

PATRICK K. KELLY  
Regulated Industries Complaints Office  
Department of Commerce and Consumer Affairs  
State of Hawaii  
235 S. Beretania Street, 9th Floor  
Honolulu, Hawaii 96813  
Telephone: 586-2660

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DEPT. OF COMMERCE & VOCATIONAL  
LICENSING DIVISION  
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DEPT. OF COMMERCE  
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DEPT OF COMMERCE  
& CONSUMER AFFAIRS  
STATE OF HAWAII

HEARINGS OFFICE

Attorney for Department of Commerce  
and Consumer Affairs

REAL ESTATE COMMISSION  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS  
2006 JUL 28 P 2: 21  
HEARINGS OFFICE

In the Matter of the ) REC 2005-163-L  
Real Estate Salesperson's License of )  
 ) SETTLEMENT AGREEMENT AFTER  
TY EDWARD HARDING, ) FILING OF PETITION FOR DISCIPLINARY  
 ) ACTION AND COMMISSION'S FINAL  
Respondent. ) ORDER  
 )

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

Respondent TY EDWARD HARDING (hereinafter "Respondent"), and the Department of Commerce and Consumer Affairs, through its Regulated Industries Complaints Office (hereinafter "RICO"), through its undersigned attorney, enter into this Settlement Agreement on the terms and conditions set forth below.

A. UNCONTESTED FACTS:

1. Respondent is licensed by the Real Estate Commission (hereinafter the "Commission") as a real estate salesperson under License Number RS 61147. Said license was issued on October 22, 2002 and currently has an expiration date of December 31, 2006.

2. The last known address for Respondent is P.O. Box 12632, Lahaina, Hawaii 96761.

3. On March 2, 2006, RICO filed a Petition for Disciplinary Action Against Real Estate Salesperson's License, alleging that Respondent violated Hawaii Revised Statutes ("HRS") §§ 436B-19(5), 436B-19(8), 467-14(3), 467-14(8), 467-14(20) and 467-20 (hereinafter "Petition").

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

B. REPRESENTATIONS BY RESPONDENT:

1. Respondent is fully aware that he has the right to be represented by an attorney of his choosing in this matter and voluntarily waives that right.

2. Respondent enters into this Settlement Agreement freely and voluntarily and under no coercion or duress.

3. Respondent has been informed of his right to have a hearing to determine the issues in RICO's investigation. Pursuant to HRS § 91-9(d), Respondent voluntarily waives his right to a hearing and agrees to a disposition 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 real estate salesperson by the Commission acknowledges that he is subject to penalties including but not limited to, revocation, suspension or limitation of his license and civil fines, if the allegations in the petition are proven at hearing.

5. Respondent admits to the veracity of the allegations set forth in the Petition and that his acts constitute violations of the following statutes and/or regulations governing the conduct of real estate salespersons licensed in the State of Hawaii: HRS § 467-20 (Filing a

notice, statement or other document that is false or untrue or contains any material misstatement of fact).

6. Respondent states that his failure to disclose his prior misdemeanor convictions on his application for his real estate license was based on incorrect information provided to him regarding what the Commission required to be disclosed. Respondent further states that his failure to disclose was in no way intended to deceive the Commission and contained no malicious intent.

7. 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.

8. Respondent agrees that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in RICO Case No. REC 2005-163-L.

C. TERMS OF SETTLEMENT:

1. Revocation of License. Respondent voluntarily agrees to the revocation of his real estate salesperson's license. Said revocation shall become effective immediately upon the approval of this Settlement Agreement by the Commission. Respondent shall turn in all indicia of his licensure to the Executive Officer of the Commission within ten (10) days after receipt of notice that his license has been revoked. Respondent may at any time apply to the Real Estate Commission for a new license pursuant to and subject to the requirements and conditions set forth in HRS Chapter 467.

2. Possible Further Sanction. The Commission, at its discretion, may pursue additional disciplinary action as provided by law to include further fines and other sanctions as the Commission may deem appropriate if Respondent violates any provision of the statutes or

rules governing the conduct of real estate salespersons in the State of Hawaii, or if Respondent fails to abide by the terms of this Settlement Agreement.

3. Approval of the Commission. 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 Commission.

4. No Objection if Commission Fails to Approve. If the Commission 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 Commission's usual and customary fashion pursuant to the Administrative Procedure Act, Respondent agrees that neither he nor any attorney that he may retain, will raise as an objection in any administrative proceeding or in any judicial action, to the Commission's proceeding against him on the basis that the Commission 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 WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date(s) set forth below.

DATED: MAUI, HI, June, 16, 2006  
(CITY) (STATE)

**/s/ TY EDWARD HARDING**

TY EDWARD HARDING  
Respondent

DATED: Honolulu, Hawaii, **[ June 26, 2006 ]**

**/s/ PATRICK K. KELLY**

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

IN THE MATTER OF THE REAL ESTATE SALESPERSON'S LICENSE OF TY EDWARD HARDING; SETTLEMENT AGREEMENT AFTER FILING OF PETITION FOR DISCIPLINARY ACTION AND COMMISSION'S FINAL ORDER;  
CASE NO. REC 2005-163-1

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REVIEWED AND RECOMMENDED FOR CONSIDERATION:

**/s/ RODNEY A. MAILE**

*for*  
\_\_\_\_\_  
SHERYL LEE A. NAGATA  
Hearings Officer

**[ July 3, 2006 ]**

\_\_\_\_\_  
DATE

APPROVED AND SO ORDERED:  
REAL ESTATE COMMISSION  
STATE OF HAWAII

**/s/ TRUDY I. NISHIHARA**

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TRUDY I. NISHIHARA  
Chairperson

**[ July 28, 2006 ]**

\_\_\_\_\_  
DATE

**/s/ STANELY M. KURIYAMA**

~~IRIS R. OKAWA~~ *Stanley M. Kuriyama*  
\_\_\_\_\_  
Vice-Chairperson

**/s/ LOUIS E. ABRAMS**

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LOUIS E. ABRAMS

**/s/ CAROL MAE A. BALL**

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CAROL MAE A. BALL

**/s/ FRANCES GENDRANO**

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~~KATHLEEN H. KAGAWA,~~  
Ph.D.  
*Frances Gendrano*

**/s/ MARK SUIISO**

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~~STANLEY M. KURIYAMA~~  
*Mark Suiso*

**/s/ MICHELE SUNAHARA LOUDERMILK**

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~~MICHELE SUNAHARA~~  
*LOUDERMILK*

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~~VERN M. YAMANAKA~~  
*Annette Aiona*

PVL 02/08/06

