

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

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, August 28, 1998

Time: 9:00 a.m.

Place: Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Present

Alvin Imamura, Chair
Nora Nomura, Vice Chair
Charles Aki, Member
Michael Ching, Member
Alfredo Evangelista, Member (Late Arrival)
Mitchell Imanaka, Member
Helen Lindemann, Member (Early Departure)
John Ohama, Member

Calvin Kimura, Supervising Executive Officer
Christine Rutkowski, Executive Officer
Pamela Garrison, Senior Real Estate Specialist
Lee Ann Teshima, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Camille Chun-Hoon, Condominium Specialist
Gina Watumull, Condominium Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Erica Piccolo, Special Deputy Attorney General
Richard Marshall, Hearings Officer
Jordan Wagner, RICO Attorney
Glenn Honda, Attorney for Janlu Takane and Princess Properties & Management, Inc. dba
USA-International Realty
Kenneth M. Rothman
John G. Gates
Stewart Stabley
Philip Leas
Nam Soon Joun

Excused: Iris Okawa, Member

Call to Order: The Chair called the meeting to order at 9:08 a.m., at which time quorum was established.

Chair's Report: No report was presented.

Executive Officer's Report: **Announcements, Introductions, Correspondence and Additional Distributions**

The oral arguments for the adjudicatory matter of Janlu Takane and Princess Properties & Management, Inc. dba USA-International Realty, REC 94-284-L, will be heard at 9:45 a.m.

Licensing and Registration - Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to ratify the following:

<u>Ratification:</u>	<u>Brokers - Corporations and Partnerships</u>	<u>Effective Date</u>
	Patricia Dillman Realty Inc.	07/15/98
	Patricia Dillman, PB	
	Realty Executives Waimea Inc.	07/09/98
	Downy V. Sylva, PB	
	Island Properties Hawaii, Inc.	08/03/98
	Alice Dianne Jamieson-Feeney, PB	
	<u>Brokers - Sole Proprietor</u>	<u>Effective Date</u>
	Takayoshi Kurokawa, Home Partners USA	07/20/98
	Erlinda P. Lucas, Lucas Realty	07/24/98
	<u>Tradenname</u>	<u>Effective Date</u>
	James Albert Del Rio, Del Rio Realty	07/09/98
	H. Edward Hampton, H. Edward Hampton Broker/Consultant	07/08/98
	Takayoshi Kurokawa, Home Partners USA	07/20/98
	William G. Heaman, Heaman Properties	07/16/98
	Douglas H. Weinstein, Hawaii Suncoast Realty	07/13/98
	<u>Corporation Name</u>	<u>Effective Date</u>
	Coldwell Banker Commercial Pacific Properties, Ltd. (fka CBP, Inc.)	07/10/98
	<u>Site Office</u>	<u>Expiration Date</u>
	Concepts Unlimited, Inc., ERA Concepts Unlimited "1448 Young Street"	02/03/99
	<u>Education Waiver Certificate</u>	<u>Expiration Date</u>
	Tulane E. Ebisu	08/03/99
	John W. MacDougald	08/03/99
	<u>Real Estate Broker Experience Certificate</u>	<u>Expiration Date</u>
	Myron Freeman	07/14/99
	Kim M. Chun	07/17/99
	Carl A. Lindquist	07/28/99
	Joel Johnson	07/28/99
	Barbara B. Diener	07/30/99
	Sean K. Shinshiro	08/05/99
	David L. Shockley	08/05/99
	Melvin S. Nagata	08/05/99
	Ceci C. Freeman	08/10/99
	<u>Real Estate Broker (upgrade)</u>	<u>Effective Date</u>
	Patricia A. Vicente	06/30/98
	Ivan R. Esterle	07/07/98
	Richard S. Cricchio	07/06/98
	Judy A. Stone	07/16/98
	Ramona J. Biho	07/16/98
	Brenda Michelle Mybeck	06/02/98
	Gerardo N. Daguio	07/17/98
	C. Moana Carreira	07/29/98
	James L. Louis	06/23/98
	Sandra M. Komo	07/29/98
	Richard Brown Emery	07/31/98
	John B. St. Germain	08/07/98

Restoration of Forfeited Salesperson's License

Date

Real estate salesperson's license will be restored upon successfully passing one of the two Commission approved courses within six months.

Henry Cho	01/31/99
Barry H. Allison	01/31/99
Allen D. Jackson	02/28/99
Paulette A. Paonessa	02/28/99

Condominium Hotel Operator

Effective Date

Kapalua Land Company, Ltd. The Kapalua Villas	08/12/98
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Licensing - Restoration
of Forfeited Licenses:

Nam S. Joun

Nam S. Joun was asked if she wished to have her application considered in executive session. She declined the offer.

Ms. Joun provided a copy of the letter saying she has taken the Essentials of Finance course and she is willing to take the other two Essentials courses. She would like to request that the Commission immediately grant the restoration of her license and that she be allowed to take the remaining two Essentials courses which will be offered in October and November.

Ms. Joun thanked the Commissioners for allowing her to testify.

Ms. Joun stated that she has been with Realty Five Ltd. since May 1993 to July 31, 1995. She renewed all of her dues and subscriptions. She moved to ILC International Inc. on July 31, 1995. In 1996, she paid her renewal fees which was for her Honolulu Board of REALTORS dues. This resulted in her license not being renewed with DCCA. In July 1998, ILC International Inc. received the list of licensees associated with the company and her name did not appear on the list. Since she was notified of her forfeiture, she has refrained from conducting any real estate activities. She turned over her listings to the principal broker of the company.

She stated that she was informed that if she took the three Essentials courses, she would be allowed to restore her license. The remaining two courses are being offered on October 22 and November 12, 1998. Ms. Joun stated that she was willing to go to the outer island to complete the two Essentials classes if they were being offered sooner. However, they are not. She has completed her three mandatory continuing education ("MCE") courses.

Ms. Joun stated that she is respectfully asking the Commission to continue to allow her to be active in real estate. She is willing to pay the back fees and is willing to take the two remaining Essentials courses when they are available. She stated that it would be an extreme hardship on her and her clients if she had to wait until she completes the three Essentials classes in order to restore her license.

Ms. Joun apologized for the honest, unintentional oversight on her part. She stated that in the current market, 3-1/2 months of inactivity is very hard and it might jeopardize her clients.

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

Ms. Joun requested that the notice listing the associating licensees be sent to the company

in a timely manner, not 1-1/2 years later.

Ms. Joun was informed that the renewal applications are sent out to the licensee's mailing address. If the renewal process is completed, the licensee will receive a pocket card. If the licensee does not receive a pocket card, they should call the Licensing Branch to follow up on their renewal application. In February or March of the new biennium, the Licensing Branch mails out another notice to the principal brokers notifying them of the licensees under their company who have successfully renewed their licenses.

Stewart S. Stabley

Mr. Stabley was asked if he wished to have his application considered in executive session. He declined the offer.

Mr. Stabley stated that he was requesting the restoration of his license based on his education, business background, performance in the industry and the completion of four MCE courses, which he took last month.

Mr. Stabley stated that he had inquired about the Essentials classes, but he was told that they were not available.

In the three years prior to the forfeiture of his license, he was not working in the real estate market. He stated that he had transacted several business transactions which were based upon prior relationships. He stated that he had listed and sold a home in Foster Village, participated in a transaction in the Makaha Villages, participated in a 1031 exchange, and participated as a seller in a transaction in the Waianae area. Mr. Stabley also stated that he would be happy if the Commission allowed him to do what Ms. Joun had requested.

Mr. Stabley was asked when the transactions were completed. Mr. Stabley stated that it occurred in the three years prior to January 1997.

Mr. Stabley was informed that the Commission has two course options available to forfeited licensees. One option would be to complete all three Essentials courses. The other would be to complete the prelicensing course for the appropriate level of licensing. Mr. Stabley stated that he had not looked into that.

In his forfeiture statement, Mr. Stabley had stated that he had made a mistake. Mr. Stabley was asked if he had been aware that his license was to be renewed. Mr. Stabley stated that he was aware that his license needed to be renewed. He stated that the mistake was that he did not complete the MCE courses. Mr. Stabley stated that he had completed the MCE courses required for the current biennium.

Mr. Stabley was informed that he could have renewed his license to an inactive status.

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

Licensing - Questionable Applications:

John G. Gates

John G. Gates was asked if he wished to have his application considered in executive session. Mr. Gates declined the offer.

Mr. Gates stated that his answering "yes" to the question, "Are there any pending law suits, unpaid judgments, outstanding tax obligations or any other type of involuntary liens against you?", caused the processing of his application to be slowed down.

Mr. Gates stated that he owes the Internal Revenue Service quite a bit of money from the operation of a business on the mainland. To solve the problem, he shut down the

business at the end of 1997 and moved to Maui. He is currently working with the IRS on an Offer and Compromise. He stated that he has provided all of the documents to the IRS.

When asked about his current employment, Mr. Gates stated that he is an independent contractor. He has a general excise tax license to do business as a janitorial contractor. He has worked for Bay Realty. He stated that he is on track to pay his first quarterly estimate of the income earned.

Mr. Gates was asked how long has he been employed by Bay Realty. Mr. Gates stated that he has been employed off and on by them since June 1998. Mr. Gates stated that he is self-employed and that he was working with Bay Realty, emptying their trash and answering their telephones, trying to learn whatever he could about real estate.

Mr. Gates was asked what the circumstances were that lead up to the bankruptcy. He stated that in the beginning, he was trying to resolve the situation of the tax debts that caught him off guard. He stated that he was ignorant of the proper filing procedures. Once he acquired the debt, it continued to grow. He stated that he had spoken with the IRS and was informed that he should submit an Offer and Compromise. He stated that he was aware that he had to pay taxes. He stated that he was never able to get a handle on how fast the interest and penalties grow.

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

Kaanapali Beach Properties, Inc.

Kenneth M. Rothman, proposed principal broker, was asked if he wished to have the application of Kaanapali Beach Properties, Inc. considered in executive session. Mr. Rothman declined the offer.

Mr. Rothman stated that he was not sure if he should come to the meeting today. He stated that Real Estate Specialist Teshima has been very helpful in processing the application.

Mr. Rothman distributed copies of his written testimony to the Commissioners for their review.

Mr. Rothman stated that an individual had filed complaints with the Maui Board of REALTORS on arbitration and ethics. The ethics complaint was dismissed. Mr. Rothman stated that when he responded to the complaint, he followed up as much as he could with the Maui Board of REALTORS. The representative of the Board told him, "Not right now, we are very busy."

Mr. Rothman was advised that he should not discuss the pending RICO case as the matter may come up before the Commission at a later date.

Mr. Rothman stated that Kaanapali Beach Properties, Inc. has a huge lease and many obligations. He stated that he had put everything on the line for this. Mr. Rothman stated that he had done a transaction with the Chair this year. He also stated that he has tried to go by the book and to do things right. If the Commission does not approve his application, he might have to sell his business. He stated that he has a large, free-standing business and pays a large rental fee.

Mr. Rothman stated that it was not his intention to demean anyone else. He stated that when he realized that he would have problems with the complainant, he ended his agreement with him in December.

Upon a motion by Commissioner Aki, seconded by Commissioner Ohama, it was voted on

and unanimously carried to take this matter under advisement.

Premier Resorts International, Inc.

Philip J. Leas, proposed principal broker of Premier Resorts International, Inc., was present to answer any questions the Commission may have regarding the applications (real estate broker corporation, condominium hotel operator and condominium managing agent) of Premier Resorts International, Inc. Mr. Leas was asked if he wished to discuss the application in executive session. He declined the offer.

Mr. Leas stated that he did not have any further testimony to add as the information was provided with the application. He would be willing to respond to any questions the Commission may have regarding the application.

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

Chapter 91, HRS,
Adjudicatory Matters:

The Chair called a recess from the meeting at 9:43 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Real Estate Broker's License of Walter T. Nagao, REC 97-119-L

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

In the Matter of the Real Estate Salesperson's License of Yoshiro Kubota, REC 98-3-L

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

In the Matter of the Real Estate Licenses of Kumulani Vacations and Realty, Inc., dba Kumulani Rentals and David William Cudlipp, REC 98-28-L

The Chair recused himself from the meeting. The Vice Chair presided over the meeting.

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

The Chair returned to the meeting and resumed presiding over the meeting.

In the Matter of the Real Estate Broker's License of Virginia E. Acoba, REC 95-239-L

Commissioner Ching recused himself from the meeting.

Upon a motion by Commissioner Ohama, seconded by Commissioner Nomura, it was voted on and carried to accept the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

Commissioner Ching returned to the meeting.

In the Matter of the Real Estate Brokers' Licenses of Janlu M. Takane and Princess

Properties & Management, Inc. dba USA-International Realty, REC 94-284-L

Oral arguments were presented by Jordan Wagner, RICO Attorney, and Glenn Honda, Attorney for the Respondents. Richard Marshall, Hearings Officer, was also present.

The parties presented their oral arguments.

Upon a motion by Commissioner Lindemann, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the Hearings Officer's Findings of Fact, Conclusions of Law and 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 11:32 a.m., pursuant to Chapter 92, HRS.

Executive Session:

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

Committee Reports:

Laws and Rules Review Committee

Upon a motion by Commissioner Ching, seconded by Commissioner Ohama, it was voted on and unanimously carried to accept the report of the August 12, 1998 Laws and Rules Review Committee meeting, as follows:

1. Accept the minutes of the July 8, 1998 meeting.
2. Hawaii Real Estate Research and Education Center Report - **Recommend** that the Reference Manual be offered to the Hawaii Association of REALTORS and if they decline the offer, direct HREREC to destroy the manuals.
3. ARELLO - **Recommend** that Certificates of Appreciation be presented to Steve Francis, Executive Vice-President of ARELLO, and Linda Newman, Administrative Assistant of ARELLO, at the Annual ARELLO Conference to be held in September 1998. The Commission also wishes to convey their congratulations to Mr. Francis and Ms. Newman on their retirement from ARELLO.
4. Budget and Finance Report - RERF - **Recommend acceptance** of the June 30, 1998 Budget and Finance Report for the Real Estate Recovery Fund.
5. Next meeting: Friday, September 18, 1998
10:00 a.m.
Kauai Marriott Resort and Beach Club
3610 Rice Street
Kalapaki Beach, Lihue, Kauai

Education Review Committee

Upon a motion by Commissioner Aki, seconded by Commissioner Lindemann, it was voted on and unanimously carried to accept the report of the August 12, 1998 Education Review Committee meeting, as follows:

1. Continuing Education Administration, Curriculum, Courses, Providers and Instructors - Applications - 1997-1998 Continuing Education Providers, Instructors, and Courses Ratification List - **Recommend Approval** of the following:

<u>Instructor</u> Lloyd K. Sodetani	<u>Effective Date</u> 7/27/98
Elective Course: "Fair Housing"	
Course Categories:	Contracts Condominium Development Real Estate Law & Update
2. Prelicensing Education Administration, Curriculum, Schools, Instructors, and Equivalency - Applications - Century 21 Real Estate School - Prelicense Education School - Change of Ownership - **Recommend Approval** subject to receipt of Certificate of Good Standing and Trade Name Registration from the Business Registration Division.
3. Budget and Finance Report - Real Estate Education Fund, June 1998 - **Recommend Acceptance** of the June 30, 1998 Budget and Finance Report for the Real Estate Education Fund.
4. Next Meeting: **Friday, September 18, 1998**
11:00 a.m.
Kauai Marriott Resort
3610 Rice Street
Lihue, Kauai

Condominium Review Committee

Upon a motion by Commissioner Imanaka, seconded by Commissioner Lindemann, it was voted on and unanimously carried to accept the report of the August 12, 1998 Condominium Review Committee meeting, as follows:

1. Minutes of July 8, 1998 -- **Accept** minutes.
2. HREREC Report
 - a. Hawaii Condominium Bulletin - FY99 Vol. 7, Number 1, to be developed, printed and distributed.
 - b. Webpage - updating.
3. CPR Registration, Public Reports, Extensions Issued -- **Recommend approval** to ratify issuance of effective dates for public reports and extensions for the month of July 1998.
4. CMEF Budget and Finance Report for period ending June 30, 1998 -- **Accept.**
5. Next Meeting: **Friday, September 18, 1998**
1:30 p.m.
Kauai Marriott Resort
3610 Rice Street
Lihue, Hawaii

Neighbor Island Outreach - The next neighbor island outreach will be held on the island of Kauai, on Friday, September 18, 1998, at the Marriott Kauai Resort and Beach Club, 3610 Rice Street, Kalapaki Beach, Kauai, as follows:

- | | |
|------------|---------------------------------|
| 10:00 a.m. | Laws and Rules Review Committee |
| 11:00 a.m. | Education Review Committee |
| 1:30 p.m. | Condominium Review Committee |

The Commissioners have informed staff that they will be responsible for making their own arrangements.

Commissioner Ohama stated that he was approached by licensees who wanted to know why the REC does not give out its fax number. Commissioner Ohama was informed that staff is in the process of developing a policy relating to the receipt and dissemination of faxed materials.

Laws and Rules Review Committee

Hawaii Real Estate Research and Education Center Report - REB staff shall determine if there is interest in using the empty Reference Manual binders within PVL. If PVL is not interested, HREREC may offer the binders to whomever they feel might be interested.

Executive Officer's Report:

Minutes of Previous Meetings

Upon a motion by Commissioner Nomura, seconded by Commissioner Ohama, it was voted on and unanimously carried to accept the minutes of the July 24, 1998 Real Estate Commission meeting as circulated.

Licensing -Restoration of Forfeited License:

Ellen G. Kawata

Salesperson

Commissioner Lindemann recused herself from the meeting.

After a review of the information submitted by the applicant, Commissioner Ohama moved that restoration be approved upon submitting evidence of successfully completing one of the two options of Commission-approved real estate courses. Commissioner Ching seconded the motion. The motion was voted on and carried.

Commissioner Lindemann returned to the meeting.

Nam S. Joun

Broker

After a review of the information presented by the applicant, Commissioner Ching moved to accept the completion of the Essentials of Financing course as fulfilling the requirements for restoration of Nam S. Joun's real estate broker's license. Commissioner Imanaka seconded the motion. The motion was voted on. Commissioners Ching and Imanaka voted in favor of the motion. Commissioners Nomura, Aki, Evangelista, Ohama and Lindemann opposed the motion. The motion died.

After a review of the information presented by the applicant, Commissioner Aki moved that restoration be approved upon submitting evidence of successfully completing one of the two options of Commission-approved real estate courses. Commissioner Evangelista seconded the motion. The motion was voted on and unanimously carried.

Stewart S. Stabley

Broker

Licensing - Questionable Applications:

After a review of the information presented by the applicant, Commissioner Ohama moved that restoration be approved upon submitting evidence of successfully completing one of the two options of Commission-approved real estate courses. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Executive Session:

Upon a motion by Commissioner Evangelista, seconded by Commissioner Ching, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities;".

Commissioner Lindemann was excused from the meeting.

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

Questionable
Applications:

John G. Gates

After a review of the information presented by the applicant, Commissioner Nomura moved to deny John G. Gates' application for a real estate salesperson's license, unless within 60 days the applicant provides proof of payment or a written payment arrangement plan with the IRS and the State of California for the outstanding tax obligations. Commissioner Evangelista seconded the motion. The motion was voted on and unanimously carried.

Luis C. Trevino

After a review of the information submitted by the applicant, Commissioner Ching moved to deny Luis C. Trevino's application for a real estate salesperson's license, unless within 60 days applicant provides proof of payment or a written payment arrangement with the IRS for the outstanding tax obligations. Commissioner Evangelista seconded the motion. The motion was voted on and unanimously carried.

Kaanapali Beach Properties, Inc.

The Chair recused himself from the meeting. Vice Chair Nomura presided over the meeting.

After a review of the information presented by the applicant, Commissioner Ohama moved to approve the real estate corporation application of Kaanapali Beach Properties, Inc. Commissioner Evangelista seconded the motion. The motion was voted on and carried.

The Chair returned to the meeting and resume presiding over the meeting.

Premier Resorts International, Inc.

After a review of the information submitted by the applicant, Commissioner Ohama moved to approve the real estate corporation application, condominium hotel operator registration and condominium managing agent registration of Premier Resorts International, Inc. Commissioner Evangelista seconded the motion. The motion was voted on and unanimously carried.

Choice Realty, Inc., Prudent Investors Choice Realty

After a review of the information submitted by the applicant, Commissioner Ohama moved to approve the request for the extension of the temporary principal broker appointment of Amy Shinsato, with no further extensions to be allowed. Commissioner Evangelista seconded the motion. The motion was voted on and unanimously carried.

Next Meeting:

Friday, September 25, 1998
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 12:12 p.m.

Reviewed and approved by:

Christine Rutkowski, Executive Officer

Date

[] Approved as circulated.
[] Approved with corrections; see minutes of _____ meeting.