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Department of Commerce and Consumer Affairs
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DEPT OF COMMERCE
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STATE OF HAWAII

DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

Attorney for Petitioner

CONTRACTORS LICENSE BOARD
DEPARTMENT OF COMMERCE AND CONSUMER AFF.
STATE OF HAWAII

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HEARINGS OFFICE

In the Matter of the Contractors' Licenses of) CLB 2022-5-L
)
HD CONSTRUCTION CORPORATION,) SETTLEMENT AGREEMENT AFTER
and HARRY J. DURONSLET, RME,) FILING OF PETITION FOR DISCIPLINARY
) ACTION AND BOARD'S FINAL ORDER
Respondents.)
)
)

SETTLEMENT AGREEMENT AFTER 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 HD CONSTRUCTION CORPORATION and HARRY J. DURSONLET, RME, (hereinafter collectively "Respondents"), enter into this Settlement Agreement on the terms and conditions set forth below.

A. UNCONTESTED FACTS:

1. Respondent HD CONSTRUCTION CORPORATION ("Respondent HD CONSTRUCTION") is a domestic profit corporation.
2. At all relevant times, Respondent HD CONSTRUCTION was licensed by the Contractors License Board (hereinafter "Board") as a "B" general building and "C" specialty contractor with specialties in masonry (C-31) and swimming pool construction (C-49) under license number CT 25269. The original license was issued on or around July 28, 2004 and will expire or forfeit on or about September 30, 2022, unless timely renewed before that date.
3. At all relevant times, Respondent HARRY J. DURONSLET ("Respondent DURONSLET") was licensed by the Board as a "B" general building and "C" specialty contractor with specialties in masonry (C-31) and swimming pool construction (C-49) under

license number CT 22181. The license was issued on or about October 7, 1999 and will expire or forfeit on or about September 30, 2022.

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

5. Respondents’ mailing address for purposes of this action is through its attorney Jonathan J. Chun, Esq., Belles Graham LLP, 3135 Akahi Street, Suite A, Lihue, Hawaii 96766.

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 June 18, 2018, Respondent HD CONSTRUCTION entered into a written contract with Vera Benedek and Russel Josephson for a new off the grid residential construction (“House”) in Kalihiwai Valley, Kauai at a total cost of \$450,000.00 to be completed within 365 days.

2. Respondent DURONSLET signed the contract on behalf of Respondent HD CONSTRUCTION.

3. The written contract failed to include required disclosures of lien and bond rights and the contractor right to repair.

4. As of October 2021, Respondents had not completed construction of the House after being paid in full on the written contract price plus \$160,000.00 in additional payments over the initial \$450,000.00 contract price.

5. RICO alleges Respondent HD CONSTRUCTION failed to include required disclosures in the written contract with Ms. Benedek and Mr. Josephson.

6. RICO alleges Respondent HD CONSTRUCTION failed to complete the project with reasonable diligence after receiving payment of the full sum due under the written contract.

7. RICO alleges Respondent HD CONSTRUCTION abandoned the project without legal excuse when it refused to complete the House and discontinued work in October, 2021.

8. 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(3) (abandonment of construction project without reasonable or legal excuse);

- HRS § 444-17(11) (failure to complete construction project for agreed price if the failure is without legal excuse);
- HRS 444-25.5 (failure to provide consumer with required written disclosures);
- HAR § 16-77-79(a)(5) (failure to disclose approximate percentage of work to be subcontracted and 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 are represented by Jonathan J. Chun, Esq., Belles Graham LLP, 3135 Akahi Street, Suite A, Lihue, Hawaii 96766

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. Respondent HD CONSTRUCTION represents that Ms. Benedek and Mr. Josephson requested change orders and additional work that increased the scope of the project and the costs and expenses of construction, including the installation of the solar system. Respondent HD CONSTRUCTION requested additional sums to complete the construction of the House but, Ms. Benedek and Mr. Josephson refused this request.

6. Respondent HD CONSTRUCTION represents delays in construction were caused by rain and flooding in the remote Kalihiwai Valley during 2018, 2019 and 2020 as well as COVID-19 pandemic emergency rules in 2020.

7. Respondent HD CONSTRUCTION represents that it refunded \$10,000.00 to Ms. Benedek and Mr. Josephson as a good faith gesture and offered to transfer all building permits to their new contractor or to Ms. Benedek and Mr. Josephson as owner-builders to complete the construction.

8. 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.

9. Respondents understand, acknowledge and agree that this Settlement Agreement resolves RICO Case No. CLB 2022-5-L as it pertains to the Respondents.

10. 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.

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

12. 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 TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00). 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, 9th 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 THE MATTER OF THE CONTRACTORS' LICENSES OF HD CONSTRUCTION CORPORATION AND HARRY J. DURONSLET, RME; SETTLEMENT AGREEMENT AFTER FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER; RICO CASE NO. CLB 2021-297-L.

APPROVED AND SO ORDERED:
CONTRACTORS LICENSE BOARD
STATE OF HAWAII



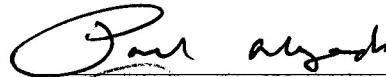
NEAL K. ARITA
Chairperson

OCT 21 2022

DATE



JERRY NISHEK
Vice Chairperson



PAUL K. ALEJADO

CLYDE T. HAYASHI



ERIC HIGASHIHARA

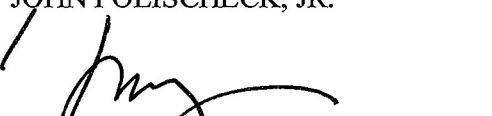


JOSEPH O'DONNELL



JOHN POLISCHEK, JR.

NICHOLAS W. TEVES, JR.



MAURICE TORIGOE.