

DAWNIE ICHIMURA

Regulated Industries Complaints Office

Department of Commerce and Consumer Affairs

State of Hawaii

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Honolulu, Hawaii 96813

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DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

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HEARINGS OFFICE

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Attorney for Department of Commerce
and Consumer Affairs

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

In the Matter of the Contractors' Licenses of) CLB 2012-287-L
)
PACIFIC ISLANDS GROUP, LLC, also) SETTLEMENT AGREEMENT PRIOR TO
known as PACIFIC ISLANDS) FILING OF PETITION FOR DISCIPLINARY
CONSTRUCTION; KEVIN J. KRUSZONA;) ACTION AND BOARD'S FINAL ORDER
DENNIS P. SWART,)
)
Respondents.)

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 ("RICO or "Petitioner"), through its
undersigned attorney, and Respondents PACIFIC ISLANDS GROUP, LLC, also known as
PACIFIC ISLANDS CONSTRUCTION; KEVIN J. KRUSZONA; and DENNIS P. SWART
(collectively, "Respondents"), enter into this Settlement Agreement on the terms and conditions
set forth below.

A. UNCONTESTED FACTS:

1. At all relevant times herein, Respondent PACIFIC ISLANDS GROUP, LLC, also
known as PACIFIC ISLANDS CONSTRUCTION ("Pacific"), was licensed by the Contractors

License Board (hereinafter the “Board”) under license number CT-26375. Pacific’s general engineering and general building licenses were issued on October 24, 2005. Pacific’s C-13 (electrical) license was issued on April 16, 2010. Pacific’s C-42 (roofing) and C-55 (waterproofing) licenses were issued on April 3, 2007. Pacific’s C-60 (solar power system) license was issued on March 28, 2012. All licenses will expire or forfeit on September 30, 2014. PACIFIC ISLANDS CONSTRUCTION is a registered trade name in the State of Hawaii.

2. At all relevant times herein, Respondent KEVIN J. KRUSZONA (“Kruszona”), the Primary Responsible Managing Employee (“PRME”), possessed a B general building contractor’s license under license number CT-29324. The license was issued on October 1, 2008 and will expire or forfeit on September 30, 2014.

3. At all relevant times herein, Respondent DENNIS P. SWART (“Swart”), the Responsible Managing Employee (“RME”), possessed licenses for roofing (C-42), waterproofing (C-55) and solar power systems (C-60) under license number CT-27751. Swart’s C-42 and C-55 licenses were issued on April 3, 2007; Swart’s C-60 license was issued on March 28, 2012. All three licenses will expire or forfeit on September 30, 2014.

4. Respondents’ mailing address for purposes of this action is 1732 Kalani Street, Unit 4, Honolulu, Hawaii 96819.

5. RICO received a complaint alleging that in July of 2011, Respondents entered into a contract with Henry Pundyke, Jr. (“Pundyke”) to replace jalousie windows, do partial roof repair, and install a photovoltaic system on Pundyke’s house.

6. RICO alleges that in entering the aforementioned contract, Respondent failed to: 1) explain in detail the lien rights of all parties performing under the contract, 2) explain the homeowner’s right to demand the bonding on the project, 3) explain how the bond would protect the homeowner or the approximate expense of the bond, and 4) provide notice of the contractor’s

right to resolve alleged construction defects prior to the commencing any litigation under HRS Section 672E-11.

7. Respondents allege that all of their contracts are now in compliance with the laws of the State of Hawaii so as to include disclosure of bond and lien rights.

8. The foregoing allegations, if proven at an administrative hearing before the Board, would constitute violations of the following statutes and/or rules: HRS § 444-25.5(a)(1) (verbal disclosures of lien rights); HRS § 444-25.5(a)(2) (verbal disclosure of bonding rights); HRS § 444-25.5(b)(1) (written disclosure of lien obligations and bonding rights); HRS § 444-25(b)(2) (disclosure of Respondent's Contractor Repair Act rights); Hawaii Administrative Rules ("HAR") § 16-77-79(a)(4) (disclosure of bonding rights); and HAR § 16-77-80(a)(7) (disclosure of lien rights).

9. 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 contractors by the Board acknowledge that Respondents are 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. 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 understand this Settlement Agreement is public record pursuant to Hawaii Revised Statutes chapter 92F.

C. TERMS OF SETTLEMENT:

1. Administrative fine. Respondents agree to pay a fine in the amount of TWO THOUSAND FIVE HUNDRED AND NO/100 U.S. DOLLARS (\$2,500.00). 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: Dawnie Ichimura, Esq., 235 S. Beretania Street, 9th Floor, Honolulu, Hawaii 96813. Payment of the fine shall be due at the time this Settlement Agreement is returned to RICO.

2. 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 C.1 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 their 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 until the expiration of at least five (5) years after the effective date of the revocation.

Respondents understand that if Respondents desire to become licensed again, Respondents 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(s) violates any provision of the statutes or rules governing the conduct of contractors in the State of Hawaii, or if Respondents fails to abide by the terms of this Settlement Agreement.

4. Approval of the Board. Respondents agree 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.

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 Respondents in the Board's usual and customary fashion pursuant to the Administrative Procedure Act, Respondents agree that neither of the Respondents nor any attorney that either Respondent 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.

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.

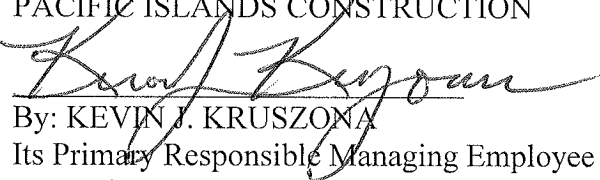
7. No Reliance on Representations by RICO. Other than the matters specifically stated in this Settlement Agreement, neither RICO nor anyone acting on its behalf has made any representation of fact, opinion or promise to Respondents to induce entry into this Settlement Agreement, and Respondents are not 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.

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, 7-22-13.
(CITY) (DATE)

PACIFIC ISLANDS GROUP, LLC
also known as
PACIFIC ISLANDS CONSTRUCTION


By: KEVIN J. KRUSZONA
Its Primary Responsible Managing Employee
and Member
Respondent

DATED: Honolulu, Hawaii, JUL 29 2013.


DAWNIE ICHIMURA
Attorney for Department of Commerce and
Consumer Affairs

IN THE MATTER OF THE CONTRACTORS' LICENSES OF PACIFIC ISLANDS GROUP,
LLC, ALSO KNOWN AS PACIFIC ISLANDS CONSTRUCTION; KEVIN J. KRUSONA;
AND DENNIS P. SWART; SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION
FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER; CASE NO. CLB 2012-287-L

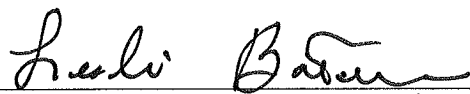
APPROVED AND SO ORDERED:
CONTRACTORS LICENSE BOARD
STATE OF HAWAII



RANDALL B. C. LAU
Chairperson



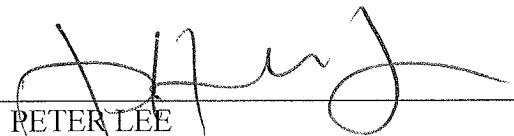
GUY M. AKASAKI
Vice Chairperson



JOHN E. K. DILL LESLIE A. BOTELHO



WILLIAM A. KAMAI



PETER LEE



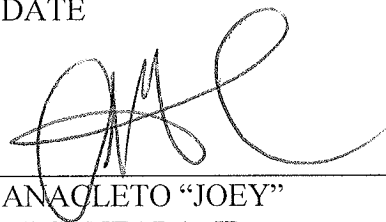
ALDON K. MOCHIDA



DARYL SUEHIRO

AUG 23 2013

DATE



ANACLETO "JOEY"
ALCANTARA, JR.



TYRUS KAGAWA



NATHAN T. KONISHI



KENT MATSUZAKI



JOHN POLISCHECK, JR.

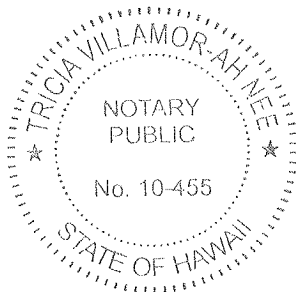



GERALD YAMADA

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 22 day of July, 2013, before me personally appeared KEVIN J. KRUSZONA, to me known to be the person described, and who executed the foregoing instrument on behalf of himself and PACIFIC ISLANDS GROUP, LLC, also known as PACIFIC ISLANDS CONSTRUCTION, as its Primary Responsible Managing Employee and Member acknowledged that he executed the same as his/her free act and deed.

This 8-page "SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER" document dated July 22, 2013 was acknowledged before me by Kevin J. Kruszona this 22 day of July, 2013, in the City of Honolulu, in the County of Honolulu, in the State of Hawaii.




Name: TRICIA VILLAMOR-AHNICE
Notary Public, State of Hawaii
My Commission expires: 12/26/2014