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Regulated Industries Complaints Office  
Department of Commerce and Consumer Affairs  
State of Hawaii  
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CONSUMER AFFAIRS  
STATE OF HAWAII

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Attorney for Petitioner

HEARINGS OFFICE

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

In the Matter of the Contractors' Licenses of ) CLB 2021-234-L  
)  
ATLAS CONSTRUCTION, INC., and ) SETTLEMENT AGREEMENT PRIOR TO  
BRUCE KIM, ) FILING OF PETITION FOR DISCIPLINARY  
) ACTION AND BOARD'S FINAL ORDER  
Respondents. )  
)  
)  
)

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

The Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office (hereinafter "RICO" or "Petitioner"), through the undersigned attorney, and Respondents ATLAS CONSTRUCTION, INC. and BRUCE KIM, (hereinafter collectively "Respondents"), enter into this Settlement Agreement on the terms and conditions set forth below.

A. UNCONTESTED FACTS:

1. Respondent ATLAS CONSTRUCTION, INC. ("Respondent ATLAS") is a domestic for profit corporation.
2. At all relevant times, Respondent ATLAS was licensed by the Contractors License Board (hereinafter "Board") as a "B" general building and "C-37" specialty contractor under license number CT 27277. The original license was issued on or around October 20, 2006. It will expire on or about September 30, 2024, unless timely renewed before that date.
3. At all relevant times, Respondent BRUCE KIM ("Respondent KIM") was licensed by the Board as a "B" general building contractor under license number CT 26418. The license was issued on or about November 3, 2005 and will expire on or about September 30, 2024, unless timely renewed before that date.

4. At all times relevant herein, Respondent KIM was the Responsible Managing Employee (“RME”) of Respondent ATLAS.

5. Respondents’ mailing address for purposes of this action is [REDACTED]

6. Pursuant to Hawaii Revised Statutes (hereinafter “HRS”) Chapters 436B and 444, the Board has jurisdiction over the subject matter, the parties and the licenses herein.

B. RICO ALLEGATIONS:

1. On or about October 31, 2019, Respondent ATLAS entered into a written contract with Kathy Takayama to build a new construction residence at [REDACTED] (“Takayama Project”).

2. The written contract failed to include the names and license numbers of subcontractors to be used on the Takayama Project. However, Respondents subsequently provided the subcontractor information upon request by the homeowner.

3. On or about September 10, 2020, Respondent ATLAS entered a subcontractor agreement with Lilia Construction LLC to grade and level the property and pour the foundation, driveway and sidewalks for payment of \$47,741.12.

4. Professional and Vocational Licensing records show Lilia Construction LLC did not hold a valid, active contractors license at the time of the subcontractor agreement. However, Lilia Eviota, the member/manager of Lilia Construction LLC, did hold an active sole proprietor contractors license at the time of contracting (CT 30877).

5. On or about November 11, 2020, Respondent ATLAS entered into a subcontractor agreement with CJ’s Tile and Marble to install tile and grout at the Takayama Project for payment of \$7,643.10.

6. Professional and Vocational Licensing records show Charles E. Williams II dba CJ’s Tile and Marble previously held a contractors license (CT 29354), but the license expired and was forfeited effective November 30, 2016.

7. RICO alleges Respondent ATLAS subcontracted with unlicensed entities and/or persons to perform work on the Takayama Project that requires a license.

8. RICO alleges Respondent ATLAS failed to list the subcontractors and their license information in the initial contract for the Takayama Project.

9. The above allegations, if proven at an administrative hearing before the Board, could constitute violations of following Hawaii Revised Statutes (“HRS”) and/or Hawaii Administrative Rules (“HAR”):

- HRS § 444-17(17) (entering into a contract with an unlicensed contractor involving work or activity for the performance of which licensing is required under this chapter);
- HAR § 16-77-80(a)(5) (written contract shall include the approximate percentage of work to be subcontracted and the names and license numbers of all subcontractors); and
- HAR § 16-77-71, 16-77-75 (RME responsible for acts and omissions of contracting entity).

C. RESPONDENTS' REPRESENTATIONS:

1. Respondents acknowledge that Respondents have the right to be represented by an attorney and Respondents freely, knowingly and voluntarily waive such right.
2. Respondents enter into this Settlement Agreement freely, knowingly and 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 they agree to dispose of this case in accordance with the terms and conditions of this Settlement Agreement.
4. Respondents do not admit to having violated any law or rule but acknowledge that RICO has sufficient cause to file a Petition for Disciplinary Action against Respondents' licenses.
5. Respondents represent that they were unaware that the subcontractors used on the Takayama Project were not licensed at the time. Respondents represent they no longer use Lilia Construction LLC or CJ's Tile and Marble for work on their projects.
6. Respondents, without admitting any of RICO's allegations, 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, acknowledge and agree that this Settlement Agreement resolves RICO Case No. CLB 2021-234-L as it pertains to the Respondents.
8. Respondents understand that any false or untrue statement or any material misrepresentation or omission of fact by Respondents in this Settlement Agreement may be grounds for further disciplinary action under HRS Chapters 436B and 444.

9. Respondents understand, acknowledge and agree that this Settlement Agreement is a public record pursuant to HRS Chapter 92F.

10. Respondents acknowledge that upon its approval, this Settlement Agreement constitutes disciplinary action.

D. TERMS OF SETTLEMENT:

1. Administrative Fine. Respondents shall jointly and severally pay an administrative fine of FOUR THOUSAND AND NO/100 DOLLARS (\$4,000.00). The fine amount shall be due at the time Respondents return the signed Settlement Agreement to RICO. Payment shall be by **cashier's check or money order made payable to "DCCA - Compliance Resolution Fund"** and mailed or delivered to the Regulated Industries Complaints Office, Attn: Wesley G. Barr, Esq., 235 S. Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813.

2. Failure to Comply with the Settlement Agreement. If Respondents fail to fully and timely comply with the terms of this Settlement Agreement, their licenses shall be revoked automatically upon RICO's filing of an affidavit with the Board attesting to Respondents' failure. Where the licenses have been revoked automatically pursuant to this section then: (a) all indicia of the licenses shall be returned to the Board within ten (10) days after receipt of the notice of revocation; (b) Respondents cannot apply for new licenses until the expiration of at least five (5) years after the effective date of revocation; and (c) if Respondents desire to become licensed again then Respondents must apply to the Board for new licenses pursuant and subject to HRS §§ 92-17(c)(1), 92-17(c)(2), 436B-21, and all other applicable laws and rules in effect at the time.

3. Possible Further Sanction. At its discretion, the Board may pursue additional disciplinary action as provided by law to include further fines and other sanctions deemed appropriate by the Board if in the future Respondents violate any provision of the statutes or rules governing the conduct of contractor licensees in the State of Hawaii or if Respondents fail to abide by the terms of this Settlement Agreement.

4. Acceptance or Approval by the Board. The parties agree that, except for the representations, agreements and covenants contained in paragraphs D.5, D.6, D.7, and D.8 below, the entire Settlement Agreement shall not be final or binding on the parties unless and until it is approved or accepted by the Board.

5. No Objection if the Board Does Not Approve or Accept. If the Board does not approve or accept 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 the Respondents in the Board's usual and customary fashion pursuant to the Hawaii Administrative Procedure Act, HRS Chapter 91, then Respondents agree that neither Respondents nor any attorney that they may retain, will raise as an objection in any administrative proceeding or in any judicial action, the Board's proceeding against Respondents on the basis that the Board

became disqualified to consider the case because of its review and consideration of this Settlement Agreement.

6. Ambiguities Construed to Protect the Public. Any ambiguity in this Settlement Agreement shall be read and interpreted in a manner that most completely protects the interests of the public.

7. No Reliance on Extrinsic Representations. Other than the matters stated specifically in this Settlement Agreement, neither RICO nor anyone acting on RICO's 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 and final 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.

*[Remainder of this page intentionally left blank; signature page follows]*

IN WITNESS WHEREOF, each signatory to this Settlement Agreement hereby represents and warrants that he/she is authorized to execute and deliver this Settlement Agreement in the capacity shown below.

DATED: 2/21/23, Hawaii, Feb 21, 2023  
(Date)

*Bruce Kim*

\_\_\_\_\_  
BRUCE KIM  
Respondent

DATED: 2/21/23, Hawaii, Feb 21, 2023  
(Date)

ATLAS CONSTRUCTION, INC.,  
Respondent

By: *Bruce Kim*  
\_\_\_\_\_  
(Signature)

BRUCE KIM  
\_\_\_\_\_  
Its: *President*

DATED: Honolulu, Hawaii, 3/1/23

*WGB*  
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WESLEY G. BARR  
Attorney for Petitioner

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IN THE MATTER OF THE CONTRACTORS' LICENSES OF ATLAS CONSTRUCTION, INC., AND BRUCE KIM; SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER; RICO CASE NO. CLB 2021-234-L

IN THE MATTER OF THE CONTRACTORS' LICENSES OF ATLAS CONSTRUCTION,  
INC. AND BRUCE KIM; SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION  
FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER;  
RICO CASE NO. CLB 2021-234-L.

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APPROVED AND SO ORDERED:  
CONTRACTORS LICENSE BOARD  
STATE OF HAWAII

*NEAL ARITA*

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NEAL K. ARITA  
Chairperson

3/24/23

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DATE

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JERRY NISHEK  
Vice Chairperson

*Paul K. Alejado*

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PAUL K. ALEJADO

*Clyde T. Hayashi*

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CLYDE T. HAYASHI

*Eric Higashihara*

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ERIC HIGASHIHARA

*Joseph O'Donnell*

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JOSEPH O'DONNELL

*John Polischek, Jr.*

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JOHN POLISCHECK, JR.

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NICHOLAS W. TEVES, JR.

*Maurice F. Torigoe*

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MAURICE TORIGOE