

DARIA A. LOY-GOTO 6175
ESTHER L. ERVIN 7507
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 AUG 29 A 9:16

HEARINGS OFFICE

DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

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HEARINGS OFFICE

DEPT. OF COMMERCE
& CONSUMER AFFAIRS
STATE OF HAWAII

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PROF. & VOCATIONAL
LICENSING DIVISION

Attorney for Department of Commerce
and Consumer Affairs

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

In the Matter of the)
Real Estate Salesperson's License of)
NEAL S. SUDA,)
Respondent.)
_____)
REC 2005-27-L
SETTLEMENT AGREEMENT PRIOR TO
FILING OF PETITION FOR
DISCIPLINARY ACTION AND
COMMISSION'S FINAL ORDER

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

Respondent NEAL S. SUDA (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 52415. Said license was
issued on October 15, 1992, and currently has an expiration date of December 31, 2006.

2. The last known mailing address for Respondent is 831-201 Eha Street, Wailuku, Hawaii 96793.

3. RICO received a request for investigation from the Real Estate Commission alleging that Respondent had been convicted of driving under the influence.

4. Based on RICO's investigation of this matter, RICO determined that on September 3, 2004, Respondent was convicted of driving under the influence in the District Court of the Second Circuit, State of Hawaii. Respondent did disclose the conviction at the time he renewed his real estate salesperson's license in 2004.

5. RICO alleges that Respondent violated H.R.S. § 436B-19(14) (criminal conviction of a crime directly related to the qualifications, functions, or duties of the profession).

6. The foregoing allegations, if proven, would constitute violations of the following statutes governing the conduct of real estate salespersons licensed in the State of Hawaii: 436B-19(14) (criminal conviction of a crime directly related to the qualifications, functions, or duties of the profession).

7. 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 H.R.S. §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 foregoing violations are proven at hearing.

5. Respondent admits to the veracity of the allegation(s) and that his acts constitute violation(s) of the following statutes and/or regulations governing the conduct of real estate salespersons licensed in the State of Hawaii: H.R.S. § 436B-19(14) (criminal conviction of a crime directly related to the qualifications, functions, or duties of the profession).

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 2005-27-L.

C. TERMS OF SETTLEMENT:

1. Administrative fine. Respondent agrees to pay a fine in the amount of TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00), 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: Esther

Ervin, Esq., 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. 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 and HRS § 92-17(c)(2).

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 licensees 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.

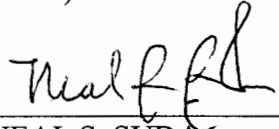
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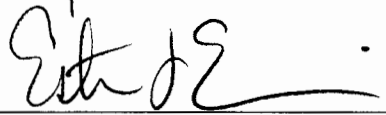
IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date(s) set forth below.

DATED: Kahului, Maui, July 21, 2005.
(CITY) (STATE)



NEAL S. SUDA
Respondent

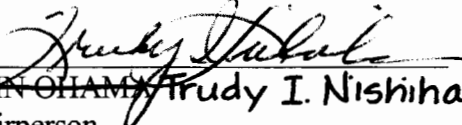
DATED: Honolulu, Hawaii, 7/21/05.



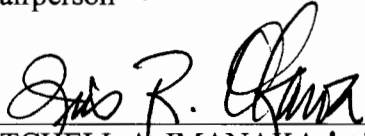
DARIA A. LOY-GOTO
ESTHER L. ERVIN
Attorney for Department of Commerce and
Consumer Affairs

IN THE MATTER OF THE REAL ESTATE SALESPERSON'S LICENSE OF NEAL S. SUDA; SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND COMMISSION'S FINAL ORDER; CASE NO. REC 2005-27-
L


APPROVED AND SO ORDERED:
REAL ESTATE COMMISSION
STATE OF HAWAII

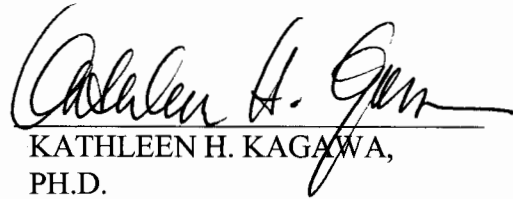

~~JOHN CHAMBERS~~ Trudy I. Nishihara
Chairperson

August 26, 2005
DATE


~~MITCHELL A. IMANAKA~~ Iris R. Okawa
Vice Chairperson


LOUIS E. ABRAMS

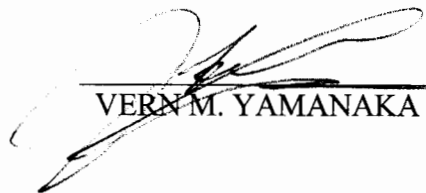

CAROL MAE A. BALL


KATHLEEN H. KAGAWA,
PH.D.


MICHELE SUNAHARA
LOUDERMILK

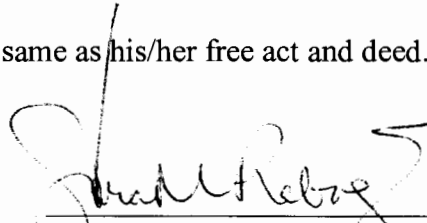

~~TRUDY I. NISHIHARA~~ Stanley M. Kuriyama

~~IRIS R. OKAWA~~


VERN M. YAMANAKA

STATE OF Hawaii)
) SS.
COUNTY OF Maui)

On this 21st day of July, 2005, before me personally appeared
Neal S. Suda, 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.



Name: Dora M. Rabago
Notary Public – State of Hawaii

My commission expires: 04-03-09