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Department of Commerce and Consumer Affairs  
State of Hawaii  
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235 South Beretania Street, Suite 900  
Honolulu, Hawaii 96813  
Telephone: 586-2660

DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

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HEARINGS OFFICE

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DEPT. OF COMMERCE  
CONSUMER AFFAIRS  
STATE OF HAWAII

Attorney for Department of Commerce  
and Consumer Affairs

BOARD OF BARBERING & COSMETOLOGY  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the Beauty Shop License of ) BAR 2011-1-L  
)  
HOLLEY D. WARNER, )  
dba LAHAINA HAIR & NAILS, ) SETTLEMENT AGREEMENT PRIOR TO  
) FILING OF PETITION FOR DISCIPLINARY  
) ACTION AND BOARD'S FINAL ORDER  
and the Beauty Operator's License of )  
)  
HOLLEY D. WARNER, )  
)  
Respondents. )  
)

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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 attorney(s), and Respondent HOLLEY D. WARNER dba LAHAINA  
HAIR & NAILS (hereinafter "Respondent Lahaina"), and Respondent HOLLEY D. WARNER  
(hereinafter "Respondent Warner") enter into this Settlement Agreement on the terms and  
conditions set forth below.

A. UNCONTESTED FACTS

1. At all relevant times herein, Respondent Lahaina was licensed by the Board of Barbering & Cosmetology (hereinafter the "Board") as a beauty shop under license number BSH 4625. The license was issued on or about March 11, 2010. The license will expire or forfeit on or about December 31, 2011.

2. At all relevant times herein, Respondent Warner was licensed by the Board as a beauty operator under license number BEO 16301. The license was issued on or about May 30, 2006. The license will expire or forfeit on or about December 31, 2011.

3. Respondent Lahaina's and Respondent Warner's mailing address for purposes of this action is 222 Papalaua Street, Suite 107, Lahaina, Hawaii 96761.

4. RICO issued citations for unlicensed beauty operator activity to two of Respondent Lahaina's employees. Said employees did not have the proper license or permit and were engaged in beauty operator activity at Respondent Lahaina's establishment without being supervised by a licensed beauty operator.

5. RICO alleges that Respondents permitted unlicensed persons to perform activities which require a license.

6. 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") § 439-19(a)(3) (permitting an unlicensed person to perform activities which require a license).

7. 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 a beauty shop and beauty operator 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 agree that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in RICO No. 2011-1-L.

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

C. TERMS OF SETTLEMENT:

1. Proper supervision of any apprentices or temporary permittees. Respondents agree that only properly licensed beauty operators and properly supervised apprentices or temporary permittees are allowed to engage in beauty operator activity in this establishment as required by HRS Chapter 439 and the laws and rules relating to beauty operators and beauty shops.

2. Administrative fine. Respondents agree to pay a fine, jointly and severally, in the amount of FIVE HUNDRED AND NO/100 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: Bobbi W.Y. Lum-Mew, Esq., 235 S. Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813. Payment of the fine shall be due within thirty (30) days from the date this Settlement Agreement is approved by the Board.

3. 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 paragraphs C.1 and C.2 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 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.

4. 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 beauty operators and beauty shops in the State of Hawaii, or if Respondents fail to abide by the terms of this Settlement Agreement.

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

6. 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.

7. 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.

8. 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.

9. 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: Lahaina, Hawaii, 10/27/11.

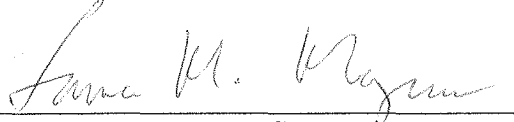
Holly D. Warner  
HOLLY D. WARNER  
Respondent

DATED: Honolulu, Hawaii, OCT 31 2011.

Bobbi W. Lum-Mew  
BOBBI W. LUM-MEW  
Attorney for Department of Commerce and  
Consumer Affairs

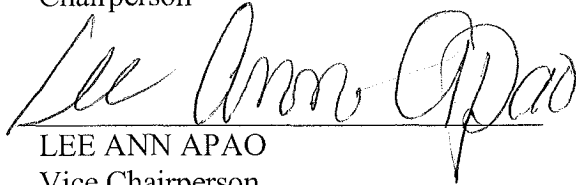
IN THE MATTER OF THE BEAUTY SHOP LICENSE OF HOLLEY D. WARNER DBA LAHAINA HAIR & NAILS AND THE BEAUTY OPERATOR'S LICENSE OF HOLLEY D. WARNER; SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER; CASE NO. BAR 2011-1-L.

APPROVED AND SO ORDERED:  
BOARD OF BARBERING AND COSMETOLOGY  
STATE OF HAWAII

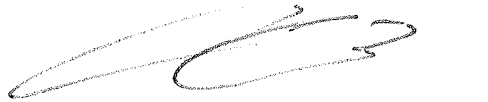


LANCE M. MARUGAME  
Chairperson

February 8, 2012  
Date



LEE ANN APAO  
Vice Chairperson



ALEXANDER B. CHOI



ANGELA HOWARD



CARLA M. MORIOKA

JUNE J. TAKANO

PVL 08/24/11



STATE OF HAWAII

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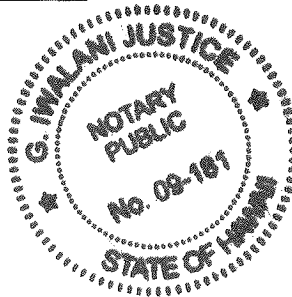
) SS.

COUNTY OF MAUI

)

On this 27 day of OCTOBER, 2011, before me personally appeared HOLLEY D. WARNER, 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 PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION / FINAL ORDER document dated OCTOBER 27, 2011 was acknowledged before me by HOLLEY D. WARNER this 27 day of OCTOBER, 2011, in the City of MAUI, in the County of SECOND CIRCUIT, in the State of Hawaii.



*[Handwritten Signature]*

Name: G. INALANI JUSTICE  
Notary Public, State of Hawaii

My Commission expires: May 17, 2013