

DIANE R. CORN 3912-0
 Regulated Industries Complaints Office
 Department of Commerce and
 Consumer Affairs
 State of Hawaii
 Leiopapa A Kamehameha Building
 235 S. Beretania Street, 9th Floor
 Honolulu, Hawaii 96813
 Telephone: (808) 586-2660

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 LICENSING DIVISION

DEPT. OF COMMERCE
 AND CONSUMER AFFAIRS

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DEPT. OF COMMERCE
 AND 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

HEARINGS OFFICE

2005 JUL 29 P 3: 09

DEPT. OF COMMERCE
 AND CONSUMER AFFAIRS

In the Matter of the Real Estate Broker's and)
 Salesperson's Licenses of)
)
 ASSET PROPERTY MANAGEMENT,)
 INC., DEANNA K. HOUGH and JAMES)
 STEPHEN MORGAN,)
)
 Respondent.)
)
)
)

REC 2003-320-L
 SETTLEMENT AGREEMENT AFTER
 FILING OF PETITION FOR
 DISCIPLINARY ACTION AND
 COMMISSION'S FINAL ORDER

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

ASSET PROPERTY MANAGEMENT, INC., and JAMES STEPHEN

MORGAN, (hereinafter "Respondents") and the DEPARTMENT OF COMMERCE AND
 CONSUMER AFFAIRS, by and through its REGULATED INDUSTRIES COMPLAINTS
 OFFICE (hereinafter "RICO"), enter into this Settlement Agreement on the terms and conditions
 set forth below.

A. UNCONTESTED FACTS

1. Respondent Asset Property Management Inc., ("Respondent APM") is licensed by
 the State of Hawaii Real Estate Commission (hereinafter the "Commission") as a real estate

brokerage under License Number RB 16380, issued on July 7, 1993 and due to expire on December 31, 2006. Respondent James Stephen Morgan (“Respondent Morgan”) is licensed as a real estate broker under License No. RB 16211, issued on October 26, 1992 and due to expire on December 31, 2006.

2. The last known address for Respondents APM and Morgan is 369 Huku Li’i Place, Suite 202, Kihei, Hawaii 96753.

3. Respondent Deanna K. Hough (“Respondent Hough”) is licensed by the State of Hawaii Real Estate Commission under License Number RS 56571, issued on October 23, 1997 and due to expire on December 31, 2006.

4. The last known address for Respondent Hough is 487 Lighthouse Dr., Vallejo, California 94590.

5. On January 24, 2005, RICO filed a Petition for Disciplinary Action Against Respondents APM, Morgan and Hough (hereafter “Petition”) , alleging that Respondents violated Hawaii Revised Statutes (“HRS”) §§ 436B-19(7), 467-1.6(b)(2), and 467-14(8) and Hawaii Administrative Rules (“HAR”) §§ 16-99-3(b) and 16-99-4(b).

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

B. REPRESENTATIONS BY RESPONDENT

1. Respondents APM and Morgan are fully aware that they have the right to be represented by an attorney of their choosing in this matter and are represented by James W. Geiger, Esq.

2. Respondents APM and Morgan enter into this Settlement Agreement freely and voluntarily and under no coercion or duress.

3. Respondents APM and Morgan have been informed of their right to have a hearing to determine the issues in RICO's investigation. Pursuant to HRS §91-9(d), Respondents voluntarily waive their right to a hearing and agree to a disposition 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 real estate brokerage and broker by the Commission acknowledge that they are subject to penalties including but not limited to, revocation, suspension or limitation of their license and civil fines, if the allegations in the petition are proven at hearing.

5. Respondents do not admit that they violated any law or rule, but acknowledge that RICO had sufficient cause to file a Petition for Disciplinary Action against their real estate 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 Case No. REC 2003-320-L.

C. TERMS OF SETTLEMENT

1. Administrative fine. Respondents APM and Morgan agree to pay a fine in the amount of ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00.), the payment of which shall be due within thirty (30) days of the Commission's approval of this Settlement Agreement. Said payment shall be made by **cashier's check or money order made payable to "State of Hawaii - Compliance Resolution Fund"** and mailed to the Regulated Industries Complaints Office, Attn: Diane R. Corn, Staff Attorney, 235 S. Beretania Street, 9th Floor, Honolulu, Hawaii 96813. The mailing should be postmarked by the 30th day to be in compliance with this Settlement Agreement.

2. Real Estate Education. Respondent Morgan agrees to take and successfully complete a real estate course in professional responsibility and ethics to be determined by the Commission. The Commission shall also determine the Respondent's deadline for completion of the education and submission of the evidence of completion. The course is in addition to and does not take the place of any continuing education requirements. Respondent Morgan stipulates and agrees to contact the Executive Officer of the Commission within ten (10) calendar days of the date the Commission approves this Settlement Agreement to initiate determination of the real estate course.

3. Restitution. Respondents APM and Morgan agree to pay restitution in the amount of ONE THOUSAND THREE HUNDRED AND NO/100 DOLLARS (\$1,300.00), the payment of which shall be due within thirty (30) days of the Commission's approval of this Settlement Agreement provided that Respondent has received back from complainants the original non-negotiated security deposit check previously issued by Respondent. Said payment shall be made by **cashier's check or money order made payable to "DIAMOND RESORT HAWAII OWNERS ASSOCIATION, INC."** and mailed to the Regulated Industries Complaints Office, Attn: Diane R. Corn, Staff Attorney, 235 S. Beretania Street, 9th Floor, Honolulu, Hawaii 96813. The mailing should be postmarked by the 30th day to be in compliance with this Settlement Agreement.

4. Failure to Comply with Settlement Agreement. If Respondents fail to fully and timely pay the administrative fine as set forth in paragraph(s) C.(1) and the restitution agreed to in paragraph C.(3) above, Respondents' licenses shall be automatically revoked for a period of five (5) years upon RICO's filing of an affidavit with the Commission attesting to such failure. In case of such revocation, Respondents shall turn in all indicia of their licensure to the Executive

Officer of the Commission within ten (10) days after receipt of notice of the revocation. Upon completion of the revocation period, Respondents understand that they will need to apply to the Commission for reinstatement pursuant and subject to the requirements and conditions set forth in HRS § 436B-21.

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

6. 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, Respondents agrees that neither they nor any attorney that they may retain, will raise as an objection to the Commission's proceeding against them on the basis that the Commission 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: Wailuku, Hawaii, JUN - 1 2005

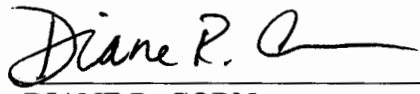
ASSET PROPERTY MANAGEMENT, INC.

By 
JAMES STEPHEN MORGAN, Its President
Respondent

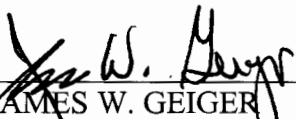
DATED: Wailuku, Hawaii, JUN - 1 2005


JAMES STEPHEN MORGAN
Respondent

DATED: ~~Wailuku,~~ ^{Honolulu,} Hawaii, JUN - 6 2005
_{DC}

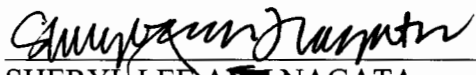

DIANE R. CORN
Attorney for Department of Commerce and
Consumer Affairs

APPROVED AS TO FORM:


JAMES W. GEIGER
Attorney for Respondents
ASSET PROPERTY MANAGEMENT, INC.,
AND JAMES STEPHEN MORGAN

IN THE MATTER OF THE REAL ESTATE BROKER'S AND SALESPERSON'S LICENSES
OF ASSET PROPERTY MANAGEMENT, INC., DEANNA K. HOUGH and JAMES STEPHEN
MORGAN; SETTLEMENT AGREEMENT AFTER FILING OF PETITION FOR
DISCIPLINARY ACTION AND COMMISSION'S FINAL ORDER; REC 2003-320-L

REVIEWED AND RECOMMENDED FOR CONSIDERATION:




SHERYL LEE A. NAGATA
Hearings Officer

JUN - 7 2005

DATE

APPROVED AND SO ORDERED:
REAL ESTATE COMMISSION
STATE OF HAWAII




JOHN OHAMA Trudy I. Nishihara
Chairperson

July 29, 2005

DATE



MITCHELL A. IMANAKA Iris R. Okawa
Vice Chairperson



LOUIS E. ABRAMS

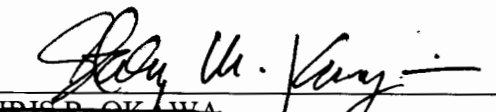
CAROL MAE A. BALL

KATHLEEN H. KAGAWA, PH.D.

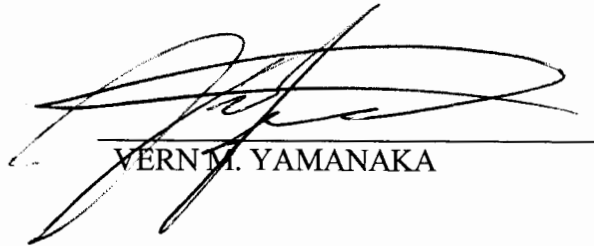


MICHELE SUNAHARA
LOUDERMILK

TRUDY I. NISHIHARA



IRIS R. OKAWA
Stanley M. Kuriyama
PVL 12/04



VERN M. YAMANAKA

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 15th day of June, 2005, before me personally appeared JAMES STEPHEN MORGAN to me known to be the person described, and who executed the foregoing instrument, on his own behalf and on behalf of ASSET PROPERTY MANAGEMENT, INC., as president, director and principal broker, and acknowledged that he executed the same as his free act and deed.


Name: Barbara Starnes
Notary Public, State of Hawaii

My Commission expires: 2/4/09

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 15th day of June, 2005, before me personally appeared JAMES STEPHEN MORGAN, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.


Name: Barbara Starnes
Notary Public, State of Hawaii

My Commission expires: 2/4/09