

Begin forwarded message:

**From:** Christopher.D.Young@hawaii.gov

**Date:** Fri Mar 12, 2004 2:03:19 PM Pacific/Honolulu

**To:** Bumpy Kanahele <pu.uhonua@verizon.net>

**Subject:** Re: DHHL Chairman Investigation/Leave of Absence

Mr. Kanahele,

I am in receipt of your email dated 3/11/04. A review of your concerns will be made to determine if a criminal investigation is warranted.

Christopher Young

Supervising Deputy Attorney General

(808) 586-1160

To: Christopher D. Young  
Deputy Attorney General  
333 Queen Street 10th floors  
Honolulu, Hawaii 96813

On September 12, 2003, on behalf of Aloha First and Na Kupuna o Maui, we filed a complaint (see attachment 1) with U.S. Attorney's office in Honolulu which, among other matters of grave concern, stated that there was "reason to fear that, without the consent of the majority of its commissioners, the state Department of Hawaiian Home Lands may be acting in collusion with Bank of America or acting under inducement from Bank of America in an attempt to take the Hawaiian property right to Bank of America's commitment and make it property of the state while forgoing full efforts to secure this valuable right as a source of wealth for the Hawaiian community."

(See for a story in the Honolulu Star Bulletin on the filing of this complaint)

On November 23, 2003, the 10th anniversary of the signing into law of the Apology Bill, I wrote an op/ed for the business section of the Honolulu Star-Bulletin asking the Lingle Administration to apologize for working to let Bank of America off the hook.

(see for the full op/ed)

RECEIVED AT GET MEETING ON 8/6/19

On January 9, 2004, documents were provided by Mr. Robert Frierson, Associate Secretary to the Board of Governors of the Federal Reserve System, which included letters from Bank of America Community Development Group President Doug Woodruff and Department of Hawaiian Home Lands Chairman Micah Kane. We received copies of the letters which are attached (see attachment 2). In the past week, certain facts regarding these letters were confirmed and we have reason to believe the information contained therein provides evidence that Mr. Micah Kane, Chairman of the Department of Hawaiian Home Lands, did in fact, without the knowledge or consent of the majority of the Hawaiian Homes Commission, act in collusion with Bank of America and/or act under inducement from Bank of America in an attempt to take the Hawaiian property right to Bank of America's commitment and make it property of the state while forgoing full efforts to secure this valuable right as a source of wealth for the Hawaiian community."

We have reason to believe that Mr. Kane and Mr. Woodruff colluded in writing these letters to the Federal Reserve Board - two of which were written on December 15, 2003. In his letter to the Federal Reserve Board, Mr. Kane claimed to be writing on behalf of the Hawaiian Home Lands Commission and made specific requests on behalf of the Commission regarding Bank of America's Hawaiian commitment.

In fact, Mr. Kane was not writing on behalf of the Hawaiian Home Lands Commission. Hawaii law requires "the concurrence of a majority of all the members to which the commission is entitled shall be necessary to make any action of the commission valid." (Hawaii Administrative Rules §10-2-5 [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222; HRS §92-15) (Imp: HHC Act §202; HRS §92-15)) Mr. Kane has at no time brought the issue of Bank of America's \$150 million commitment before the Hawaiian Homes Commission. Nor has this issue appeared as an item on the commission's meeting agenda, as is required by law for any action of the Commission.

In fact, on the day that Mr. Kane and Mr. Woodruff wrote to the Federal Reserve Board, I spoke at DHHL's community meeting and asked if any of the commissioners had been consulted regarding Bank of America's commitment. The answer from each commissioner was no. The following day, I appeared before the commissions regularly scheduled meeting and raised the issue again (see minutes in attachment 3) and received the same response.

Mr. Kane's actions "under the color of law" in claiming to be acting on behalf of the commission while entering into agreements with Bank of America which have impinged upon native Hawaiian civil rights, violated state administrative rules and resulted in the reduction in the value of Hawaiian property rights, obtained under the protection of the Fair Housing Act, of tens of millions of dollars. In Mr. Kane's December

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letter to the Federal Reserve Board, he stated that during 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 to be fulfilled." However, only FHA-247 loans qualify under the commitment and in a January 2003 letter to Na Kupuna o Maui and myself (see attachment 4), Mr. Woodruff wrote that through December 31, 2002, Bank of America had "originated nearly \$30 million in Hula Mae and FHA 247 loans." This left \$120 million outstanding, which is what Na Kupuna o Maui and Aloha First are seeking to secure as a valuable property right and source of wealth for the Hawaiian people.

In an effort to seek immediate relief, native Hawaiian plaintiffs filed suit against the Federal Reserve Board in federal court. This lawsuit received national news coverage. One national AP story can be found at the link below:

<http://starbulletin.com/2004/02/19/business/story5.html>

Without the knowledge or approval of the Hawaiian Homes Commission, Mr. Kane released Bank of America from \$39 million of its commitment to the Hawaiian people. In addition, Mr. Kane's agreement with Bank of America regarding its \$150 million commitment to Hawaiians, as outlined in the letters that he and Mr. Woodruff sent via the U.S. mails to the Federal Reserve Board, were intended by Bank of America to result in a substantial weakening of the commitment to the Hawaiian people. Acting under color of law, Mr. Kane was complicit and an accomplice in Bank of America's attempt to achieve this objective.

Therefore, we urge the Criminal Division of the state Attorney General's office to conduct a full investigation into these matters. When the Attorney General's office was called yesterday, this was the action that was recommended. In additional, we have reason to believe that it is necessary for state Attorney General Mark Bennett recuse himself from this investigation as he played a role in key meetings between Micah Kane and Bank of America. Finally, we urge that Governor Linda Lingle require Mr. Kane to take a leave of absence from his position as Chairman of the Department of Hawaiian Home Lands until such time as the investigation is completed.

Sincerely,  
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