

PATRICK K. KELLY 7290
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: 808-586-2660

Attorney for Department of Commerce
and Consumer Affairs

MOTOR VEHICLE REPAIR INDUSTRY BOARD
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the Motor Vehicle Repair) ARP 2010-40-L
Salvage Dealer's License and Certified)
Mechanic's License of) SETTLEMENT AGREEMENT AFTER
) FILING OF PETITION FOR DISCIPLINARY
WILLIAM A. SWIDER and AUTO PARTS) ACTION AND BOARD'S FINAL ORDER
SALES, LLC, dba TDK REPAIRS,)
) Administrative Hearings Officer:
Respondents.) Sheryl Lee A. Nagata
)
)

2411042211

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

Petitioner, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS'
REGULATED INDUSTRIES COMPLAINTS OFFICE (hereinafter "Petitioner"), through its
undersigned attorney, and Respondents WILLIAM A. SWIDER and AUTO PARTS SALES,
LLC, dba TDK REPAIRS (hereinafter 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 SWIDER was licensed by the
Motor Vehicle Repair Industry Board (hereinafter the "Board") as a certified mechanic under

RECEIVED
TRAF & VOCATIONAL
LICENSING DIVISION

2016 APR 25 A 11: 58

DEPT OF COMMERCE
& CONSUMER AFFAIRS
STATE OF HAWAII

DEPT OF COMMERCE
AND CONSUMER AFFAIRS
2016 MAY 20 P 12: 49
HEARINGS OFFICE

license number MC 7708. The license was issued on or about February 10, 2003. The license is set to expire on June 30, 2017.

2. At all relevant times herein, Respondent AUTO PARTS SALES, LLC, dba TDK REPAIRS was licensed by the Board as a motor vehicle repair salvage dealer under license number RDS 3735. The license was issued on or about February 21, 2003. The license is set to expire on June 30, 2017.

3. On January 21, 2016, RICO filed a Petition for Disciplinary Action alleging that Respondents submitted certificates of inspection to the Department of Motor Vehicles, City and County of Honolulu for salvage vehicles certifying that Respondents had completed the repairs to the subject vehicles to the manufacturer's specifications. RICO alleges that Respondent did not complete the subject repairs and that the repairs were completed by others in violation of the statutes governing Respondents licenses.

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

B. REPRESENTATIONS BY RESPONDENTS:

1. Respondents are represented by David Minkin, Esq. and Troy Andrade, Esq.

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 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 had sufficient cause to file a Petition for Disciplinary Action against Respondents' licenses.

6. Respondents acknowledge that only the salvage motor vehicle dealer who actually rebuilt/restored a salvaged motor vehicle may sign a certificate of inspection. Respondents acknowledge that they cannot issue a certificate of inspection for vehicles that they did not repair and Respondents agree that they will not issue certificates of inspection for any vehicle that they did not repair.

7. 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.

8. Respondents agree that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in RICO Case No. ARP 2010-40-L.

9. Respondents understand this Settlement Agreement is public record pursuant to Hawaii Revised Statutes chapter 92F.

C. TERMS OF SETTLEMENT:

1. Administrative Fine. Respondents, jointly and severally, agree to pay a fine in the amount of TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). 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: Patrick K. Kelly, 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. 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 their conduct as licensees in the State of Hawaii, or if Respondents fail to abide by the terms of this Settlement Agreement.

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

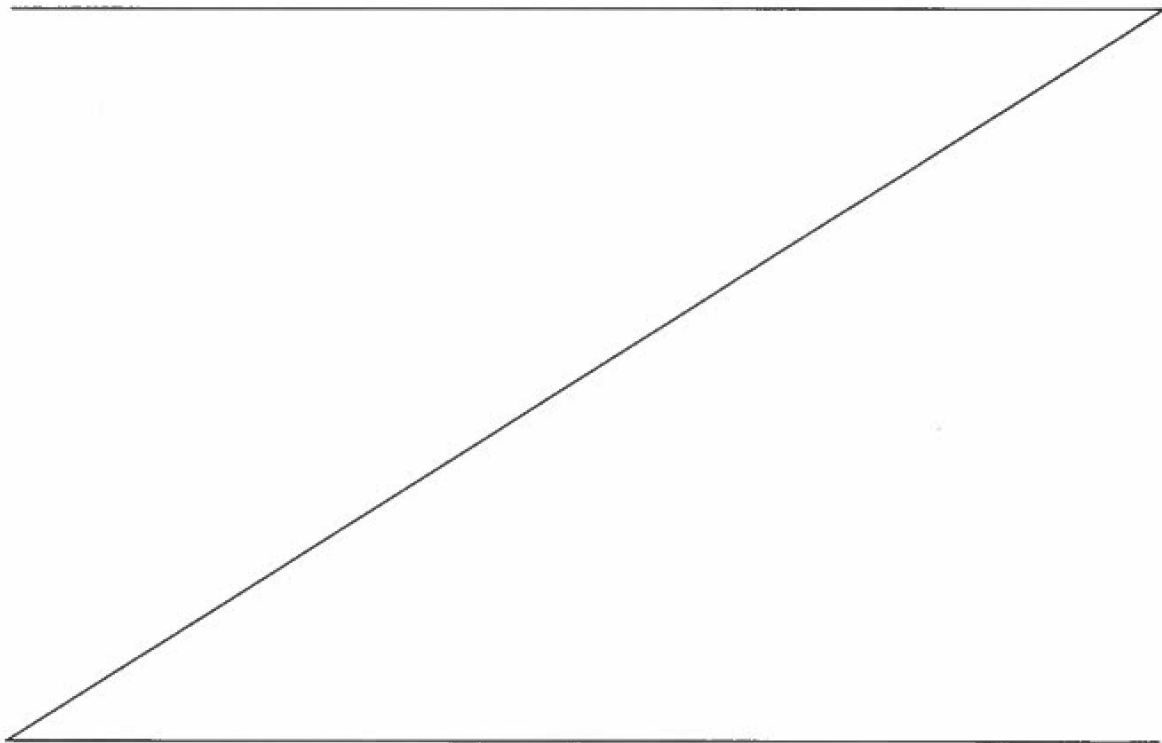
4. No Objection if Board Fails to Approve. If the Board does not approve this Settlement Agreement, does not issue an order pursuant thereto, or does not approve a lesser remedy, but instead an administrative hearing is conducted against Respondents in the Board's usual and customary fashion pursuant 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.

5. 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.

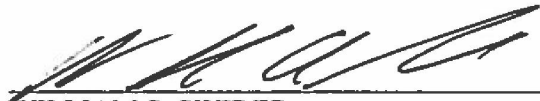
6. No Reliance on Representations by RICO. Other than the matters specifically stated in this Settlement Agreement, neither RICO nor anyone acting on its behalf has made any representation of fact, opinion or promise to Respondents to induce entry into this Settlement Agreement, and Respondents are not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

7. 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, APR 20 2016



WILLIAM S. SWIDER
Respondent

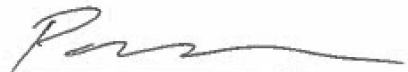
DATED: Honolulu, Hawaii, APR 20 2016

AUTO PARTS SALES, LLC,
dba TDK REPAIRS

By: 


Its managing member
Respondent

DATED: Honolulu, Hawaii, APR 21 2016



PATRICK K. KELLY
Attorney for Department of Commerce
and Consumer Affairs

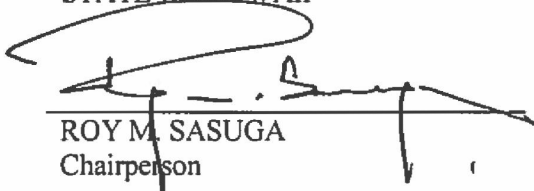
APPROVED AS TO FORM:



DAVID J. MINKIN
TROY J.H. ANDRADE
Attorneys for Respondents

IN THE MATTER OF THE MOTOR VEHICLE REPAIR SALVAGE DEALER'S LICENSE
AND CERTIFIED MECHANIC'S LICENSE OF WILLIAM A. SWIDER AND AUTO PARTS
SALES, LLC, DBA TDK REPAIRS; SETTLEMENT AGREEMENT AFTER FILING OF
PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER;
RICO CASE NO. ARP 2010-40-L

APPROVED AND SO ORDERED:
MOTOR VEHICLE REPAIR INDUSTRY BOARD
STATE OF HAWAII



ROY M. SASUGA
Chairperson



MARIE H. WEITE
Vice Chairperson



MICHAEL TETSUTANI

MAY 19 2016

DATE



ROBERT FIGARO, JR.


PVL 11/18/15

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

On this 20th day of April, 2016, before me personally appeared WILLIAM S. SWIDER, 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 9-page SETTLEMENT AGREEMENT AFTER FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER document dated APR 20 2016, 2016 was acknowledged before me by WILLIAM S. SWIDER this 20th day of April, 2016, in the City and County of Honolulu, in the State of Hawaii.



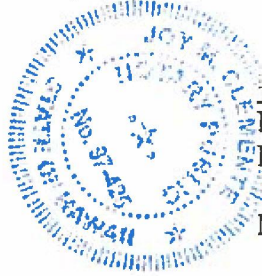

Name: JOY M. CLEMENTE
Notary Public, State of Hawaii

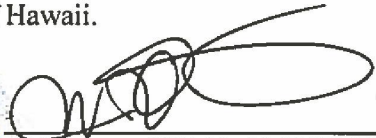
My Commission expires: AUG - 7 2017

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

On this 20th day of April, 2016, before me personally appeared William S. Swidur, to me known to be the person described, and who executed the foregoing instrument on behalf of AUTO PARTS SALES, LLC, DBA TDK REPAIRS as its Managing Member, and acknowledged that he/she executed the same as his/her free act and deed.

This 9-page SETTLEMENT AGREEMENT AFTER FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER document dated APR 20 2016, 2016 was acknowledged before me by William S. Swidur this 20th day of April, 2016, in the City and County of Honolulu, in the State of Hawaii.




Name: JOY M. CLEMENTE
Notary Public, State of Hawaii
My Commission expires: AUG - 7 2017