

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

March 19, 2021

**Committee
Report No. _____**

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Government Relations, Ethics, and Transparency Committee, having met on March 2, 2021, makes reference to the following:

1. County Communication 19-107, from Councilmember Michael J. Molina, relating to the United States Federal Reserve System's order requiring Bank of America ("BoA") to provide mortgages on Hawaiian Home Lands.
2. County Communication 19-108, from Presiding Officer Pro Tempore Tasha Kama, relating to BoA's \$150,000,000 loan commitment for native Hawaiians on Hawaiian Home Lands.
3. County Communication 19-337, from Presiding Officer Pro Tempore Tasha Kama, transmitting a proposed resolution to authorize the employment of special counsel to investigate and litigate actionable claims against BoA and the banking and mortgage industry.
4. County Communication 19-338, from Council Chair Kelly T. King, attaching copies of County Communication 19-107 from Councilmember Michael J. Molina, and County Communication 19-108 from Presiding Officer Pro Tempore Tasha Kama.

Your Committee notes that the Council's Governance, Ethics, and Transparency Committee (2019-2021 Council term) previously reported on this matter through Committee Report 20-72, which recommended a proposed resolution, entitled "AUTHORIZING THE EMPLOYMENT OF

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SPECIAL COUNSEL TO FILE LEGAL CLAIMS AGAINST BANK OF AMERICA AND OTHER MORTGAGE LENDERS FOR FAILURE TO FULFILL LOAN COMMITMENTS, FRAUDULENT FORECLOSURES, AND SIMILAR UNLAWFUL CONDUCT," be adopted. At its meeting of July 10, 2020, the Council adopted the recommendations in Committee Report 20-72 (Resolution 20-97).

Your Committee further notes Resolution 20-97 authorized the execution of a contract with special counsel that may include a contingency-fee agreement, hourly rates for attorneys' fees, or a combination of attorneys' fees and hourly-based attorneys' fees, with total compensation arising from hourly-based attorneys' fees not to exceed \$200,000. In addition, your Committee notes the Council Chair subsequently executed a contract with Honolulu-based Bronster Fujichaku Robbins, A Law Corporation.

By correspondence dated February 2, 2021, the Department of the Corporation Counsel transmitted a proposed resolution entitled "AUTHORIZING ADDITIONAL COMPENSATION RELATED TO THE EMPLOYMENT OF SPECIAL COUNSEL BRONSTER FUJICHAKU ROBBINS, A LAW CORPORATION, TO FILE LEGAL CLAIMS AGAINST BANK OF AMERICA AND OTHER MORTGAGE LENDERS FOR FAILURE TO FULFILL LOAN COMMITMENTS, FRAUDULENT FORECLOSURES, AND SIMILAR UNLAWFUL CONDUCT, AND IN BANK OF AMERICA, N.A. v. COUNTY OF MAUI, ET AL., CIVIL 1:20-CV-00310 JMS-WRP."

The purpose of the proposed resolution is to authorize additional compensation in the amount of \$89,824.88 for the payment of special counsel's additional billings related to a separate lawsuit filed by BoA against the County.

The Corporation Counsel provided a brief overview of the matter. She said the proposed resolution will ensure that the full compensation, as approved by Resolution 20-97, will be available for special counsel to pursue claims against BoA or other potential defendants.

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The Corporation Counsel said she would inquire with special counsel regarding the County's reimbursement of attorneys' fees and costs.

Your Committee voted 9-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, Kama, King, Lee, Paltin, Sinenci, and Sugimura voted "aye."

Your Government Relations, Ethics, and Transparency Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING ADDITIONAL COMPENSATION RELATED TO THE EMPLOYMENT OF SPECIAL COUNSEL BRONSTER FUJICHAKU ROBBINS, A LAW CORPORATION, TO FILE LEGAL CLAIMS AGAINST BANK OF AMERICA AND OTHER MORTGAGE LENDERS FOR FAILURE TO FULFILL LOAN COMMITMENTS, FRAUDULENT FORECLOSURES, AND SIMILAR UNLAWFUL CONDUCT, AND IN BANK OF AMERICA, N.A. v. COUNTY OF MAUI, ET AL., CIVIL 1:20-CV-00310 JMS-WRP," be ADOPTED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



MICHAEL J. MOLINA, Chair

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Resolution

No. _____

AUTHORIZING ADDITIONAL COMPENSATION RELATED
TO THE EMPLOYMENT OF SPECIAL COUNSEL BRONSTER FUJICHAKU
ROBBINS, A LAW CORPORATION, TO FILE LEGAL CLAIMS AGAINST BANK OF
AMERICA AND OTHER MORTGAGE LENDERS FOR FAILURE TO FULFILL
LOAN COMMITMENTS, FRAUDULENT FORECLOSURES, AND SIMILAR
UNLAWFUL CONDUCT, AND IN BANK OF AMERICA, N.A. v. COUNTY OF
MAUI, ET AL., CIVIL 1:20-CV-00310 JMS-WRP

WHEREAS, on July 20, 2020, by Resolution No. 20-97, the Council authorized the employment of special counsel BRONSTER FUJICHAKU ROBBINS, A LAW CORPORATION to file legal claims against Bank of America and other mortgage lenders for failure to fulfill loan commitments, fraudulent foreclosures, and similar unlawful conduct.

WHEREAS, on July 10, 2020, Bank of America filed a complaint in Bank of America, N.A. v. County of Maui Civil 1:20-CV-00310 asking the court, amongst other claims, to issue a declaratory judgment that any claims by the County against Bank of America are preempted by federal law.

WHEREAS, the Department of the Corporation Counsel has requested authorization to raise the compensation limit for the employment of special counsel by an additional \$89,824.88 for payment of special counsel's additional billings to defend the County in Bank of America's suit against the County, for a total compensation not exceeding \$289,824.88; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

Resolution No. _____

1. That the Council hereby approves and authorizes an increase in compensation for the employment of special counsel Bronster Fujichaku Robbins, a Law Corporation, to file legal claims against Bank of America and other mortgage lenders for failure to fulfill loan commitments, fraudulent foreclosures, and similar unlawful conduct, and to defend the County in Bank of America, N.A. v. County of Maui, Civil 1:20:CV-00310 JMS-WRP; and

2. That certified copies of this resolution be transmitted to the Council Chair, the Mayor, the Corporation Counsel, the Director of Council Services, the Director of Finance, and Bronster Fujichaku Robbins, a Law Corporation.

APPROVED AS TO FORM AND LEGALITY:

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RICHELLE M. THOMSON
First Deputy Corporation Counsel
County of Maui