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OFFICE OF THE
GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE

MEMO TO: Governance, Ethics, and Transparency Committee

F R O M: Michael J. Molina



Chair, Governance, Ethics, and Transparency Committee

SUBJECT: **TRANSMITTAL OF INFORMATIONAL DOCUMENT RELATING TO
BANK OF AMERICA'S COMMITMENT TO PROVIDE MORTGAGES
FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS** (GET-19)

The attached informational document pertains to Item 19 on your Committee's agenda.

CM:MHP:meetingmaterials:GET:transGET19:grs

Attachment

STARN • O'TOOLE • MARCUS & FISHER

A LAW CORPORATION

SCR 45 / SR 32

Hearing Date: March 28, 2019
Hearing Time: 1:15 PM
Hearing Location: Conference Room 016

Testimony Regarding Resolution SCR 45 / SR 32

Aloha Kakou Pakahia-Apau Luna Ho'omalua Shimabukuro and Na Kenekoa of the Committee on Hawaiian Affairs:

This law firm represents the Bank of America ("BoA"). Mahalo nui for allowing me to provide testimony regarding Resolution SCR 45 / SR 32 ("Resolution") on behalf of BoA.

A. BoA Has Provided to Governor David Ige Documentation that BoA's \$150 Million Commitment ("\$150 Million Commitment") Referenced in the Resolution Has Been Met.

1. Officials of BoA met with Governor Ige in his office in the State Capitol on January 25, 2019, and in Washington D.C. on February 22, 2019 regarding the \$150 Million Commitment.
2. The purpose of BoA's referenced meetings with Governor Ige was to provide the Governor with documentation to substantiate BoA's fulfillment of its \$150 Million Commitment.
3. BoA did provide to Governor Ige documentation which substantiated that the \$150 Million Commitment has been met by BoA.

B. The Following Documentation Shows that the \$150 Million Commitment Has Been Met.

1. December 15, 2003: Letter from Department of Hawaiian Home Lands signed by Micah Kane, Chairman of Hawaiian Homes Commission to the Federal Reserve Bank of Richmond ("Letter A", attached as Letter A).

Letter A documents the following:

- a. BoA and DHHL agreed to a modification of the original \$150 Million Commitment to allow other initiatives besides residential mortgage loans to be counted toward the \$150 Million amount.

Pacific Guardian Center, Makai Tower • 733 Bishop Street, Suite 1900 • Honolulu, Hawaii 96813
Telephone: (808) 537-6100 • Fax: (808) 537-5434 • Web: www.starnlaw.com

At page 3, Letter A provides:

“During the period after May 31, 1994 until 1997, efforts were expended by BoA and DHHL to realize the full potential of the Lending Commitment. Without repeating all the efforts, and recounting the fits and starts, suffice it to say that the fulfillment of the Lending Commitment fell short of the expectations of both DHHL and BoA.

As a result, to facilitate its fulfillment, BoA and DHHL agreed to a modification of the Lending Commitment to allow other initiatives besides residential mortgage loans to be counted towards the \$150 million amount. These initiatives included matters such as the provision of construction loans to DHHL at below market terms, sponsorship of and assistance to DHHL in connection with securing housing grants, and fostering the participation of persons in BoA’s Leadership Academy.” (Emphasis supplied)

- b. DHHL and BoA agreed that as of November 6, 2003, \$80,608,327 remained outstanding on the \$150 Million Commitment.

At page 4 footnote 2, Letter A provides:

“In a meeting between DHHL and BoA held on November 6, 2003, BoA agreed that only \$69,391,573 will be counted towards the \$150 million commitment, thereby leaving \$80,608,327 as the outstanding amount of the commitment to be fulfilled.”

- c. DHHL and BoA agreed to a going-forward working relationship structure for BoA to satisfy the remaining \$80,608,327 of the \$150 Million Commitment.
2. December 15, 2003: Letter from BoA to Micah Kane, Chairman of Hawaiian Homes Commission (“Letter B”, attached as Letter B).

Letter B documents the following:

- a. Letter B confirms the agreed upon content contained in Letter A.
 - b. Letter B confirmed the role and authority of Ben Henderson as Deputy to the DHHL Director/Hawaiian Homes Commission Chairman. Ben Henderson is mentioned prominently in Letter B as a participant in discussions between DHHL and BoA. On page 1, Letter B states in relevant part: “However, this letter will serve to confirm that Bank of America has agreed that only \$69,391,673 will be counted towards the \$150 million commitment **as set out in the June 27, 2003 letter from Ben Henderson**, thereby leaving \$80,608, 327 as the outstanding amount of the commitment to fulfilled (“Lending Commitment”).” (Emphasis supplied)
3. March 16, 2007: Letter from BoA to Ben Henderson, State of Hawaii Department of Hawaiian Homelands (“Letter C”, attached as Letter C).

Letter C documents the following:

- a. Letter C attaches a report which summarized the loans, grants and investments that fulfill the \$150 Million Commitment.

At page 1, Letter C states:

“As you are aware, Bank of America has worked diligently for more than 13 years to achieve our goal of lending or investing \$150,000,000 to help native Hawaiians reach their dream of home ownership on native soil. We are proud to report that we have surpassed our goal with the help of the Department of Hawaiian Homelands and many individuals and organizations involved in native Hawaiian issues. The attached report summarizes the loans, grants and investments that make up our \$151,720,630 in production to date. Please review the attached report and indicate your agreement or contact me with any questions.”

4. October 3, 2007: Letter from Ben Henderson, Deputy to the Chairman, to BoA (“Letter D”, attached as Letter D).

Letter D documents that DHHL formally acknowledges that the \$150 Million Commitment has been met by BoA.

Letter D provides on page 1:

“The statement of BoA contributions toward fulfillment of its commitment appear to be in order. **The Department of Hawaiian Home Lands (DHHL) is therefore pleased to formally acknowledge that the \$150,000,000 commitment has been met by Bank of America.**” (Emphasis supplied)

- C. Governor Ige Is Continuing to Complete Research and Due Diligence to Vet the Documentation Provided to Him by BoA Demonstrating its Fulfillment of the \$150 Million Commitment.

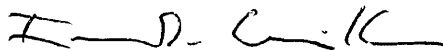
In BoA’s meetings with Governor Ige, it is clear that the Governor has taken very seriously his undertaking relating to the \$150 Million Commitment in a fair and impartial manner, and has provided considerable resources to perform his undertaking. BoA has provided full cooperation to the Governor to enable him to perform his undertaking.

- D. BoA respectfully requests that future communications be directed, in addition to the undersigned, solely to Andrew Plepler, Global Environmental, Social and Governance executive at BoA. Mr. Plepler is the principal executive at BoA whose kuleana and authority are to address matters relating to the \$150 Million Commitment.

- E. BoA respectfully requests deferral of SCR 45 / SR32.

Mahalo nui loa for allowing me to present this testimony on behalf of BoA.

Me ke aloha pumehana a mau loa apau,

A handwritten signature in black ink, appearing to read 'Ivan M. Lui-Kwan'. The signature is stylized with a large initial 'I' and a long horizontal stroke.

Ivan M. Lui-Kwan

LETTER A

LINDA LINGLE
GOVERNOR
STATE OF HAWAII



MICHAEL J. CARO
CHAIRMAN
HAWAIIAN HOMES COMMISSION
DON HENDERSON
DEPUTY TO THE CHAIRMAN
KATHLEEN H. PARK
EXECUTIVE ASSISTANT

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
P.O. BOX 1873
HONOLULU, HAWAII 96805

BANKING SUPERVISION AND
REGULATION DEPARTMENT

December 15, 2003

DEC 15 2003
FEDERAL RESERVE BANK
OF RICHMOND

A. Linwood Gill, III
Vice President
Federal Reserve Bank of Richmond
701 East Byrd Street
Richmond, Virginia 23261-4528

Via telefacsimile to 804-697-4021;
Hard-copy to follow.

Re: \$150 Million Commitment in Support of Native Hawaiian Housing

Dear Mr. Gill:

The Hawaiian Homes Commission ("Commission") requests your consideration of the comments below in connection with the proposed merger of FleetBoston Financial Corporation with and into Bank of America Corporation ("BoA") with BoA being the surviving corporation. The Commission is requesting that any order approving the merger include a specific directive to BoA to completely fulfill the \$150 million lending commitment first established in 1994, and to comply with certain steps articulated in this letter.

Background on the Commission.

The mission of the Commission is to manage the Hawaiian Home Lands trust effectively, and to develop and deliver lands to native Hawaiians. The trust is unique in part because it was established by Congress pursuant to the Hawaiian Homes Commission Act, 1920, 42 Stat. 108 (July 9, 1921).¹

¹ As currently stated, the purpose of the Hawaiian Homes Commission Act is as follows:

(a) The Congress of the United States and the State of Hawaii declare that the policy of this Act is to enable native Hawaiians to return to their lands in order to fully support self-sufficiency for native Hawaiians and the self-determination of native Hawaiians in the administration of this Act, and the preservation of the values, traditions, and culture of native Hawaiians.

(b) The principal purposes of this Act include but are not limited to:

A. Linwood Gill, III
December 15, 2003
Page 2

The policies and initiatives of the Commission are implemented by the Department of Hawaiian Home Lands ("DHHL"). The DHHL also provides administrative and operational support to the Commission.

The undersigned chairman of the Commission serves as the director of the Department of Hawaiian Home Lands ("DHHL"), and is in charge of the day-to-day administration and operation of the DHHL.

Brief History of the \$150 Million Lending Commitment.

In 1994, BoA sought regulatory approval to acquire Liberty Bank, Honolulu, Hawaii. The order issued by the Board of Governors of the Federal Reserve Board ("FRB") approving the acquisition, effective May 31, 1994, referenced the \$150 million lending commitment as follows:

- (1) Establishing a permanent land base for the benefit and use of native Hawaiians, upon which they may live, farm, ranch, and otherwise engage in commercial or industrial or any other activities as authorized in this Act;
- (2) Placing native Hawaiians on the lands set aside under this Act in a prompt and efficient manner and assuring long-term tenancy to beneficiaries of this Act and their successors;
- (3) Preventing alienation of the fee title to the lands set aside under this Act so that these lands will always be held in trust for continued use by native Hawaiians in perpetuity;
- (4) Providing adequate amounts of water and supporting infrastructure, so that homestead lands will always be usable and accessible; and
- (5) Providing financial support and technical assistance to native Hawaiian beneficiaries of this Act so that by pursuing strategies to enhance economic self-sufficiency and promote community-based development, the traditions, culture and quality of life of native Hawaiians shall be forever self-sustaining.

(c) In recognition of the solemn trust created by this Act, and the historical government to government relationship between the United States and Kingdom of Hawaii, the United States and the State of Hawaii hereby acknowledge the trust established under this Act and affirm their fiduciary duty to faithfully administer the provisions of this Act on behalf of the native Hawaiian beneficiaries of the Act.

- (d) Nothing in this Act shall be construed to:
- (1) Affect the rights of the descendants of the indigenous citizens of the Kingdom of Hawaii to seek redress of any wrongful activities associated with the overthrow of the Kingdom of Hawaii; or
 - (2) Alter the obligations of the United States and the State of Hawaii to carry out their public trust responsibilities under section 5 of the Admission Act to native Hawaiians and other descendants of the indigenous citizens of the Kingdom of Hawaii.

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December 15, 2003
Page 3

Bank of America FSB recently announced a comprehensive program to enhance service to the native Hawaiian and Filipino communities. The program includes a four-year commitment to provide \$150 million in residential mortgage loans for native Hawaiians seeking housing on Department of Hawaiian Home Lands (sic). (Emphasis added.)

This \$150 million lending commitment ("Lending Commitment") played a significant role in facilitating the favorable consideration of the acquisition of Liberty Bank:

As discussed in this order, BankAmerica plans to increase its CRA-related lending in Hawaii. The Board believes that these plans, when viewed in the context of the outstanding or satisfactory performance ratings for BankAmerica's subsidiary banks, support approval of this application.

Order at pp. 21-22.

During the period after May 31, 1994 until 1997, efforts were expended by BoA and DHHL to realize the full potential of the Lending Commitment. Without repeating all the efforts, and recounting the fits and starts, suffice it to say that the fulfillment of the Lending Commitment fell short of the expectations of both DHHL and BoA.

As a result, to facilitate its fulfillment, BoA and DHHL agreed to a modification of the Lending Commitment to allow other initiatives besides residential mortgage loans to be counted towards the \$150 million amount. These initiatives included matters such as the provision of construction loans to DHHL at below market terms, sponsorship of and assistance to DHHL in connection with securing housing grants, and fostering the participation of persons in BoA's Leadership Academy.

Despite the addition of these initiatives, the Lending Commitment was not completely fulfilled within the four-year period. The Lending Commitment did not expire as a result. Rather, the Lending Commitment was renewed in connection with the effort of NationsBank Corporation to merge with BankAmerica Corporation. In the order approving the merger, effective August 17, 1998, the FRB specifically noted that New BankAmerica would honor all outstanding CRA commitments, including the \$150 million commitment:

NationsBank also has stated that New BankAmerica would honor all of the outstanding CRA commitments that NationsBank and BankAmerica have with states and community groups, including BankAmerica's commitment to provide \$40 million in annual charitable contributions and to provide \$150 million in loans in Hawaii. (Emphasis added.)

NationsBank Order at p. 62.

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To date, despite the passage of almost 10 years since the Lending Commitment was first established, BoA has fulfilled less than 50% of the commitment, leaving just over \$80 million remaining unfulfilled.²

Relief Requested.

A bank's fulfillment of a CRA lending commitment should not be lightly set aside, nor should disregard or even avoidance of such a commitment by a bank be condoned.³

Given the lengthy passage of time since the Lending Commitment was originally established, and the level of non-performance on the commitment to date, the Commission requests that any order approving the proposed merger include a specific directive to BoA to completely fulfill the \$150 million lending.

The Commission believes that on a going-forward basis, fulfillment of the Lending Commitment will best be accomplished by establishing a direct working relationship between DHHL and BoA. Accordingly, the Commission further requests that any order approving the proposed merger include a specific directive to BoA to comply with the following steps:

1. BoA shall assign a Senior Client Manager who will act as its primary contact point for DHHL as well a resource in the assessment of business opportunities by DHHL.
2. DHHL shall designate staff personnel to serve as its primary contact point

² In a meeting between DHHL and BoA held on November 6, 2003, BoA agreed that only \$69,391,673 will be counted towards the \$150 million commitment, thereby leaving \$80,608,327 as the outstanding amount of the commitment to be fulfilled.

³ In its 1994 order approving the acquisition of Liberty Bank by BoA, the FRB apprised BoA of its expectation that BoA will fully implement its CRA initiatives:

The Board expects Bank of America FSB to fully implement its CRA initiatives and to continue to improve its CRA performance, including its house-relating lending, in all of its delineated communities, and to address the issues raised by the OTS in its most recent CRA performance examination. The Board will continue to monitor implementation by Bank of America FSB of an effective CRA program in Hawaii, and will take this review into account in future applications to establish a depository facility. In this regard, the Board requires as a condition of its action in this case, that BankAmerica submit to the Federal Reserve Bank of San Francisco copies of any reports submitted to the OTS in connection with Bank of America FSB's CRA performance, including the results of its lending programs and initiatives and its progress in increasing the levels of its lending to low- and moderate-income and minority individuals and communities.

Order at pp. 22-23.

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for BoA. The staff personnel will be knowledgeable as regards DHHL's proposed initiatives, including but not limited to matters relating to project financing requirements, and residential mortgage lending requirements.

3. BoA's Senior Client Manager and the DHHL's staff personnel shall engage in discussions on as frequent a basis as possible to facilitate BoA's fulfillment of the Lending Commitment. These discussions shall include but not be limited to:

- (i) Identifying, discussing, and exploring new opportunities to facilitate BoA's fulfillment of the Lending Commitment;
- (ii) Implementation of or the status of pending projects in which BoA is a participant; and
- (iii) Exploration of alternative measures that DHHL may propose to facilitate the ability of BoA to fulfill the Lending Commitment, such as implementing terms and conditions on lending opportunities which are advantageous to DHHL, or even measures to accelerate BoA's fulfillment of the Lending Commitment.

4. BoA shall give favorable consideration to any reasonable and appropriate financing opportunity to facilitate its fulfillment of the Lending Commitment. In this regard, to immediately move forward, BoA shall contact DHHL to schedule a meeting to discuss possible financing opportunities in support of native Hawaiian housing, related performance benchmarks, and other appropriate matters.

Thank you in advance for your favorable consideration of this letter. Should you have any questions, please do not hesitate to contact me immediately.

Very truly yours,



Micah Kane, Chairman
Hawaiian Homes Commission

LETTER B

Bank of America



Douglas B. Woodruff
President
Community Development Banking

December 15, 2003

Bank of America
MO1-800-33-23
600 Market Street
St. Louis, MO 63101-3505

Tel 314.466.5170
Fax 314.466.1919

Mr. Micah A. Kane, Chairman
Hawaiian Homes Commission
P.O. Box 1879
1099 Alakea Street, Suite 2000
Honolulu, Hawaii 96805-1879

Dear Micah:

Re: \$150 Million Commitment in Support of Native Hawaiian Housing

It was a pleasure meeting with you, Ben Henderson, and Kaulana Park in Honolulu. As we discussed, the purpose[s] of sending this letter to you are: (1) to confirm that Bank of America will fulfill its CRA-related lending commitment referred to in the Order issued by the Board of Governors of the Federal Reserve Board, effective May 31, 1994, in connection with Bank of America's request for approval to acquire Liberty Bank, Honolulu, Hawaii, as well as in subsequent correspondence, and (2) to set forth an action plan to facilitate the fulfillment of this commitment.

From Bank of America's perspective, it has provided over \$121 million in financing commitments, technical assistance, and grants in support of affordable housing benefiting native Hawaiians from the time of its original commitment in 1994 up to December 31, 2002. However, this letter will serve to confirm that Bank of America has agreed that only \$69,391,673 will be counted towards the \$150 million commitment as set out in the June 27, 2003 letter from Ben Henderson, thereby leaving \$80,608,327 as the outstanding amount of the commitment to be fulfilled ("Lending Commitment").

I would like to hereby affirm BoA's intent to continue to finance, support and promote safe and affordable housing for native Hawaiians, and further affirm that Bank of America will fulfill the Lending Commitment. Bank of America agrees that its efforts to fulfill the Lending Commitment will not be adversely affected or impaired if the proposed merger between Bank of America and FleetBoston Financial Corporation ("FleetBoston") is consummated. Furthermore, Bank of America has no objection in having the Federal Reserve Board include the Lending Commitment as outlined in this letter to any order approving the proposed merger between Bank of America and FleetBoston.

As you know, I believe that on a going-forward basis, fulfillment of the Lending Commitment can best be accomplished by working closely with you and your department. I am therefore pleased that both DHHL and Bank of America agree that fulfillment of the Lending Commitment will require fostering a direct working relationship between the entities. Thus, we



have mutually agreed to take the following steps:

1. We will assign a Senior Client Manager who will act as Bank of America's primary contact point for DHHL as well a resource in the assessment of business opportunities by DHHL. A new contact point will be designated by Bank of America or its successor should the assigned Senior Client Manager be affected by the proposed merger between Bank of America and FleetBoston.

2. DHHL will designate staff personnel to serve as its primary contact point for Bank of America. The staff personnel will be knowledgeable as regards DHHL's proposed initiatives, including, but not limited to, matters relating to project financing requirements, and residential mortgage lending requirements.

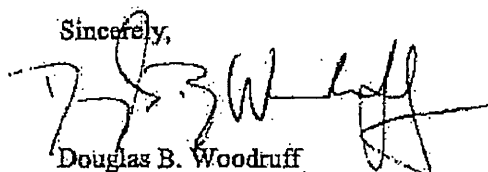
3. Our Senior Client Manager and the DHHL's staff personnel will engage in discussions on as frequent a basis as possible to facilitate Bank of America's fulfillment of the Lending Commitment. These discussions shall include but not be limited to: (i) identifying, discussing, and exploring new opportunities to facilitate Bank of America's fulfillment of the Lending Commitment, and (ii) the implementation of or the status of pending projects in which the bank is a participant. In addition, Bank of America specifically agrees that it shall engage in discussions on and explore alternative measures that DHHL may propose to facilitate the ability of Bank of America to fulfill the Lending Commitment, such as implementing terms and conditions on lending opportunities which are advantageous to DHHL, or other measures to accelerate the bank's fulfillment of the Lending Commitment.

As further assurance to DHHL, Bank of America shall give favorable consideration to any reasonable and appropriate financing opportunity which could facilitate its fulfillment of the Lending Commitment. In this regard, to immediately move forward, within three (3) weeks after this letter has been sent to you, I will contact you to schedule a meeting to discuss possible financing opportunities in support of native Hawaiian housing; related performance benchmarks, etc.

Finally, from time to time, Bank of America will continue to work with other native Hawaiian organizations where mutually beneficial opportunities arise. However, since it is DHHL who plays the vital and catalytic role in the creation of housing opportunities for native Hawaiians, please note that Bank of America's primary communication and dialogue on the fulfillment of the Lending Commitment will be with DHHL.

Again, thank you for meeting with us in helping to move the parties forward.

Sincerely,



Douglas B. Woodruff
President, Community Development Banking

cc: Tim Lui-Kwan, Esq.

LETTER C

Bank of America.



James W. Feild
Senior Vice President
Community Development Banking

Bank of America
TX 1-492-18-03
901 Main Street, 18th Floor
Dallas, TX 75202

Tel. 214.209.0362
Fax. 214.209.3840

March 16, 2007 (July 23, 2007)

Mr. Ben Henderson
State of Hawaii
Department of Hawaiian Homelands
1099 Alakea Street, Suite 2000
Honolulu, Hawaii 96805-1879

Dear Ben:

As you are aware, Bank of America has worked diligently for more than 13 years to achieve our goal of lending or investing \$150,000,000 to help native Hawaiian families reach their dream of home ownership on native soil. We are proud to report that we have surpassed our goal with the help of the Department of Hawaiian Homelands and many individuals and organizations involved in native Hawaiian issues. The attached report summarizes the loans, grants and investments that make up our \$151,720,630 in production to date. Please review the attached report and indicate your agreement or contact me with any questions.

It has been a pleasure working with you and your staff. As we discussed earlier this year, Bank of America has also developed client relationships with developers that intend to build more homes on trust lands for native Hawaiian families. Even though we have met our formal goals, we hope to continue to serve these clients. I hope our efforts to serve our clients also help the Department of Hawaiian Homelands achieve your goals.

Sincerely,

James W. Feild
Senior Vice President

cc: Micah Kane
Ximena Delgado
Ron Salgado



Amounts Towards \$150 Million Hawaii Commitment

Information from DHHL	Amount of \$ Provided	Applied to DHHL Commitment**
Lai'opua/commitment letter	\$0	\$10,527,500
Waiehou Kou II/Construction & TO	\$11,716,534	\$11,716,534
Kopolei Rento to Own/Construction	\$10,607,639	\$10,607,639
FHLB AHP Grants	\$1,600,000	\$1,600,000
FHA 247 and Hula Mae Loans	\$31,600,000	\$31,600,000
Technical Training Sponsorship	\$40,000	\$40,000
CDFI for HCA (3:1) Ratio	\$250,000	\$750,000
Grants to HCA (4:1) Ratio	\$150,000	\$600,000
IDA Grant to OHA	\$150,000	\$150,000
HCA originated mortgages	\$1,800,000	\$1,800,000
Total	\$57,914,173	\$69,391,673

2004 Activity by Bank of America		
Waiehu Kou III Revolving Line of Credit	\$6,000,000	\$6,000,000
Waiehu Kou III, AHP (closed in 2003)		\$404,955
HCA Originated Mortgages Year-end 2004		\$7,177,350
HCA Warehouse Line of Credit		\$200,000
HCA grants paid in 2003, (4:1) ratio	\$100,000	\$400,000
Hawaii HomeOwnership Center, Paid 2003, (4:1) ratio	\$50,000	\$200,000
Hawaii HomeOwnership Center, Mortgages to DHHL families in 2003		\$1,246,466
Hawaii Community Assets grants paid in 2004, (4:1) Ratio	\$75,000	\$300,000
Total since 2003 and Year-end 2004	\$6,225,000	\$15,928,771

2004 Actuals/Revised numbers	Actual Amount	Difference
Waiehu Kou III Revolving Line of Credit Actual Draw down	\$9,362,156	\$3,362,156
HCA Originated mortgages 2004 (Revised amount)	\$7,343,013	\$165,663
	Difference	\$3,527,819
	Revised Grand total for 2004	\$19,456,590

Note: A Letter to Chairman Kane detailing the Bank's activity was sent/dated 1/7/05. We need to follow up to make sure that the revisions to the numbers are included in the next communication.

2005 HCA Originated Mortgages		
HCA Originated mortgages Jan-March 2005		\$5,863,947
HCA Originated mortgages April-June 05		\$4,721,377
HCA Originated mortgages July-September 2005		\$4,285,991
HCA Originated mortgages October-December 2005		\$1,870,729
Other Fundings in 2005		
Hawaii HomeOwnership Center, Paid 2005, (4:1) ratio	\$75,000	\$300,000
HCA Paid 2005, (4:1) ratio	\$75,000	\$300,000
	2005 Activity	\$17,342,044

**On November 2003, DHHL and Bank representatives met and agreed that the Bank had made good on \$69,391,673 towards the \$150 Million Hawaii Commitment. Those totals are delineated above.

Revised: 7/20/2007

2006 Activity		
Villages of Leial'i		\$14,586,216.00
Villages of Leial'i actual draw down	\$19,468,429	\$4,882,213.00
Hawaii HomeOwnership Center, Paid 2006, (4:1) ratio	\$50,000	\$200,000
HCA Paid 2006, (4:1) ratio	\$100,000	\$400,000
HCA Originated mortgages Jan-March 2006		\$1,633,456
HCA Originated mortgages April-June 2006		\$2,329,567
HCA Originated mortgages July-December 2006		\$7,800,000
Corrected # HCA Originated July-December 2006 (minus)		-\$2,094,023
HCA Original Warehouse Line of Credit forgiven (4:1) ratio	\$250,000	\$1,000,000
Waiehu Kou 4 Wailuku, HI (Dowling Co.) Revolving Line		\$10,500,000.00
	2006 Activity	\$41,237,429

2007 Activity		
HCA Grant Paid 2007, (4:1) ratio	\$25,000	\$100,000
HCA Originated mortgages Jan-March 2007		\$1,728,268
HCA Originated mortgages April-June 2007		\$2,464,626
	2007 Activity	\$4,292,894
	Grand Total Towards Goal	\$151,720,630

101%

**On November 2003, DHHL and Bank representatives met and agreed that the Bank had made good on \$69,391,673 towards the \$150 Million Hawaii Commitment. Those totals are delineated above.

Revised: 7/20/2007

LETTER D

LINDA LINGLE
GOVERNOR
STATE OF HAWAII



MICAH A. KANE
CHAIRMAN
HAWAIIAN HOMES COMMISSION

BEN HENDERSON
DEPUTY TO THE CHAIRMAN

KAULANA H. PARK
EXECUTIVE ASSISTANT

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOMELANDS

P.O. BOX 1879

HONOLULU, HAWAII 96805

October 3, 2007

Mr. James W. Feild
Senior Vice President
Community Development Banking
Bank of America
901 Main Street, 18th Floor
Dallas, Texas 75202

Dear James:

I apologize for the delay in responding to you regarding Bank of America's (BoA) commitment to provide \$150,000,000 in lending or investment to help native Hawaiian families fulfill their goal of homeownership on Hawaiian home lands.

It has taken us time to review the revised summary report you provided dated July 20, 2007. The statement of BoA contributions toward fulfillment of its commitment appear to be in order. The Department of Home Lands (DHHL) is therefore pleased to formally acknowledge that the \$150,000,000 commitment has been met by Bank of America.

As you are aware, DHHL is continuing its efforts to provide affordable housing for our native Hawaiian families. As we move forward with our development program, we hope that BoA will continue to pursue home financing and mortgage lending opportunities on Hawaiian home lands.

Aloha and mahalo,

A handwritten signature in cursive script that reads "Ben Henderson".

Ben Henderson, Deputy to the
Chairman