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Department of Commerce and Consumer Affairs  
State of Hawaii  
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DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

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HEARINGS OFFICE

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DEPT OF COMMERCE  
& CONSUMER AFFAIRS  
STATE OF HAWAII

Attorney for Department of Commerce  
and Consumer Affairs

BOARD OF PRIVATE DETECTIVES AND GUARDS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the Guard Employee	)	PDG 2017-8-L
Registration of	)	
	)	SETTLEMENT AGREEMENT AFTER
NICHOLAS K. CHAR,	)	FILING OF PETITION FOR DISCIPLINARY
	)	ACTION AND BOARD'S FINAL ORDER;
Respondent.	)	DECLARATION OF NICHOLAS K. CHAR
	)	
	)	Administrative Hearings Officer:
	)	Richard A. Young

2411042211

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

Petitioner, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS' REGULATED INDUSTRIES COMPLAINTS OFFICE (hereinafter "RICO" or "Petitioner"), through its undersigned attorney(s), and Respondent NICHOLAS K. CHAR (hereinafter "Respondent"), enter into this Settlement Agreement on the terms and conditions set forth below.

A. UNCONTESTED FACTS:

1. At all relevant times herein, Respondent was registered with the Board of Private Detectives and Guards (hereinafter the "Board") as a guard employee under registration number GDE 7765. The registration was issued on or about October 7, 2013. The registration expired on or about June 30, 2016 and forfeited on or about June 30, 2017.
2. Respondent's mailing address for purposes of this action is through his attorney, Charles A. Foster, Esq., P.O. Box 426, Lihue, Hawaii 96766.
3. On or about February 14, 2018, RICO filed a Petition for Disciplinary Action (hereinafter "Petition") alleging that Respondent violated, in part, the following statute(s) and/or

rule(s): Hawaii Revised Statutes ("HRS") §§ 436B-19(14) (conviction of a crime directly related to the qualifications, functions, or duties or the profession); 436B-19(17) (violating Chapter 436B or applicable licensing law) and Hawaii Administrative Rules ("HAR") §§ 16-97-46(5) (criminal conviction in any jurisdiction of a crime which reflects unfavorably on the fitness of the licensee to engage in the profession); 16-97-46(17) (engaging in illegal or unlawful conduct which reflects unfavorably on the fitness of the licensee to engage in the profession); and 16-97-46(21) (failure to comply with HRS Chapter 463 or this chapter).

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

B. REPRESENTATIONS BY RESPONDENT:

1. Respondent is fully aware that Respondent has the right to be represented by an attorney and is represented by Charles A. Foster, Esq.

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

3. Respondent is aware of the right to have a hearing to adjudicate the issues in the case. Pursuant to HRS § 91-9(d), Respondent freely, knowingly, and voluntarily waives the right to a hearing and agrees to dispose of this case in accordance with the terms and conditions of this Settlement Agreement.

4. Respondent being at all times relevant herein registered as a guard employee with the Board acknowledges that Respondent is subject to penalties including but not limited to, revocation, suspension or limitation of his guard employee registration and administrative fines, if the foregoing allegations are proven at hearing.

5. Respondent does not admit to violating any law or rule, but acknowledges that RICO had sufficient cause to file a Petition for Disciplinary Action against Respondent's guard employee registration.

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. PDG 2017-8-L.

8. Respondent understands this Settlement Agreement is public record pursuant to Hawaii Revised Statutes Chapter 92F.

9. Respondent is currently incarcerated and does not have access to a notary public and is using the attached Declaration of Nicholas K. Char to confirm his identity as the licensee referenced in and bound by this Settlement Agreement.

C. TERMS OF SETTLEMENT:

1. Voluntary Surrender of Guard Employee Registration. Respondent agrees to the voluntary surrender of Respondent's guard employee registration.

The surrender shall become effective immediately upon the approval of this Settlement Agreement by the Board. Respondent shall turn in all indicia of the guard employee registration to the Executive Officer of the Board within ten (10) days after receipt of notice that this Settlement Agreement has been approved.

Respondent understands that Respondent shall not apply for a new guard employee registration until the expiration of at least five (5) years from the effective date of the surrender of the registration. Respondent understands that if Respondent desires to become registered again, Respondent must apply to the Board for a new guard employee registration, pursuant to and subject to all applicable laws and rules in effect at the time.

2. Failure to Comply with Settlement Agreement. If Respondent fails to fully and timely comply with the terms of this Settlement Agreement as set forth in paragraph(s) C.1 above, Respondent's guard employee registration shall be automatically revoked upon RICO's filing of an affidavit with the Board attesting to such failure. In case of such revocation, Respondent shall turn in all indicia of the guard employee registration to the Executive Officer of the Board within ten (10) days after receipt of notice of the revocation. In case of such revocation, Respondent understands Respondent cannot apply for a new guard employee registration until the expiration of at least five (5) years after the effective date of the revocation. Respondent understands that if Respondent desires to become licensed again, Respondent must apply to the Board for a new guard employee registration pursuant to and subject to HRS §§ 92-17, 436B-21, and all other applicable laws and rules in effect at the time.

3. Possible Further Sanction. The Board, at its discretion, may pursue additional disciplinary action as provided by law to include further fines and other sanctions as the Board may deem appropriate if Respondent violates any provision of the statutes or rules governing the conduct of guard employees in the State of Hawaii, or if Respondent fails to abide by the terms of this Settlement Agreement.

4. Approval of the Board. 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 Board.

5. No Objection if Board Fails to Approve. If the Board 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 Board's usual and customary fashion pursuant to the Administrative Procedure Act, Respondent agrees that neither Respondent nor any attorney that Respondent may retain, will raise as an objection in any administrative proceeding or in any judicial action, to the Board's proceeding against Respondent on the basis that the Board 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: Lihue, Hawaii, \_\_\_\_\_

8/20/18  
(Date)


  
\_\_\_\_\_  
NICHOLAS K. CHAR  
Respondent

DATED: Honolulu, Hawaii, \_\_\_\_\_

JUL 24 2018

  
\_\_\_\_\_  
MARC T. NAKAMURA  
Attorney for Department of Commerce  
and Consumer Affairs

APPROVED AS TO FORM:

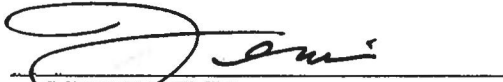
  
\_\_\_\_\_  
CHARLES A. FOSTER, ESQ.  
Attorney for Respondent

IN THE MATTER OF THE GUARD EMPLOYEE REGISTRATION OF NICHOLAS K.  
CHAR; SETTLEMENT AGREEMENT AFTER FILING OF PETITION FOR DISCIPLINARY  
ACTION AND BOARD'S FINAL ORDER; DECLARATION OF NICHOLAS K. CHAR;  
RICO PDG 2017-8-L

APPROVED AND SO ORDERED:  
BOARD OF PRIVATE DETECTIVES AND GUARDS  
STATE OF HAWAII

  
RAY GALAS  
Chairperson


11 OCT 2018  
DATE

  
ALBERT DENIS  
Vice Chairperson

CHIEF DARRYL PERRY

  
KENNETH CHANG

CHIEF TIVOLI FAAUMU

  
DOUGLAS H. INOUE

PVL 07/17

BOARD OF PRIVATE DETECTIVES AND GUARDS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the Guard Employee	)	PDG 2017-8-L
Registration of	)	
NICHOLAS K. CHAR,	)	DECLARATION OF NICHOLAS K. CHAR
	)	
Respondent.	)	
	)	
	)	

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DECLARATION OF NICHOLAS K. CHAR

I, NICHOLAS K. CHAR, do declare under penalty of law that the foregoing is true and correct.

DATED: Lihue, Hawaii, \_\_\_\_\_

8/20/18  
(Date)

  
NICHOLAS K. CHAR