

PATRICK K. KELLY 7290  
 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

DEPT. OF COMMERCE  
 AND CONSUMER AFFAIRS

2005 NOV 25 A 11: 56

HEARINGS OFFICE

DEPT. OF COMMERCE  
 AND CONSUMER AFFAIRS

2005 OCT 26 A 10: 16

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  
 & CONSUMER AFFAIRS  
 STATE OF HAWAII

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 PROF & VOCATIONAL  
 LICENSING DIVISION

In the Matter of the	)	REC 2004-245-L
Real Estate Broker's License of	)	
	)	SETTLEMENT AGREEMENT PRIOR TO
LEROY A. BRILHANTE,	)	FILING OF PETITION FOR
	)	DISCIPLINARY ACTION AND
Respondent.	)	COMMISSION'S FINAL ORDER
_____	)	

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

Respondent LEROY A. BRILHANTE (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 broker under License Number RB 7674. Said license was issued  
 on September 13, 1973 and currently has an expiration date of December 31, 2006.

2. The last known address for Respondent is 289 Ilikaa Place, No. B, Kailua, Hawaii  
 96734.

3. RICO received information from the Real Estate Commission that Respondent's real estate broker's license had lapsed on January 1, 2003. Respondent license was subsequently renewed by the Real Estate Commission effective November 1, 2004.

4. Respondent is semi-retired and during the period for which his license was lapsed he engaged in limited real estate activity consisting of assisting relatives with a total of three real estate transactions for little or no compensation.

5. Despite the lapse of his license, Respondent met his obligations for continuing education and remedied the lapse of his license as soon as he became aware of said lapse.

6. RICO alleges that Respondent failed to comply with the laws relating to the licensing of real estate brokers by engaging in real estate activity without the required license in violation of Hawaii Revised Statutes §§ 467-7 (license required) and 467-14(13) (violating chapter 467).

7. The foregoing allegations, if proven, would constitute violations of the following statutes governing the conduct of real estate brokers licensed in the State of Hawaii: Hawaii Revised Statutes ("H.R.S.") § 467-7 (license required) and § 467-14(13) (violating chapter 467).

8. 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 broker 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 foregoing violations are proven at hearing.

5. Respondent admits to the veracity of the allegations and that his acts constitute violations of the following statutes and/or regulations governing the conduct of real estate brokers licensed in the State of Hawaii: H.R.S. § 467-7 (license required) and § 467-14(13) (violation of chapter 467).

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 Case No. REC 2004-245-L.

C. TERMS OF SETTLEMENT:

1. Administrative fine. Respondent agrees to pay a fine in the amount of ONE THOUSAND AND NO/100 DOLLARS (\$1000.00), 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: Daria Goto,

Esq., 235 S. Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813. The mailing should be postmarked by the 30<sup>th</sup> day to be in compliance with this Settlement Agreement.

2. Failure to Comply with Settlement Agreement. If Respondent fails to fully and timely pay the administrative fine as set forth in paragraph(s) C.1 above, Respondent's license 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, Respondent shall turn in all indicia of his 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, Respondent understands that he will need to apply to the Commission for reinstatement pursuant and subject to the requirements and conditions set forth in HRS § 436B-21.

3. 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 brokers in the State of Hawaii, or if Respondent fails to abide by the terms of this Settlement Agreement.

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

5. 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.

6. 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.

7. 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.

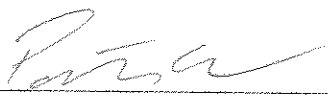
8. Complete Agreement. This Settlement Agreement is a complete settlement of the rights, responsibilities and liabilities of the parties hereto with respect to the subject matter hereof; contains the entire agreement of the parties; and may only be modified, changed or amended by written instrument duly executed by all parties hereto.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date(s) set forth below.

DATED: Kailua, Hawaii, October 21, 2005

  
\_\_\_\_\_  
LEROY A. BRILHANTE  
Respondent

DATED: Honolulu, Hawaii, OCT 25 2005

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

IN THE MATTER OF THE REAL ESTATE BROKER'S LICENSE OF LEROY A. BRILHANTE; SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND COMMISSION'S FINAL ORDER; CASE NO. REC 2004-245-L

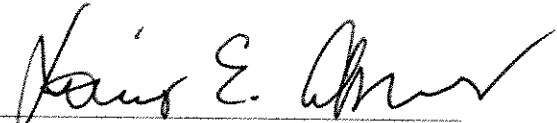
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APPROVED AND SO ORDERED:  
REAL ESTATE COMMISSION  
STATE OF HAWAII

  
\_\_\_\_\_  
TRUDY I. MSHIHARA  
Chairperson

November 23, 2005  
DATE

\_\_\_\_\_  
IRIS R. OKAWA  
Vice Chairperson

  
\_\_\_\_\_  
LOUIS E. ABRAMS

  
\_\_\_\_\_  
CAROL MAE A. BALL

  
\_\_\_\_\_  
KATHLEEN H. KAGAWA,  
PH.D.

  
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STANLEY M. KURIYAMA

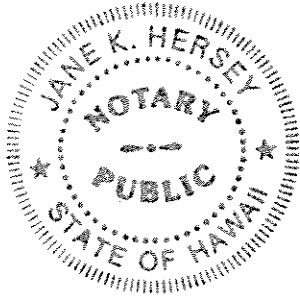
  
\_\_\_\_\_  
MICHELE SUNAHARA  
LOUDERMILK

  
\_\_\_\_\_  
VERN M. YAMANAKA

PVL 07/22/05

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On this 21<sup>st</sup> day of October, 2005, before me personally appeared LeRoy  
Brilhante, to me known to be the person described and who executed the foregoing instrument  
and acknowledged the same as his/her free act and deed.



Jane K. Hersey  
Name: Jane K. Hersey  
Notary Public – State of Hawaii

My commission expires: 9-2-09