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 TAMMY Y. KANESHIRO 6287  
 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

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 PROF & VOCATIONAL  
 LICENSING DIVISION

DEPT. OF COMMERCE  
 AND CONSUMER AFFAIRS

2010 MAY 12 P 1: 26

2009 MAY -7 P 1: 46

DEPT OF COMMERCE  
 & CONSUMER AFFAIRS  
 STATE OF HAWAII

HEARINGS OFFICE

Attorney for Department of Commerce  
 and Consumer Affairs

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

DEPT. OF COMMERCE  
 AND CONSUMER AFFAIRS  
 2009 JUN 22 P 12: 17  
 HEARINGS OFFICE

In the Matter of the Contractor's License of ) CLB 2007-509-L and CLB 2008-337-L  
 )  
 SHAWN M.K. HEPFNER, ) SETTLEMENT AGREEMENT PRIOR TO  
 ) FILING OF PETITION FOR DISCIPLINARY  
 Respondent. ) ACTION AND BOARD'S FINAL ORDER  
 )  
 )

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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, and Respondent SHAWN M.K. HEPFNER (hereinafter  
 "Respondent"), enter into this Settlement Agreement on the terms and conditions set forth  
 below.

A. UNCONTESTED FACTS

1. At all relevant times herein, Respondent was licensed by the Contractors License  
 Board (hereinafter the "Board") as a general contractor under license number CT 26564. The

license was issued on or about January 4, 2006. The license will expire on or about September 30, 2010.

2. Respondent's mailing address for purposes of this action is c/o Jeffrey M. Osterkamp, Esq., 1000 Bishop Street, Suite 1200, Honolulu, Hawaii 96713.

3. RICO received complaints alleging, amongst other things, that Respondent failed to follow plans and specifications and started construction before permits were obtained.

4. RICO alleges that Respondent failed to provide required information in contracts, including disclosures, and started construction before permits were obtained.

5. 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") § 444-25.5 (disclosures) and § 444-17(6) (violation of any law), and Hawaii Administrative Rules ("HAR") § 16-77-79 (disclosure to homeowners) and § 16-77-80 (homeowner contracts).

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

B. REPRESENTATIONS BY RESPONDENT:

1. Respondent is fully aware that Respondent has the right to be represented by an attorney and is represented in this matter by Jeffrey M. Osterkamp, Esq.

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

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

4. Respondent being at all times relevant herein licensed as a general contractor by the Board acknowledges that Respondent is subject to penalties including but not limited to, revocation, suspension or limitation of the license and administrative fines, if the foregoing allegations are proven at hearing.

5. Respondent does not admit to violating any law or rule, but acknowledges that RICO has sufficient cause to file a Petition for Disciplinary Action against Respondent's license.

6. Respondent enters 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. Respondent agrees that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in RICO Case Nos. CLB 2007-509-L and CLB 2008-337-L.

C. TERMS OF SETTLEMENT:

1. Administrative fine. Respondent agrees to pay a fine in the amount of ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,500.00). 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: Tammy Kaneshiro, 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. Failure to Comply with Settlement Agreement. If Respondent fails to fully and timely comply with the terms of this Settlement Agreement as set forth in paragraph(s) C.1 above, Respondent's license shall be automatically revoked upon RICO's filing of an affidavit with the Board attesting to such failure. In case of such revocation, Respondent shall turn in all indicia of the license to the Executive Officer of the Board within ten (10) days after receipt of notice of the revocation. In case of such revocation, Respondent understands Respondent cannot apply for a new license until the expiration of at least five (5) years after the effective date of the revocation. Respondent understands that if Respondent desires to become licensed again, Respondent must apply to the Board for a new license pursuant to and subject to HRS §§ 92-17, 436B-21, and all other applicable laws and rules in effect at the time.

3. 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 Respondent violates any provision of the statutes or rules governing the conduct of general contractors in the State of Hawaii, or if Respondent fails to abide by the terms of this Settlement Agreement.

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

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5. 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 Respondent in the Board's usual and customary fashion pursuant to the Administrative Procedure Act, Respondent agrees that neither Respondent nor any attorney that Respondent may retain, will raise as an objection in any administrative proceeding or in any judicial action, to the Board's proceeding against Respondent on the basis that the Board has become disqualified to consider the case because of its review and consideration of this Settlement Agreement.

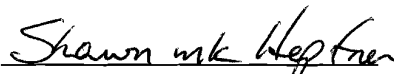
6. Any Ambiguities Shall be Construed to Protect the Consuming Public. It is agreed that any ambiguity in this Settlement Agreement is to be read in the manner that most completely protects the interests of the consuming public.

7. 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 Respondent to induce entry into this Settlement Agreement, and Respondent is 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.


8. 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.

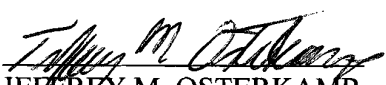
DATED: Honolulu, Hawaii, 5-6-2009.  
(CITY) (STATE)

  
SHAWN M.K. HEPFNER  
Respondent

DATED: Honolulu, Hawaii, 5/7/09.

  
DARIA A. LOY-GOTO  
TAMMY Y. KANESHIRO  
Attorneys for Department of Commerce and  
Consumer Affairs

APPROVED AS TO FORM:

  
JEFFREY M. OSTERKAMP  
Attorney for Respondent

IN THE MATTER OF THE CONTRACTORS LICENSE OF SHAWN M.K. HEPFNER;  
SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY  
ACTION AND BOARD'S FINAL ORDER; CASE NOS. CLB 2007-509-L & CLB 2008-337-L


APPROVED AND SO ORDERED:  
CONTRACTORS LICENSE BOARD  
STATE OF HAWAII

  
TADY T. ARISUMI  
Chairperson

JUN 19 2009  
DATE

  
F. M. SCOTTY ANDERSON  
Vice Chairperson

GUY M. AKASAKI

  
NEAL ARITA

  
WILLIAM R. BROWN

  
ERIC CARSON

JOSEPH S. KINDRICH, II

  
RANDALL B. C. LAU

  
AUDREY E. J. NG, ESQ.

  
RONALD K. OSHIRO

DENNY R. SADOWSKI

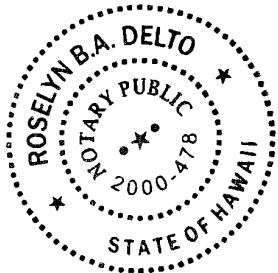
  
DARYL SUEHIRO

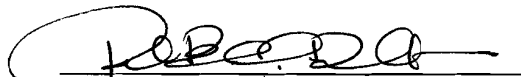
GERALD YAMADA

PVL 07/03/08

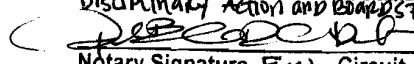
STATE OF Hawaii )  
CITY & ) SS.  
COUNTY OF HONOLULU )

On this 6th day of May, 2009, before me personally appeared  
SHAWN M.K. HEFFNER, 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: ROSELYN B.A. DELTO  
Notary Public - State of Hawaii

My commission expires: 10-01-2012

NOTARY CERTIFICATION See Date: 05/06/2009  
Doc. Description: SETTLEMENT AGREEMENT  
PRIORITIZING OF PETITION FOR # of Pages: 8  
DISCIPLINARY ACTION AND BOARD'S FINAL ORDER  
 05/06/2009  
Notary Signature, First Circuit Notary/Cert. Date  
Printed Name of Notary: ROSELYN B.A. DELTO

