

DARIA A. LOY-GOTO 6175  
 WENDY J. UTSUMI 6340  
 Regulated Industries Complaints Office  
 Department of Commerce and Consumer Affairs  
 State of Hawaii  
 Leiopapa A Kamehameha Building  
 235 South Beretania Street, Suite 900  
 Honolulu, Hawaii 96813  
 Telephone: 586-2660

2009 JUL 12 A 9:15  
 2009 JUL -9 A 9:51  
 2009 JUL 28 P 1:10  
 DEPT OF COMMERCE AND CONSUMER AFFAIRS

Attorneys for Department of Commerce  
 and Consumer Affairs

CONTRACTORS LICENSE BOARD  
 DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
 STATE OF HAWAII

In the Matter of the Contractor's Licenses of ) CLB 2005-436-L  
 )  
 A-1 BUDGET PLUMBING, INC., ) SETTLEMENT AGREEMENT PRIOR TO  
 ) FILING OF PETITION FOR DISCIPLINARY  
 and ) ACTION AND BOARD'S FINAL ORDER  
 )  
 DANIEL J. DIAS, )  
 )  
 Respondents. )  
 )  
 )

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SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION  
 FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER

Petitioner, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS'  
 REGULATED INDUSTRIES COMPLAINTS OFFICE (hereinafter "RICO" or "Petitioner"),  
 through its undersigned attorneys, Respondent A-1 BUDGET PLUMBING, INC. (hereinafter  
 "Respondent A-1 Budget"), and Respondent DANIEL J. DIAS (hereinafter "Respondent Dias"),  
 enter into this Settlement Agreement on the terms and conditions set forth below.

A. UNCONTESTED FACTS:

1. At all relevant times herein, Respondent A-1 BUDGET PLUMBING, INC. was licensed by the Contractors License Board (hereinafter the "Board") as a specialty contractor under license number C 15058. The license was issued on or about February 13, 1989. The license will expire on or about September 30, 2010.

2. At all relevant times herein, Respondent Dias was licensed by the Contractors License Board (hereinafter the "Board") as a specialty contractor under license number C 13789. The license was issued on or about September 19, 1986. The license will expire on or about September 30, 2010.

3. At all relevant times herein, Respondent Dias was the Responsible Managing Employee for Respondent A-1 Budget.

4. Respondent A-1 Budget's and Respondent Dias' mailing address for purposes of this action is [REDACTED]

5. RICO received a complaint alleging that Respondents failed to properly perform plumbing work.

6. RICO alleges Respondents failed to properly perform plumbing work and failed to properly supervise plumbing workers.

7. The foregoing allegations, if proven at an administrative hearing before the Board, would constitute violations of the following statute(s) and/or rule(s): Hawaii Revised Statutes ("HRS") § 436B-19(17) (violating laws and rules) and Hawaii Administrative Rules ("HAR") § 16-77-97 (workmanship) and § 16-77-70 (failure to properly supervise).

8. The Board has jurisdiction over the subject matter herein and over the parties hereto.

B. REPRESENTATIONS BY RESPONDENT:

1. Respondents are fully aware that Respondents have the right to be represented by an attorney and voluntarily waive that right.

2. Respondents enter into this Settlement Agreement freely, knowingly, voluntarily, and under no coercion or duress.

3. Respondents are aware of the right to have a hearing to adjudicate the issues in the case. Pursuant to HRS § 91-9(d), Respondents freely, knowingly, and voluntarily waive the right to a hearing and agree to dispose of this case in accordance with the terms and conditions of this Settlement Agreement.

4. Respondents being at all times relevant herein licensed as specialty contractors by the Board acknowledge that Respondents are subject to penalties including but not limited to, revocation, suspension or limitation of the licenses and administrative fines, if the foregoing allegations are proven at hearing.

5. Respondents do not admit to violating any law or rule, but acknowledge that RICO has sufficient cause to file a Petition for Disciplinary Action against Respondents' licenses.

6. Respondents enter into this Settlement Agreement as a compromise of the claims and to conserve on the expenses of proceeding with an administrative hearing on this matter.

7. Respondents agree that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in RICO No. CLB 2005-436-L.

C. TERMS OF SETTLEMENT:

1. Administrative fine. Respondents agree to pay, jointly and severally, a fine in the amount of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). Payment shall be made by

**cashier's check or money order made payable to "DCCA - Compliance Resolution Fund"**

and mailed to the Regulated Industries Complaints Office, Attn: Wendy Utsumi, Esq., 235 S. Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813. Payment of the fine shall be due at the time this fully executed Settlement Agreement is returned to RICO.

2. Restitution. Respondent agrees to pay restitution in the amount of THREE HUNDRED NINETY SIX AND 36/100 DOLLARS (\$396.36) to John Smith Jr. and Diane Smith. Payment shall be made by **cashier's check or money order made payable to "John Smith, Jr. and Diane Smith"** and mailed to the Regulated Industries Complaints Office, Attn: Wendy Utsumi, Esq., 235 S. Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813. Payment of restitution shall be due at the time this fully executed Settlement Agreement is returned to RICO.

3. Failure to Comply with Settlement Agreement. If Respondents fail to fully and timely comply with the terms of this Settlement Agreement as set forth in paragraph(s) C.1 and C.2 above, Respondents' licenses shall be automatically revoked upon RICO's filing of an affidavit with the Board attesting to such failure. In case of such revocation, Respondents shall turn in all indicia of the licenses to the Executive Officer of the Board within ten (10) days after receipt of notice of the revocation. In case of such revocation, Respondents understand Respondents cannot apply for a new license(s) until the expiration of at least five (5) years after the effective date of the revocations. Respondents understand that if Respondents desire to become licensed again, Respondents must apply to the Board for a new license(s) pursuant to and subject to HRS §§ 92-17, 436B-21, and all other applicable laws and rules in effect at the time.

4. Possible further sanction. The Board, at its discretion, may pursue additional disciplinary action as provided by law to include further fines and other sanctions as the Board may deem appropriate if Respondents violate any provision of the statutes or rules governing the

conduct of contractors in the State of Hawaii, or if Respondents fail to abide by the terms of this Settlement Agreement.

5. Approval of the Board. Respondents agree that, except for the representations, agreements and covenants contained in Paragraphs C.6, C.7, C.8 and C.9 below, this Settlement Agreement shall not be binding on any of the parties unless and until it is approved by the Board.

6. No Objection if Board Fails to Approve. If the Board does not approve this Settlement Agreement, does not issue an order pursuant thereto, or does not approve a lesser remedy, but instead an administrative hearing is conducted against Respondents in the Board's usual and customary fashion pursuant to the Administrative Procedure Act, Respondents agree that neither Respondents nor any attorney that Respondents may retain, will raise as an objection in any administrative proceeding or in any judicial action, to the Board's proceeding against Respondents on the basis that the Board has become disqualified to consider the case because of its review and consideration of this Settlement Agreement.


7. Any Ambiguities Shall be Construed to Protect the Consuming Public. It is agreed that any ambiguity in this Settlement Agreement is to be read in the manner that most completely protects the interests of the consuming public.

8. No Reliance on Representations by RICO. Other than the matters specifically stated in this Settlement Agreement, neither RICO nor anyone acting on its behalf has made any representation of fact, opinion or promise to Respondents to induce entry into this Settlement Agreement, and Respondents are not relying upon any statement, representation or opinion or promise made by RICO or any of its agents, employees, representatives or attorneys concerning the nature, extent or duration of exposure to legal liability arising from the subject matter of this Settlement Agreement or concerning any other matter.

9. Complete Agreement. This Settlement Agreement is a complete settlement of the rights, responsibilities and liabilities of the parties hereto with respect to the subject matter hereof; contains the entire agreement of the parties; and may only be modified, changed or amended by written instrument duly executed by all parties hereto.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date(s) set forth below.

DATED: Kailua, Hi, 96734.  
(CITY) (STATE)

  
DANIEL J. DIAS  
Respondent

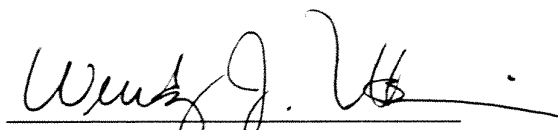
DATED: June, 5, 2009.

A-1 BUDGET PLUMBING, INC.  
Respondent

By: Karen Shih  
Its President

JUN - 9 2009

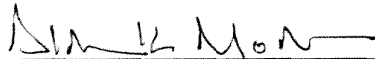
DATED: Honolulu, Hawaii, \_\_\_\_\_.

  
DARIA A. LOY-GOTO  
WENDY J. UTSUMI  
Attorneys for Department of Commerce and  
Consumer Affairs


IN THE MATTER OF THE CONTRACTORS' LICENSES OF A-1 BUDGET PLUMBING,  
INC. AND DANIEL J. DIAS; SETTLEMENT AGREEMENT PRIOR TO FILING OF  
PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER;  
CASE NO. CLB 2005-436-L

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APPROVED AND SO ORDERED:  
CONTRACTORS LICENSE BOARD  
STATE OF HAWAII

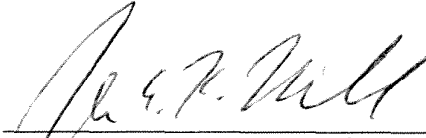
  
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FADY T. ARISUMI  
Chairperson ALDON K. MOCHIDA


JUL 27 2009  
\_\_\_\_\_  
DATE

  
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F. M. SCOTTY ANDERSON  
Vice Chairperson

  
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GUY M. AKASAKI

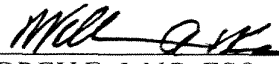
  
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NEAL ARITA

  
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WILLIAM R. BROWN JOHN E. K. DILL

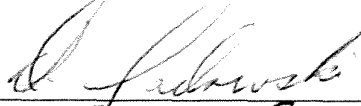
  
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ERIC CARSON

  
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JOSEPH S. KINDRICH, II HAROLD MARTIN

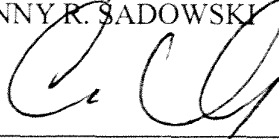
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RANDALL B. C. LAU

  
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AUDREY E. J. NG, ESQ. WILLIAM A. KAMAI

  
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RONALD K. OSHIRO

  
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DENNY R. SADOWSKI

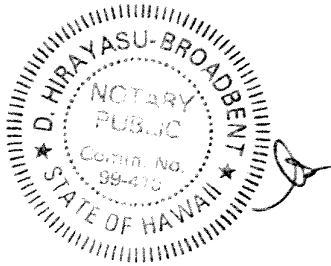
  
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DARYL SUEHIRO

  
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GERALD YAMADA

PVL 07/03/08

STATE OF Hawaii )  
 ) SS.  
City & COUNTY OF Honolulu )

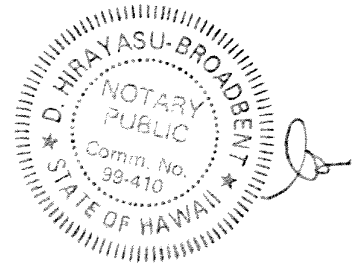
On this 5th day of June, 2009, before me personally appeared  
Daniel J. Dias, to me known to be the person described and who executed the  
foregoing instrument and acknowledged the same as his/her free act and deed.



Name: D. HIRAYASU-BROADBENT  
Notary Public – State of Hawaii

My commission expires: August 22, 2011

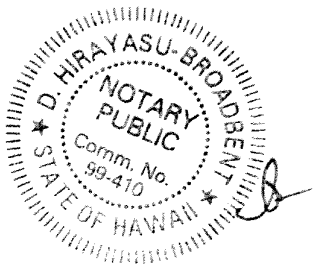
Doc. Date: <u>6/5/09</u>	# Pages <u>6</u>
Notary Name: <u>D. HIRAYASU-BROADBENT</u> First Circuit	
Doc. Description: <u>Settlement agreement</u>	
	<u>6/5/09</u>
Notary Signature	Date

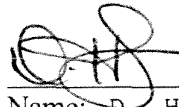




STATE OF Hawaii )  
 ) SS.  
City & COUNTY OF Honolulu )


On this 5<sup>th</sup> day of June 2009, before me personally appeared  
Karen L. Dias, to me known to be the person described, and who executed the  
foregoing instrument on behalf of A-1 BUDGET PLUMBING, INC., as its  
Vice President, and acknowledged that he/she executed the same as  
his/her free act and deed.





Name: D. Hirayasu-Broadbent  
Notary Public, State of Hawaii

My Commission expires: August 22, 2011

Date: <u>6/5/09</u>	# Pages <u>6</u>
Notary Name: <u>D. Hirayasu-Broadbent</u>	First Circuit
Description: <u>Settlement agreement</u>	
 Signature	<u>6/5/09</u> Date

