

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

DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2016 APR 25 A 11: 57

HEARINGS OFFICE

RECEIVED
DEPT. OF COMMERCE AND CONSUMER AFFAIRS

2016 APR -5 A 10: 07

DEPT. OF COMMERCE AND CONSUMER AFFAIRS
HEARINGS OFFICE
STATE OF HAWAII

Attorney for Department of Commerce
and Consumer Affairs

BOARD OF ELECTRICIANS AND PLUMBERS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the Plumbers License of) ENP 2013-19-L
)
JOSHUA B. CRAIL,) SETTLEMENT AGREEMENT PRIOR TO
) FILING OF PETITION FOR DISCIPLINARY
Respondent.) ACTION AND BOARD'S FINAL ORDER
)

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 attorney, and Respondent JOSHUA B. CRAIL (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 Board of Electricians and Plumbers (hereinafter the "Board") as a journey worker plumber under license number PJ 10784. The license was issued on or about October 1, 2012. The license will expire or forfeit on or about June 30, 2018.

2. Respondent's mailing address for purposes of this action is P.O. Box 75362, Kapolei, Hawaii 96707.

3. RICO received a complaint alleging that Respondent's former employer, Diamond Head Plumbing, permitted an unlicensed employee to perform "plumbing work," but Diamond Head Plumbing claimed Respondent was the supervising licensed plumber who was not at the project site with the unlicensed worker.

4. Respondent alleges that he was not instructed by his former employer to supervise John Lopez, the unlicensed worker, and Respondent did not agree to supervise the unlicensed plumbing work.

5. RICO alleges that Respondent failed to disclose on his journey worker plumber license application that Respondent had been convicted of a driving under the influence on January 23, 2008.

6. Respondent states that he did not intend to deceive the Board, he thought the question about prior convictions was for felonies (not a misdemeanor), and he has not had any other convictions.

7. The foregoing allegations, if proven at an administrative hearing before the Board, would constitute a violation of Hawaii Revised Statutes ("HRS") § 448E-10(a)(1) (deceit in obtaining a license).

8. 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 voluntarily waives that right.

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

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 journey worker plumber 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 No. ENP 2013-19-L.

8. Respondent understands this Settlement Agreement is public record pursuant to Hawaii Revised Statutes chapter 92F.

C. TERMS OF SETTLEMENT:

1. Administrative Fine. Respondent agrees to pay a fine in the amount of FIVE HUNDRED AND NO/100 U.S. 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 J. Utsumi, Esq., 235 S. Beretania Street, 9th Floor, Honolulu, Hawaii 96813. Payment of the fine shall be due no later than thirty (30) days following Board approval of this Settlement Agreement.

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 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 plumbers 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.

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.

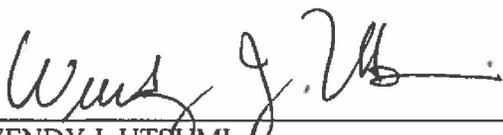
IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date(s) set forth below.

DATED: Honolulu, Hawaii, March 30 2016
(Date)



JOSHUA B. CRAIL
Respondent

DATED: Honolulu, Hawaii, APR - 5 2016



WENDY J. UTSOMI
Attorney for Department of Commerce
and Consumer Affairs

IN THE MATTER OF THE PLUMBERS LICENSE OF JOSHUA B. CRAIL; SETTLEMENT
AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND
BOARD'S FINAL ORDER; RICO CASE NO. ENP 2013-19-L

APPROVED AND SO ORDERED:
BOARD OF ELECTRICIANS AND PLUMBERS
STATE OF HAWAII



PETER L. AKAMU
Chairperson

4/22/16

DATE



MATT BRADY
Vice Chairperson



RANDAL HIRAKI

RANDALL T. KAYA



PHILLIP J. LUCERO



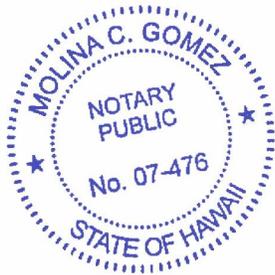
VERNON TA'A

PVL 09/17/15

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

On this 30th day of MARCH, 2016, before me personally appeared JOSHUA B. CRAIL, to me known to be the person described, and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

This 6-page SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER document dated MARCH 30, 2016 was acknowledged before me by JOSHUA B. CRAIL this 30th day of MARCH, 2016, in the City and County of Honolulu, in the State of Hawaii.



Molina C. Gomez
Name: MOLINA C. GOMEZ
Notary Public, State of Hawaii

My Commission expires: 09-16-2019