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WENDY J. UTSUMI 6340
Regulated Industries Complaints Office
Department of Commerce and Consumer Affairs
State of Hawaii
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235 South Beretania Street, Suite 900
Honolulu, Hawaii 96813
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LICENSING DIVISION

2009 JUN 16 P 3:25

DEPT OF COMMERCE
AND CONSUMER AFFAIRS
STATE OF HAWAII

DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2009 JUN 15 P 2:11

HEARINGS OFFICE

Attorney for Department of Commerce
and Consumer Affairs

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

HEARINGS OFFICE

2009 JUL 28 P 1:10

DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

In the Matter of the Contractors Licenses of) CLB 2007-549-L
)
WALTER Y. ARAKAKI GENERAL) SETTLEMENT AGREEMENT PRIOR TO
CONTRACTOR, INC.) FILING OF PETITION FOR DISCIPLINARY
) ACTION AND BOARD'S FINAL ORDER;
and) EXHIBIT "1"
)
WALTER Y. ARAKAKI,)
)
Respondents.)
)

241092407

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 WALTER Y. ARAKAKI GENERAL
CONTRACTOR, INC. (hereinafter "Respondent Arakaki General Contracting"), and Respondent
WALTER Y. ARAKAKI (hereinafter "Respondent Arakaki"), enter into this Settlement Agreement
on the terms and conditions set forth below.

A. UNCONTESTED FACTS

1. At all relevant times herein, Respondent Arakaki General Contracting was licensed by the Contractors License Board (hereinafter the “Board”) as a “B” general contractor and a C-42 (roofing) specialty contractor under License Number BC 8024. Until July 25, 2007, Respondent Arakaki General Contracting had also been licensed as an “A” general engineering contractor and C-31 (masonry), C-33 (painting and decorating), and C-51 (tile) specialty contractor. The license was issued on or about November 21, 1975. The license will expire on or about September 30, 2010.

2. At all relevant times herein, Respondent Arakaki was licensed by the Board as a “B” general contractor and a C-42 (roofing) specialty contractor under License Number BC 6640. The license was issued on or about July 20, 1973. The license will expire on or about September 30, 2010.

3. At all relevant times herein, Respondent Arakaki was the Responsible Managing Employee for Respondent Arakaki General Contracting.

4. The mailing address for purposes of this action for Respondent Arakaki General Contracting and Respondent Arakaki (hereinafter collectively referred to as “Respondents”) is c/o Keith M. Kaneshiro, Esq., 770 Kapiolani Boulevard, Suite 715, Honolulu, Hawaii 96813.

5. RICO received information Respondent Arakaki entered into a Plea Agreement based on Respondent Arakaki’s involvement with a bid-rigging scheme involving the State of Hawaii Department of Transportation’s Airports Division. As a result of the Plea Agreement, Respondent Arakaki was placed on probation for three years and fined \$10,000.00. A true and correct copy of the Memorandum of Plea Agreement filed October 9, 2007 in United States of America v. Walter Y. Arakaki (CR. NO. 04-00371 DAE) is attached hereto as Exhibit “1.”

6. RICO alleges that Respondents engaged in professional misconduct.

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") § 444-17(1) (dishonest or deceitful conduct).

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

B. REPRESENTATIONS BY RESPONDENTS:

1. Respondents are fully aware that Respondents have the right to be represented by an attorney and are represented in this matter by Keith M. Kaneshiro, Esq., 770 Kapiolani Boulevard, Suite 715, Honolulu, Hawaii 96813.

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 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 Case No. CLB 2007-549-L.

C. TERMS OF SETTLEMENT:

1. Probation. Respondents' contractor's licenses are hereby placed on probation for a period of five years. During the probationary period, Respondents agree to comply with the following terms and conditions:

2. Administrative fine. Respondents agree to pay, jointly and severally, a fine in the amount of FIVE THOUSAND NO/100 DOLLARS (\$5,000.00). 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, 9th Floor, Honolulu, Hawaii 96813. Payment of the fine shall be due at the time this fully executed Settlement Agreement is returned to RICO.

3. Comply with terms of the criminal probation. Respondent Arakaki agrees to comply and fully satisfy the terms and conditions of probation in United States of America v. Walter Y. Arakaki (CR. NO. 04-00371 DAE).

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4. 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 through C.3 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 new licenses 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 new licenses pursuant to and subject to HRS §§ 92-17, 436B-21, and all other applicable laws and rules in effect at the time.

5. 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.

6. Approval of the Board. Respondents agree that, except for the representations, agreements and covenants contained in Paragraphs C.7, C.8, C.9 and C.10 below, this Settlement Agreement shall not be binding on any of the parties unless and until it is approved by the Board.

7. 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.

8. 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.

9. 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.

10. 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.

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

DATED: Honolulu, Hawaii, May 21, 2009.
(CITY) (STATE)

WALTER Y. ARAKAKI GENERAL
CONTRACTOR, INC.

By: Walter Y. Arakaki
Its _____

DATED: Honolulu, Hawaii, May 21, 2009.
(CITY) (STATE)

Walter Y. Arakaki
WALTER Y. ARAKAKI
Respondent

DATED: Honolulu, Hawaii, JUN 12 2009.

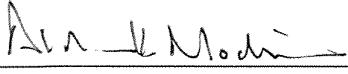
Daria A. Loy-Goto
DARIA A. LOY-GOTO
WENDY J. UTSUMI
Attorneys for Department of Commerce and
Consumer Affairs

APPROVED AS TO FORM:

Keith M. Kaneshiro
KEITH M. KANESHIRO
Attorney for Respondents

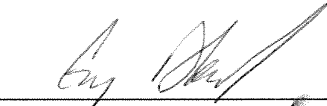
IN THE MATTER OF THE CONTRACTORS' LICENSES OF WALTER Y. ARAKAKI
GENERAL CONTRACTOR, INC. AND WALTER Y. ARAKAKI ; SETTLEMENT
AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND
BOARD'S FINAL ORDER; EXHIBIT "1"; CASE NO. CLB 2007-549-L


APPROVED AND SO ORDERED:
CONTRACTORS LICENSE BOARD
STATE OF HAWAII


TADY T. ARISUMI
Chairperson: ALDON K. MOCHIDA

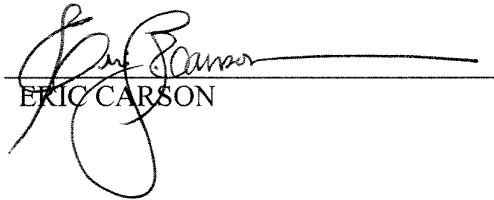
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DATE

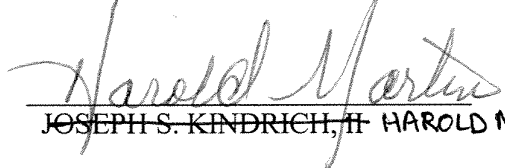

F. M. SCOTTY ARAKAKI
Vice Chairperson


ANACLETO "LITO" GUY AKASAKI
ALCANTRA


NEAL ARITA


WILLIAM R. BROWN JOHN E. K. DILL



ERIC CARSON


JOSEPH S. KINDRICH, II HAROLD MARTIN

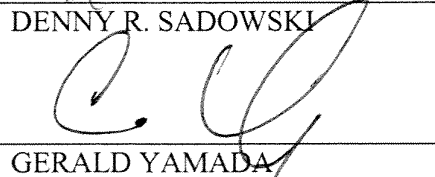
RANDALL B. C. LAU


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


RONALD K. OSHIRO


DENNY R. SADOWSKI


THOMAS B. VINCENT
DARYL SUEHIRO


GERALD YAMADA

PVL 07/05/07

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

On this 21st day of May, 2009, before me personally appeared
Walter Y. Arakaki, to me known to be the person described, and who executed the
foregoing instrument on behalf of Walter Y. Arakaki as
President, and acknowledged that he/~~she~~ executed the same as
his/her free act and deed.

Notary Seal

Nancy Y. Kansaki
Name: Nancy Y. Kansaki
Notary Public, State of Hawaii

My Commission expires: 09-16-2012

NOTARY PUBLIC CERTIFICATION

Nancy Y. Kansaki First Judicial Circuit
Doc. Description: Settlement Agreement Prior
to Filing of Petition for Disciplinary
Action and Board's Final Order
No. of Pages: 8 Date of Doc. 05/21/09

Nancy Y. Kansaki 05/21/09
Notary Signature Date

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

On this 21st day of May, 2009, before me personally appeared
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Notary Seal

Nancy Y. Kansaki
Name: Nancy Y. Kansaki
Notary Public – State of Hawaii

My commission expires: 09-16-2012

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