

# The Maui News

## Hawaiian group files complaint against bank

Next step will be a federal lawsuit against Bank of America



Na Po'e Kokua, a Maui-based Native Hawaiian housing advocacy group, filed a whistleblower complaint Thursday against Bank of America, calling it a "last warning" for the bank to uphold its commitment to

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make \$150 million in home loans available on Hawaiian Home Lands. Na Po'e Kokua said the next step would be a federal lawsuit. AP file photo

A Maui-based Native Hawaiian housing advocacy organization on Thursday filed a whistleblower complaint that it called the “*last warning*” for Bank of America to uphold a long-standing commitment to make \$150 million in home loans available on Hawaiian Home Lands.

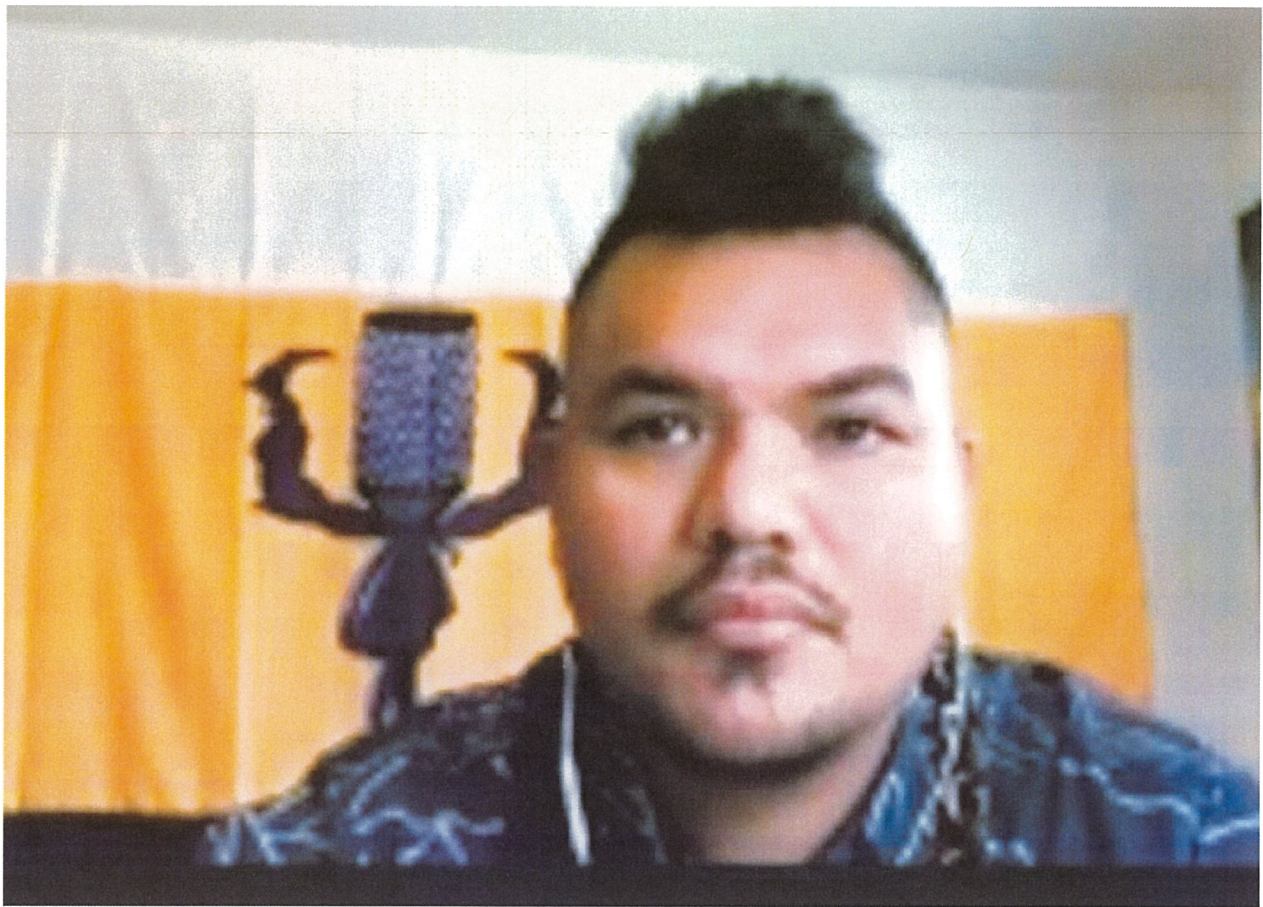
The complaint filed by Na Po'e Kokua with the U.S. Securities and Exchange Commission alleges that Bank of America defrauded its investors by not disclosing its “*criminal and civil exposure*” for “*systemic fraudulent conduct*” involving its failed commitments, false statements and false claims, among other actions through the years.

Na Po'e Kokua President Brandon Maka'awa'awa and attorney Bruce Jacobs said that next step would be a federal lawsuit.

*“This is the last warning for Bank of America to stop disrespecting the people of Hawaii and reach a fair settlement before NPK sues for RICO (Racketeering Influenced, Corrupt Organizations Act) in federal court,”* Maka'awa'awa said in the complaint.

Maka'awa'awa and Jacobs announced the complaint in a news conference facilitated by the Hawaii State Teachers Association on Thursday.





Brandon Maka'awa'awa, Na Po'e Kokua president, discusses a whistleblower complaint that the organization filed against Bank of America. Zoom screen grab

Maui County Mayor Michael Victorino, Maui County Council Vice-Chairwoman Keani Rawlins-Fernandez, Committee for Better Banks Co-Director Nick Weiner and Hawaii Fair Lending Coalition Coordinator Ian Chan Hodges also appeared at the news conference.

Bank of America said in an email statement on Thursday afternoon that *“while we respect the issues faced by the Native Hawaiian community, this is a meritless claim relating to a pledge made in 1994. The Bank fulfilled its pledge and the state confirmed that in 2007.”*

The bank attached a 2007 letter from the state Department of Hawaiian Home Lands that says *“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.”*

According to public documents and news reports, the Hawaiian Homes Commission in 2012 disputed the earlier letter, saying that the decision had been made without commission approval and agreeing that the bank had still not fully followed through on its pledge.

In 2018, Gov. David Ige invited bank officials to meet with Na Po'e Kokua in Hawaii and work out a fair settlement, but the issue was never resolved.

*"We feel hurt, I personally feel hurt for the kupuna who are no longer here that originally took on this fight,"* Maka'awa'awa said during the news conference. *"But this organization was started by kupuna on Maui. Their dream was to have affordable housing options for Hawaiians and their dream got crushed by this commitment not being fulfilled."*

He said the condition that was supposed to be fulfilled by 1998 was not an act of charity, as Bank of America was able to merge and profit. It was a condition of the bank's acquisition of Liberty Bank and ordered by the Federal Reserve System, public documents show.

*"They got to grow their wealth, when we got stuck over here holding the bag,"* said Maka'awa'awa.

He added that if the bank fulfilled the commitment, it would assist Hawaiians getting into housing and alleviate some of the housing pressure on other Hawaii residents.

Na Po'e Kokua also created the Hawaii Fair Lending Coalition as a group of Native Hawaiian housing advocates in 1993.

In the complaint, Maka-'awa'awa said, *"These commitments absolved Bank of America for illegal, discriminatory lending practices that 'redlined' Native Hawaiians and denied them loans because of their race. Bank of America has defrauded its investors by failing to disclose the material risk it faces as a result of criminal conduct that violates the federal Racketeering Influenced, Corrupt Organizations (RICO) Act."*

In December, U.S. District Court Judge J. Michael Seabright on Oahu granted a motion by Maui County to dismiss a Bank of America lawsuit

against the county, paving the way for the county to pursue possible claims against the bank for not fulfilling the loan promise and other issues.

Seabright called the bank's move a big-pocketed preemptive strike against the county, which had been gearing up to take possible legal action against the company.

During the news conference Thursday, Rawlins-Fernandez said that in July, within three hours of the full council voting to pursue claims against the bank and other mortgage lenders, the bank filed a "*meritless lawsuit*" against the county in federal court.

Rawlins-Fernandez said that attorneys from Honolulu-based Bronster Fujichaku Robbins continue to work on the county's case.

*"Our county stands firm as Mayor Victorino said in seeing this through on behalf of all of our Maui County residents,"* Rawlins-Fernandez said.

Victorino also pledged his support during the news conference.

Jacobs, the attorney for Na Po'e Kokua, is a former Miami prosecutor who leads Jacobs Legal, a foreclosure defense law firm known for uncovering fraud in Florida foreclosures using advanced legal theories under the Dodd-Frank Act, the False Claims Act and the RICO act, according to a news release.

Thursday's complaint was filed under the Dodd-Frank Act, passed by Congress in 2010 in an effort to curtail the excesses that led to the 2008 financial crisis.

*"If this doesn't bring back (Bank of) America to the table and if we are not going to resolve it with them, I'm very much looking forward to the opportunity to filing this RICO lawsuit in federal court, seeking class action certification for it and making sure Bank of America is held accountable,"* Jacobs said.

Jacobs explained that RICO covers situations in which a bank, their lawyers and lobbyists are engaged in systemic fraud, which he said has

occurred repeatedly with the bank even though they have been warned against it.

Na Po'e Kokua said in the complaint that it would be *“fully supportive”* of any settlement that implemented the Committee for Better Banks' proposals to the Biden administration designed to improve the safety and soundness of the banking system *“by empowering frontline workers and including them in the regulatory supervision process.”*

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