

DARIA A. LOY-GOTO 6175 DEPT. OF COMMERCE
 Regulated Industries Complaints Office AND CONSUMER AFFAIRS
 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

2011 FEB 17 P 3:49

HEARINGS OFFICE

RECEIVED
 PROF & VOCATIONAL
 LICENSING DIVISION

2011 FEB -8 P 1:56

DEPT OF COMMERCE
 & CONSUMER AFFAIRS
 STATE OF HAWAII

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 License of) CLB 2008-216-L
)
 HAWAIIAN INDUSTRIAL) SETTLEMENT AGREEMENT PRIOR TO
 STRUCTURES, INC.,) FILING OF PETITION FOR DISCIPLINARY
) ACTION AND BOARD'S FINAL ORDER
 Respondent.)
)

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 attorney, and Respondent HAWAIIAN INDUSTRIAL STRUCTURES,
 INC. (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 CONTRACTORS
 LICENSE BOARD (hereinafter the "Board") as an engineering and general contractor under
 license number BC 27655. The license was issued on or about February 26, 2007. The license
 expired on or about September 30, 2010.

2. Respondent's mailing address for purposes of this action is 111 Keehi Street, Honolulu, Hawaii 96819.

3. RICO received a complaint alleging on or about September 24, 2007, Hawaiian Industrial Structures, Inc. entered into a contract to erect a pre-engineered building structure for Makani Kai Helicopters at the Honolulu International Airport.

4. RICO alleges at the time Respondent entered into the contract neither it, nor its Responsible Managing Employee, was licensed as a specialty C-48 (structural steel) or C-68MI (pre-fabricated metal buildings) contractor.

5. RICO further alleges the September 24, 2007 contract was not signed or initialed by the Responsible Managing Employee for Hawaiian Industrial Structures, Inc.

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") § 436B-19(17) (violating applicable chapter or rules), and Hawaii Administrative Rules ("HAR") § 16-77-71(a)(5) (Responsible Managing Employee responsible for any violation of chapter or rules); § 16-77-33(a) ("A" and "B" licensees shall not act except in specialty classifications licensees holds); and § 16-77-71(a)(2) (Responsible Managing Employee signs or initials all contracts).

7. 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 contractor 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. CLB 2008-216-L.

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

C. TERMS OF SETTLEMENT:

1. Voluntary Surrender of License. Respondent agrees to the voluntary surrender of Respondent's license.

The surrender shall become effective immediately upon the approval of this Settlement Agreement by the Board. Respondent shall turn in all indicia of the license to the Executive Officer of the Board within ten (10) days after receipt of notice that this Settlement Agreement has been approved.

Respondent understands that Respondent shall not apply for a new license until the expiration of at least five (5) years from the effective date of the surrender of the license. 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 all applicable laws and rules in effect at the time.

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 Respondent violates any provision of the statutes or rules governing the conduct of Contractors in the State of Hawaii, or if Respondent fails to abide by the terms of this Settlement Agreement.

3. Approval of the Board. Respondent agrees 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 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.

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 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.

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 THE MATTER OF THE CONTRACTORS LICENSE OF HAWAIIAN INDUSTRIAL
STRUCTURES, INC.; SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR
DISCIPLINARY ACTION AND BOARD'S FINAL ORDER; CASE NO. CLB 2008-216-L

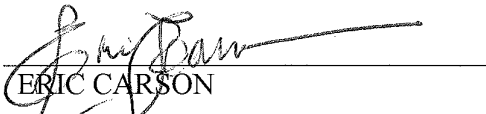
APPROVED AND SO ORDERED:
CONTRACTORS LICENSE BOARD
STATE OF HAWAII



F. M. SCOTTY ANDERSON
Chairperson



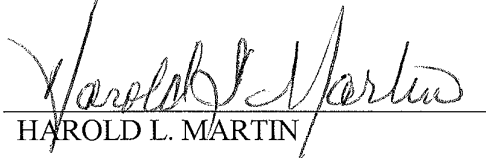
NEAL ARITA
Vice Chairperson



ERIC CARSON



WILLIAM A. KAMAI



HAROLD L. MARTIN



RONALD K. OSHIRO



DARYL SUEHIRO

FEB 17 2011

DATE



GUY M. AKASAKI



JOHN E. K. DILL

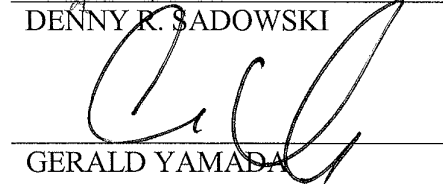
RANDALL B. C. LAU



ALDON K. MOCHIDA



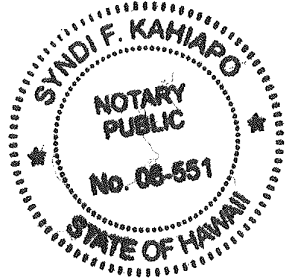
DENNY R. SADOWSKI



GERALD YAMADA

STATE OF Hawaii)
) SS.
City & COUNTY OF Honolulu)

On this 7th day of February 20 11, before me personally appeared
Danny Hayes, to me known to be the person described, and who executed the
foregoing instrument on behalf of Hawaiian Industrial Structures, Inc.
President, and acknowledged that he she executed the same as
his her free act and deed.



Syndi F. Kahiapo
Name: Syndi F. Kahiapo
Notary Public, State of Hawaii

My Commission expires: 9/10/2014

Document Date: <u>2/7/2011</u>	# Pages: <u>8</u>
Notary Name: <u>Syndi F. Kahiapo</u>	First Circuit
Doc. Description: <u>Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order</u>	
Notary Signature: <u>Syndi F. Kahiapo</u>	Date: <u>2/7/2011</u>

