kimura, Executive Secretary


Date