

**LAW OFFICE OF  
DEXTER K. KAIAMA**

Seven Waterfront Plaza  
500 Ala Moana Blvd., Suite 400  
Honolulu, HI 96813

Tel. No. (808) 342-4028  
Fax No. (808) 587-7880

April 6, 2012

ADMIRAL SAMUEL J. LOCKLEAR III, USN  
HQ USPACOM  
Attn JOO  
Box 64028  
Camp H.M. Smith, HI 96861-4031

Re: VIOLATIONS OF INTERNATIONAL LAW: PROTEST AND DEMAND

Dear ADMIRAL SAMUEL J. LOCKLEAR III, USN:

NOTICE REQUIRED BY SECTION 495(b), SECTION I—REMEDIES  
AND REPRISALS, CHAPTER 8—REMEDIES FOR VIOLATION OF  
INTERNATIONAL LAW; DEPARTMENT OF THE  
ARMY FIELD MANUAL 27-10

The following information is provided to you as required by Section 495(b), Department of the Army Field Manual 27-10; Hague Convention No. IV, *Respecting the Laws and Customs of War on Land*, 18 October 1907; and the Geneva Convention *Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949.

**Section 495 (FM 27-10). Remedies of Injured Belligerent.** In the event of violation of the law of war, the injured party may legally resort to remedial action of the following types:

- a. Publication of the facts, with a view to influencing public opinion against the offending belligerent.
- b. Protest and demand for compensation and/or punishment of the individual offenders. Such communications may be sent through the protecting, a humanitarian organization performing the duties of a

Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
April 3, 2012  
Re: Violations of International Law: Protest & Demand  
Page Two

protecting power, or a neutral state, or by parlementaire direct to the commander of the offending forces. Article 3, [Hague Convention] IV, provides in this respect:

**A belligerent party which violates the provisions of the said Regulations, shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.**

...

**Section 502 (FM 27-10). Grave Breaches of the Geneva Conventions of 1949 as War Crimes.** The Geneva Conventions of 1949 define the following acts as “grave breaches,” if committed against persons or property protected by the Conventions:

*c. GC [Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949]*

***Grave breaches to which the preceding Article relates shall be those involving...willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention...***

***(GC, art. 147.)***

I represent clients who have been deprived of a fair and regular trial in ejection proceedings in the District Court of the Third Circuit of the State of Hawai‘i. As a practicing attorney and officer of the court, I took an oath to support and defend the constitutions of the United States of America and State of Hawai‘i.

Under the *Supremacy clause* (Art. VI, clause 2, U.S. Const.), “all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.” According to the U.S. Supreme Court in *U.S. v. Belmont*, 301 U.S. 324 (1937), *U.S. v. Pink*, 315 U.S. 203 (1942), and *American Insurance Association v. Garamendi*, 539 U.S. 396, (2003), sole-executive agreements are treaties.

Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
April 3, 2012  
Re: Violations of International Law: Protest & Demand  
Page Three

In this case of my clients, more fully set forth herein below, I have raised jurisdictional arguments centered on two sole executive agreements entered into in 1893 between President Grover Cleveland, representing the United States of America, and Queen Lili'uokalani, representing the Hawaiian Kingdom. The first sole executive agreement, called the *Lili'uokalani assignment*, is a temporary and conditional assignment by the Queen of her executive power under threat of war, and binds the President and his successors in office to administer Hawaiian law.

The second sole executive agreement, called the *Agreement of restoration*, binds the President and his successors in office to restore the Hawaiian government, return the executive power to the Queen or her successor in office, and thereafter for the Queen or successor in office to grant amnesty to certain insurgents. The Congress politically prevented President Cleveland from using force to carry into effect these international agreements.

Unable to procure a treaty of cession from the Hawaiian Kingdom government acquiring the Hawaiian Islands as required by international law, Congress enacted a *Joint Resolution To provide for annexing the Hawaiian Islands to the United States*, which was signed into law by President McKinley on July 7, 1898 during the Spanish-American War (30 U.S. Stat. 750) as a war measure. The Hawaiian Kingdom came under military occupation on August 12, 1898 at the height of the Spanish-American War. The occupation was justified as a military necessity in order to reinforce and supply the troops that have been occupying the Spanish colonies of Guam and the Philippines since May 1, 1898. Following the close of the Spanish-American War by the Treaty of Paris signed December 10, 1898 (30 U.S. Stat. 1754), U.S. troops remained in the Hawaiian Islands and continued its occupation to date in violation of international law.

Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
April 3, 2012  
Re: Violations of International Law: Protest & Demand  
Page Four

Article 6, 1863 Lieber Code, regulated U.S. troops during the occupation of the Hawaiian Islands in 1898 and mandated the Commander of U.S. troops to administer the laws of the occupied country, being the civil and penal laws of the Hawaiian Kingdom. Article 6 was superseded by Article 43, 1899 Hague Convention, II (32 U.S. Stat. 1803), and then superseded by Article 43, 1907 Hague Convention, IV (36 U.S. Stat. 2227). Article 43 of the 1907 Hague Convention, IV, reinforces the 1893 *Lili'uokalani assignment* that mandates the President to administer the civil and penal laws of the Hawaiian Kingdom. On August 12, 1849, the United States signed and ratified the (IV) *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* of 12 August 1949 (6 U.S.T. 3516, T.I.A.S No. 3365, 75 U.N.T.S. 287). In July 1956, the U.S. Department of the Army published Field Manual 27-10—The Law of Land Warfare.

Furthering the illegal occupation, President McKinley signed into United States law *An Act To provide a government for the Territory of Hawai'i* on April 30, 1900 (31 U.S. Stat. 141); and on March 18, 1959, President Eisenhower signed into United States law *An Act To provide for the admission of the State of Hawai'i into the Union* (73 U.S. Stat. 4). These laws, which include the 1898 joint resolution of annexation, have no extraterritorial effect and stand in direct violation of the *Lili'uokalani assignment* and *Agreement restoration*, being international compacts, the 1907 Hague Convention, IV, and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, IV.

**Section 509 (FM 27-10). Defense of Superior Orders**

*a.* The fact that the law of war has been violated pursuant to an order of a superior authority, whether military or civil, does not deprive the act in question of its character of a war crime, nor does it constitute a defense in the trial of an accused individual, unless he did not know and could not reasonably have been expected to know that the act ordered was unlawful. In all cases where the order is

Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
April 3, 2012  
Re: Violations of International Law: Protest & Demand  
Page Five

held not to constitute a defense to an allegation of war crime, the fact that the individual was acting pursuant to orders maybe considered in mitigation of punishment.

**Section 510 (FM 27-10). Government Officials**

The fact that a person who committed an act which constitutes a war crime acted as the head of a State or as a responsible government official does not relieve him from responsibility for his act.

As the Commander of the U.S. Pacific Command, your office is the direct extension of the United States President in the Hawaiian Islands through the Secretary of Defense. As the Hawaiian Kingdom continues to remain an independent and sovereign State, the *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention IV mandates your office to administer Hawaiian Kingdom law in accordance with international law and the laws of occupation. The violations of my clients' rights to a fair and regular trial are directly attributable to the President's failure, and by extension your office's failure, to comply with the *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention, IV, which makes this an international matter.

STATEMENT OF FACTS

My clients are Landish and Robin Armitage, husband and wife, whose rental property was non-judicially foreclosed on and ejection proceedings instituted in the District Court of the Third Circuit, Hilo, island of Hawai'i (Civil No. 3RC11-1-1142, District Court of the Third Circuit, Puna Division, State of Hawai'i). My clients purchased title insurance to protect the lender in the event there is a defect in title, which was a condition of the loan, but the lender disregarded the policy and proceeded against my client for eviction of their tenants.

Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
April 3, 2012  
Re: Violations of International Law: Protest & Demand  
Page Six

- On October 5, 2011, Wells Fargo Bank N.A., As Trustee, For Carrington Mortgage Loan Trust, Series 2006-NC3 Asset-Backed Pass-Through Certificates, filed their Complaint for Summary Possession and Ejectment (“Plaintiff’s Complaint”) against my clients.
- On November 17, 2011 Wells Fargo Bank, filed a Motion for Summary Judgment and Writ of Possession.
- On December 1, 2011 we filed a Motion to Dismiss Wells Fargo Bank’s Complaint for Summary Possession and Ejectment pursuant to Rules 12.1 and 12(h)(3) of the Hawaii District Court Rules of Civil Procedure and Chapter 604-5 of the Hawai’i Revised Statutes.
- On January 4, 2012 we filed a second Motion to Dismiss Wells Fargo Bank’s Complaint pursuant to Hawai’i Rules of Civil Procedure Rule 12(b)(1) because there is clear evidence that the court lacks subject matter jurisdiction.
- On January 23, 2012, our motion was heard before the Honorable Judge Barbara T. Takase, where she took judicial notice of the *Lili‘uokalani assignment* and the *Agreement of restoration*, being two sole executive agreements. Instead of dismissing Plaintiff’s Complaint, Judge Takase denied my clients’ HRCRP 12(b)(1) Motion to Dismiss and granted summary judgment for summary possession and writ of possession in violation of my clients’ rights to be tried by a court of competent jurisdiction (Our HDCRCP Rule 12(h)(3) and 12.1 Motion was also denied by Judge Takase).
- On February 29, 2012, we filed a Petition for Writ of Mandamus with the Supreme Court of the State of Hawai’i (SCPW-12-0000144) seeking an Order to compel Judge Takase to dismiss the complaint after taking judicial notice of the executive agreements.

Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
April 3, 2012  
Re: Violations of International Law: Protest & Demand  
Page Seven

- On March 7, 2012, the State of Hawai'i Supreme Court denied our request for a mandamus.
- On March 19, 2012, we filed a Motion to Reconsider the Order. Our Motion for Reconsideration was denied by the Hawai'i Supreme Court two (2) days later on March 21, 2012.

My clients have been deprived of their right to a fair and regular trial by a court that does not have subject matter jurisdiction and stands in direct violation of the 1893 *Lili'uokalani assignment & Agreement of restoration*, 1899 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law. An appropriate court with subject matter jurisdiction is an Article II Federal Court, which is a military court established by the President through executive order which would administer the civil and penal laws of the Hawaiian Kingdom under the international laws of occupation. However, Judge Takase of the District Court of the Third Circuit would have jurisdiction if your office established a military government that utilizes the infrastructure of the State of Hawai'i government to administer Hawaiian Kingdom law.

#### PROTEST AND DEMAND

In light of the aforementioned, I am formally lodging a protest and demand, on behalf of my clients, that your office:

1. Comply with the 1893 *Lili'uokalani assignment & Agreement of restoration*, 1899 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law;
2. Establish a military government, to include tribunals, to administer and enforce the civil and penal laws of the Hawaiian Kingdom pursuant to *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention, IV;

Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
April 3, 2012  
Re: Violations of International Law: Protest & Demand  
Page Eight

3. Compensate my clients for War Crimes committed against them and *restitutio in integrum* of their property that was the subject of the ejection proceedings.

Due to the large volume of pages, I'm attaching a CD that has PDF files of the Petition for Writ of Mandamus, which includes my clients' Motion to Dismiss and attachments as an appendix, the Order by the State of Hawai'i Supreme Court, our Motion to Reconsider the Order, and the Order denying our Motion to Reconsider. I am also providing PDF files of the doctoral dissertation of Dr. Keanu Sai who received his Ph.D. from the University of Hawai'i at Manoa in Political Science in 2008, and his law reviewed journal articles published at the University of Hawai'i at Manoa and the University of San Francisco School of Law regarding the prolonged occupation of the Hawaiian Kingdom. I respectfully direct your attention to Chapter 5, "Righting the Wrong," of Dr. Sai's dissertation, which provides a comprehensive plan for establishing a military government with the utilization of the current governmental infrastructure of the State of Hawai'i.

Dr. Sai served as lead agent for the *acting* government of the Hawaiian Kingdom in arbitral proceedings at the Permanent Court of Arbitration, The Hague, Netherlands, in *Larsen v. Hawaiian Kingdom*, 119 International Law Reports 566 (2001), and filed a complaint with the United Nations Security Council on July 5, 2001 regarding the prolonged occupation of the Hawaiian Kingdom. International law journal articles on the international arbitration and the Security Council complaint were published in the *American Journal of International Law*, (95 American Journal of International Law 927-933), and the *Chinese Journal of International Law*, (2(1) Chinese Journal of International Law 655-684).

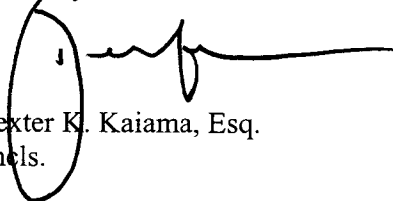


Admiral Samuel J. Locklear III, USN  
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April 3, 2012  
Re: Violations of International Law: Protest & Demand  
Page Nine

Dr. Sai gave a presentation of the prolonged occupation of the Hawaiian Islands to the Officer's Corps of the 25<sup>th</sup> Infantry Division in 2001 at the invitation of Brigadier General James M. Dubik, Commander. Dr. Sai also gave a presentation on the prolonged occupation of the Hawaiian Islands to Colonel James Herring, Staff Judge Advocate for the Army's 8<sup>th</sup> Theater Sustainment Command, and his staff of officers at Wheeler Court House on February 25, 2009.

It is undisputedly clear that notice, regarding the prolonged occupation of the Hawaiian Kingdom, has been provided to this office. We now respectfully demand that your office comply with your military obligations and provide my clients the relief they are entitled to under international law.

Sincerely,



Dexter K. Kaiama, Esq.  
Encls.

CC: BARRACK OBAMA, President  
The White House  
1600 Pennsylvania Ave., NW  
Washington, DC 20500

LEON PANETTA, Secretary of Defense  
U.S. Department of Defense  
1400 Defense Pentagon  
Washington, DC 20301-1400

United Nations Security Council  
via DR. KEANU SAI, Chairman  
*Acting* Council of Regency, Hawaiian Kingdom  
P.O. Box 2194  
Honolulu, HI 96805-2194

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Re: VIOLATIONS OF INTERNATIONAL LAW: PROTEST AND DEMAND  
Alleged War Criminal: Judge Greg Nakamura  
War Crime Victim: Kale Kepekaio Gumapac

Dear ADMIRAL SAMUEL J. LOCKLEAR III, USN:

NOTICE REQUIRED BY SECTION 495(b), SECTION I—REMEDIES  
AND REPRISALS, CHAPTER 8—REMEDIES FOR VIOLATION OF  
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**Section 495 (FM 27-10). Remedies of Injured**

**Belligerent.** In the event of violation of the law of war, the injured party may legally resort to remedial action of the following types:

*a.* Publication of the facts, with a view to influencing public opinion against the offending belligerent.

Admiral Samuel J. Locklear III, USN  
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Attn JOO  
July 6, 2012  
Re: War Crime: Protest & Demand

b. Protest and demand for compensation and/or punishment of the individual offenders. Such communications may be sent through the protecting, a humanitarian organization performing the duties of a protecting power, or a neutral state, or by parlementaire direct to the commander of the offending forces. Article 3, [Hague Convention] IV, provides in this respect:

**A belligerent party which violates the provisions of the said Regulations, shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.**

...

**Section 502 (FM 27-10). Grave Breaches of the Geneva Conventions of 1949 as War Crimes.** The Geneva Conventions of 1949 define the following acts as “grave breaches,” if committed against persons or property protected by the Conventions:

c. *GC [Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949]*

***Grave breaches to which the preceding Article relates shall be those involving...willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention... (GC, art. 147.)***

Pursuant to the authorization and instructions of my client, I hereby provide notice that my client has been deprived of a fair and regular trial in ejection proceedings in the Circuit Court of the Third Circuit of the State of Hawai‘i. As a practicing attorney and officer of the court, I took an oath to support and defend the constitutions of the United States of America and State of Hawai‘i.

Under the *Supremacy clause* (Art. VI, clause 2, U.S. Const.), “all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.” According to the U.S. Supreme Court in *U.S. v. Belmont*, 301 U.S. 324 (1937),

Admiral Samuel J. Locklear III, USN  
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July 6, 2012  
Re: War Crime: Protest & Demand

*U.S. v. Pink*, 315 U.S. 203 (1942), and *American Insurance Association v. Garamendi*, 539 U.S. 396, (2003), sole-executive agreements are treaties.

In the case of my client, as more fully set forth herein below, he raised jurisdictional arguments centered on two sole executive agreements entered into in 1893 between President Grover Cleveland, representing the United States of America, and Queen Lili'uokalani, representing the Hawaiian Kingdom. The first sole executive agreement, called the *Lili'uokalani assignment*, is a temporary and conditional assignment by the Queen of her executive power under threat of war, and binds the President and his successors in office to administer Hawaiian law.

The second sole executive agreement, called the *Agreement of restoration*, binds the President and his successors in office to restore the Hawaiian government, return the executive power to the Queen or her successor in office, and thereafter for the Queen or successor in office to grant amnesty to certain insurgents. The Congress politically prevented President Cleveland from using force to carry into effect these international agreements.

Unable to procure a treaty of cession from the Hawaiian Kingdom government acquiring the Hawaiian Islands as required by international law, Congress enacted a *Joint Resolution To provide for annexing the Hawaiian Islands to the United States*, which was signed into law by President McKinley on July 7, 1898 during the Spanish-American War (30 U.S. Stat. 750) as a war measure. The Hawaiian Kingdom came under military occupation on August 12, 1898 at the height of the Spanish-American War. The occupation was justified as a military necessity in order to reinforce and supply the troops that have been occupying the Spanish colonies of Guam and the Philippines since May 1, 1898. Following the close of the Spanish-American War by the Treaty of Paris signed December 10, 1898 (30 U.S. Stat. 1754), U.S. troops remained in the Hawaiian Islands and continued its occupation to date in violation of international law.

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Attn JOO  
July 6, 2012  
Re: War Crime: Protest & Demand

Article 6, 1863 Lieber Code, regulated U.S. troops during the occupation of the Hawaiian Islands in 1898 and mandated the Commander of U.S. troops to administer the laws of the occupied country, being the civil and penal laws of the Hawaiian Kingdom. Article 6 was superseded by Article 43, 1899 Hague Convention, II (32 U.S. Stat. 1803), and then superseded by Article 43, 1907 Hague Convention, IV (36 U.S. Stat. 2227). Article 43 of the 1907 Hague Convention, IV, reinforces the 1893 *Lili'uokalani assignment* that mandates the President to administer the civil and penal laws of the Hawaiian Kingdom. On August 12, 1949, the United States signed and ratified the (IV) *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* of 12 August 1949 (6 U.S.T. 3516, T.I.A.S No. 3365, 75 U.N.T.S. 287). In July 1956, the U.S. Department of the Army published Field Manual 27-10—The Law of Land Warfare.

Furthering the illegal occupation, President McKinley signed into United States law *An Act To provide a government for the Territory of Hawai'i* on April 30, 1900 (31 U.S. Stat. 141); and on March 18, 1959, President Eisenhower signed into United States law *An Act To provide for the admission of the State of Hawai'i into the Union* (73 U.S. Stat. 4). These laws, which include the 1898 joint resolution of annexation, have no extraterritorial effect and stand in direct violation of the *Lili'uokalani assignment* and *Agreement restoration*, being international compacts, the 1907 Hague Convention, IV, and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, IV.

**Section 509 (FM 27-10). Defense of Superior Orders**

*a.* The fact that the law of war has been violated pursuant to an order of a superior authority, whether military or civil, does not deprive the act in question of its character of a war crime, nor does it constitute a defense in the trial of an accused individual, unless he did not know

Admiral Samuel J. Locklear III, USN  
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July 6, 2012  
Re: War Crime: Protest & Demand

and could not reasonably have been expected to know that the act ordered was unlawful. In all cases where the order is held not to constitute a defense to an allegation of war crime, the fact that the individual was acting pursuant to orders maybe considered in mitigation of punishment.

**Section 510 (FM 27-10). Government Officials**

The fact that a person who committed an act which constitutes a war crime acted as the head of a State or as a responsible government official does not relieve him from responsibility for his act.

As the Commander of the U.S. Pacific Command, your office is the direct extension of the United States President in the Hawaiian Islands through the Secretary of Defense. As the Hawaiian Kingdom continues to remain an independent and sovereign State, the *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention IV mandates your office to administer Hawaiian Kingdom law in accordance with international law and the laws of occupation. The violations of my client's right to a fair and regular trial are directly attributable to the President's failure, and by extension your office's failure, to comply with the *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention, IV, which makes this an international matter.

STATEMENT OF FACTS

My client is Kale Kepekaio Gumapac, a Hawaiian subject and protected person, whose residential property was non-judicially foreclosed on and ejection proceedings instituted in the District Court of the Third Circuit, Hilo, Island of Hawai'i (Civil No. 3RC11-1-000150, District Court of the Third Circuit, Puna Division, State of Hawai'i). My client purchased title insurance to protect the lender in the event there is a defect in title, which was a condition of the loan, but the lender disregarded the policy and proceeded against my client for eviction. The Honorable Judge Harry Freitas dismissed

Admiral Samuel J. Locklear III, USN  
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July 6, 2012  
Re: War Crime: Protest & Demand

the complaint and granted my client's motion for dismissal because of a title issue created by the aforementioned *Lili 'uokalani assignment*. The bank re-filed an ejectment complaint in the Circuit Court of the Third Circuit, State of Hawai'i (Civil no. 3CC11-1-000590), wherein the Honorable Judge Greg K. Nakamura committed a war crime by willfully depriving my client, as a protected person, of a fair and regular trial prescribed by the Geneva Convention, IV. According to Section 499—War Crimes, Department of the Army Field Manual 27-10, "The term 'war crime' is the technical expression for a violation of the law of war by any person or persons, military or civilian. Every violation of the law of war is a war crime."

- On December 15, 2011, Deutsche Bank filed their Complaint Ejectment ("Plaintiff's Complaint") against my client.
- On January 13, 2011, my client filed a Motion to Dismiss Plaintiff's Complaint for Ejectment pursuant to Hawai'i Rules of Civil Procedure Rule 12(b)(1) because there is clear evidence that the court lacked subject matter jurisdiction.
- On February 14, 2012, my client's motion was heard before the Honorable Judge Nakamura, where he took judicial notice of the *Lili 'uokalani assignment* and the *Agreement of restoration*, being two sole executive agreements. Instead of dismissing Plaintiff's Complaint, Judge Nakamura denied my clients' HRCP 12(b)(1) Motion to Dismiss in violation of my clients' rights to be tried by a court of competent jurisdiction.

My client has been deprived of his right to a fair and regular trial by a court that does not have subject matter jurisdiction and stands in direct violation of the 1893 *Lili 'uokalani assignment & Agreement of restoration*, 1899 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law. An appropriate court with subject matter jurisdiction is an Article II Federal Court, which is a military court established by the President through executive order which would administer the civil and penal laws of

Admiral Samuel J. Locklear III, USN  
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July 6, 2012  
Re: War Crime: Protest & Demand

the Hawaiian Kingdom under the international laws of occupation. However, the Circuit Court of the Third Circuit would have jurisdiction if your office established a military government that utilizes the infrastructure of the State of Hawai'i government to administer Hawaiian Kingdom law.

At present, the only war crime committed was the denial of my client's right to a fair and regular trial, but should Judge Nakamura sign the Order granting Summary Judgment and the Writ of Possession and my client is forcibly removed from his residence, a second war crime will be committed because private property cannot be confiscated. Article 46 of the 1907 Hague Convention, IV, states, "Family honour and rights, the lives of persons, and private property... must be respected. Private property cannot be confiscated." And Article 53 of the 1949 Geneva Question, IV, provides, "Any destruction by the Occupying Power of real or personal property belonging individually... to private persons... is prohibited."

In the *Trial of Friedrich Flick and Five Others, United States Military Tribunal, Nuremberg*, 9 Law Reports of Trials of Law Criminals (United Nations War Crime Commission) 1, 19 (1949), the U.S. Military Tribunal stated:

...responsibility of an individual for infractions of international law is not open to question. In dealing with property located outside his own State, he must be expected to ascertain and keep within the applicable law. **Ignorance thereof will not excuse guilt but may mitigate punishment** (emphasis added).

#### PROTEST AND DEMAND

In light of the aforementioned, I am formally lodging a protest and demand, on behalf of my clients, that your office:



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1. Comply with the 1893 *Lili 'uokalani assignment & Agreement of restoration*, 1899 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law;
2. Establish a military government, to include tribunals, to administer and enforce the civil and penal laws of the Hawaiian Kingdom pursuant to *Lili 'uokalani assignment* and Article 43 of the 1907 Hague Convention, IV;
3. Order the Honorable Judge Nakamura to cease and desist these proceedings against my client;
4. Compensate my client for War Crimes committed against him and *restitutio in integrum* of his property that was the subject of the ejectment proceedings.

Due to the large volume of pages, I'm attaching a CD that has PDF files of: (1) my client's Motion to Dismiss Plaintiff's Complaint for Ejectment; (2) Plaintiff's Opposition to the Motion to Dismiss; (3) my client's Reply to the Opposition; (4) transcripts of the hearing on my client's Motion to Dismiss wherein the Honorable Judge Nakamura took judicial notice of the *Lili 'uokalani assignment* and the *Agreement of restoration*; and (5) Order denying my client's Motion to Dismiss.

I am also providing PDF files of the doctoral dissertation of Dr. Keanu Sai who received his Ph.D. from the University of Hawai'i at Manoa in Political Science in 2008, and his law reviewed journal articles published at the University of Hawai'i at Manoa and the University of San Francisco School of Law regarding the prolonged occupation of the Hawaiian Kingdom. I respectfully direct your attention to Chapter 5, "Righting the Wrong," of Dr. Sai's dissertation, which provides a comprehensive plan for establishing a

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military government with the utilization of the current governmental infrastructure of the State of Hawai'i.

Dr. Sai served as lead agent for the *acting* government of the Hawaiian Kingdom in arbitral proceedings at the Permanent Court of Arbitration, The Hague, Netherlands, in *Larsen v. Hawaiian Kingdom*, 119 International Law Reports 566 (2001), and filed a complaint with the United Nations Security Council on July 5, 2001 regarding the prolonged occupation of the Hawaiian Kingdom. International law journal articles on the international arbitration and the Security Council complaint were published in the *American Journal of International Law*, (95 American Journal of International Law 927-933), and the *Chinese Journal of International Law*, (2(1) Chinese Journal of International Law 655-684).

Dr. Sai gave a presentation of the prolonged occupation of the Hawaiian Islands to the Officer's Corps of the 25<sup>th</sup> Infantry Division in 2001 at the invitation of Brigadier General James M. Dubik, Commander. Dr. Sai also gave a presentation on the prolonged occupation of the Hawaiian Islands to Colonel James Herring, Staff Judge Advocate for the Army's 8<sup>th</sup> Theater Sustainment Command, and his staff of officers at Wheeler Court House on February 25, 2009.

It is undisputedly clear that notice regarding the prolonged occupation of the Hawaiian Kingdom has been provided to this office. We now respectfully demand that your office comply with your military obligations and provide my client the relief he is entitled to under international law.

Sincerely,



Dexter K. Kaiama, Esq.

Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
July 6, 2012  
Re: War Crime: Protest & Demand

Encls.

CC: BARRACK OBAMA, President  
The White House  
1600 Pennsylvania Ave., NW  
Washington, DC 20500

LEON PANETTA, Secretary of Defense  
U.S. Department of Defense  
1400 Defense Pentagon  
Washington, DC 20301-1400

PRESIDENT  
United Nations Security Council  
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**LAW OFFICE OF  
DEXTER K. KAIAMA**

Seven Waterfront Plaza  
500 Ala Moana Blvd., Suite 400  
Honolulu, Hi 96813

Tel. No. (808) 342-4028  
Fax No. (808) 587-7880

July 6, 2012

ADMIRAL SAMUEL J. LOCKLEAR III, USN  
HQ USPACOM  
Attn JOO  
Box 64028  
Camp H.M. Smith, HI 96861-4031

Re: WAR CRIME: PROTEST AND DEMAND  
Alleged War Criminal: Judge Greg Nakamura  
Victims: Samson Okapua Kamakea, Sr. & Talia Pomaikai Kamakea

Dear ADMIRAL SAMUEL J. LOCKLEAR III, USN:

NOTICE REQUIRED BY SECTION 495(b), SECTION I—REMEDIES  
AND REPRISALS, CHAPTER 8—REMEDIES FOR VIOLATION OF  
INTERNATIONAL LAW; DEPARTMENT OF THE  
ARMY FIELD MANUAL 27-10

The following information is provided to you as required by Section 495(b), Department of the Army Field Manual 27-10; Hague Convention No. IV, *Respecting the Laws and Customs of War on Land*, 18 October 1907; the Geneva Convention *Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949; and Title 18 U.S.C. §2441(c)(1)—Definition of War Crime.

**Section 495 (FM 27-10). Remedies of Injured**

**Belligerent.** In the event of violation of the law of war, the injured party may legally resort to remedial action of the following types:

*a.* Publication of the facts, with a view to influencing public opinion against the offending belligerent.

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*b.* Protest and demand for compensation and/or punishment of the individual offenders. Such communications may be sent through the protecting, a humanitarian organization performing the duties of a protecting power, or a neutral state, or by parlementaire direct to the commander of the offending forces. Article 3, [Hague Convention] IV, provides in this respect:

**A belligerent party which violates the provisions of the said Regulations, shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.**

...

**Section 502 (FM 27-10). Grave Breaches of the Geneva Conventions of 1949 as War Crimes.** The Geneva Conventions of 1949 define the following acts as “grave breaches,” if committed against persons or property protected by the Conventions:

*c. GC [Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949]*

***Grave breaches to which the preceding Article relates shall be those involving...willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention... (GC, art. 147.)***

Pursuant to the authorization and instructions of my clients, I hereby provide notice that my clients have been deprived of a fair and regular trial in ejection proceedings in the Circuit Court of the Third Circuit of the State of Hawai‘i. As a practicing attorney and officer of the court, I took an oath to support and defend the constitutions of the United States of America and the State of Hawai‘i.

Under the *Supremacy clause* (Art. VI, clause 2, U.S. Const.), “all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.” According to the U.S. Supreme Court in *U.S. v. Belmont*, 301 U.S. 324 (1937),

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*U.S. v. Pink*, 315 U.S. 203 (1942), and *American Insurance Association v. Garamendi*, 539 U.S. 396, (2003), sole-executive agreements are treaties.

In the case of my clients, as more fully set forth herein below, they raised jurisdictional arguments centered on two sole executive agreements entered into in 1893 between President Grover Cleveland, representing the United States of America, and Queen Lili'uokalani, representing the Hawaiian Kingdom. The first sole executive agreement, called the *Lili'uokalani assignment*, is a temporary and conditional assignment by the Queen of her executive power under threat of war, and binds the President and his successors in office to administer Hawaiian law.

The second sole executive agreement, called the *Agreement of restoration*, binds the President and his successors in office to restore the Hawaiian government, return the executive power to the Queen or her successor in office, and thereafter for the Queen or successor in office to grant amnesty to certain insurgents. The Congress politically prevented President Cleveland from using force to carry into effect these international agreements.

Unable to procure a treaty of cession from the Hawaiian Kingdom government acquiring the Hawaiian Islands as required by international law, Congress enacted a *Joint Resolution To provide for annexing the Hawaiian Islands to the United States*, which was signed into law by President McKinley on July 7, 1898 during the Spanish-American War (30 U.S. Stat. 750) as a war measure. The Hawaiian Kingdom came under military occupation on August 12, 1898 at the height of the Spanish-American War. The occupation was justified as a military necessity in order to reinforce and supply the troops that have been occupying the Spanish colonies of Guam and the Philippines since May 1, 1898. Following the close of the Spanish-American War by the Treaty of Paris signed December 10, 1898 (30 U.S. Stat. 1754), U.S. troops remained in the Hawaiian Islands and continued its occupation to date in violation of international law.

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Article 6, 1863 Lieber Code, regulated U.S. troops during the occupation of the Hawaiian Islands in 1898 and mandated the Commander of U.S. troops to administer the laws of the occupied country, being the civil and penal laws of the Hawaiian Kingdom. Article 6 was superseded by Article 43, 1899 Hague Convention, II (32 U.S. Stat. 1803), and then superseded by Article 43, 1907 Hague Convention, IV (36 U.S. Stat. 2227). Article 43 of the 1907 Hague Convention, IV, reinforces the 1893 *Lili'uokalani assignment* that mandates the President to administer the civil and penal laws of the Hawaiian Kingdom. On August 12, 1949, the United States signed and ratified the (IV) *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* of 12 August 1949 (6 U.S.T. 3516, T.I.A.S No. 3365, 75 U.N.T.S. 287). In July 1956, the U.S. Department of the Army published Field Manual 27-10—The Law of Land Warfare.

Furthering the illegal occupation, President McKinley signed into United States law *An Act To provide a government for the Territory of Hawai'i* on April 30, 1900 (31 U.S. Stat. 141); and on March 18, 1959, President Eisenhower signed into United States law *An Act To provide for the admission of the State of Hawai'i into the Union* (73 U.S. Stat. 4). These laws, which include the 1898 joint resolution of annexation, have no extraterritorial effect and stand in direct violation of the *Lili'uokalani assignment* and *Agreement restoration*, being international compacts, the 1907 Hague Convention, IV, and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, IV.

**Section 509 (FM 27-10). Defense of Superior Orders**

*a.* The fact that the law of war has been violated pursuant to an order of a superior authority, whether military or civil, does not deprive the act in question of its character of a war crime, nor does it constitute a defense in the trial of an accused individual, unless he did not know



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and could not reasonably have been expected to know that the act ordered was unlawful. In all cases where the order is held not to constitute a defense to an allegation of war crime, the fact that the individual was acting pursuant to orders maybe considered in mitigation of punishment.

**Section 510 (FM 27-10). Government Officials**

The fact that a person who committed an act which constitutes a war crime acted as the head of a State or as a responsible government official does not relieve him from responsibility for his act.

As the Commander of the U.S. Pacific Command, your office is the direct extension of the United States President in the Hawaiian Islands through the Secretary of Defense. As the Hawaiian Kingdom continues to remain an independent and sovereign State, the *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention IV mandates your office to administer Hawaiian Kingdom law in accordance with international law and the laws of occupation. The violations of my clients' right to a fair and regular trial are directly attributable to the President's failure, and by extension your office's failure, to comply with the *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention, IV, which makes this an international matter.

STATEMENT OF FACTS

My clients are Samson Okapua Kamakea, Sr. & Talia Pomaikai Kamakea, both being Hawaiian subjects and protected persons, whose residential property was judicially foreclosed on and ejection proceedings instituted in the Circuit Court of the Third Circuit, Hilo, Island of Hawai'i (Civil No. 3CC11-1-000234). My clients purchased title insurance to protect the lender in the event there is a defect in title, which was a condition of the loan, but the lender disregarded the policy and proceeded against my clients for foreclosure and eviction. In these proceedings, the Honorable Judge Greg K. Nakamura

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committed a war crime by willfully depriving my clients, as protected persons, of a fair and regular trial prescribed by the Geneva Convention, IV. According to Section 499—War Crimes, Department of the Army Field Manual 27-10, “The term ‘war crime’ is the technical expression for a violation of the law of war by any person or persons, military or civilian. Every violation of the law of war is a war crime.”

- On July 5, 2011, First Hawaiian Bank filed their Complaint (“Plaintiff’s Complaint”) against my clients.
- On March 5, 2011, my clients filed a Motion to Dismiss Plaintiff’s Complaint for Ejectment pursuant to Hawai‘i Rules of Civil Procedure Rule 12(b)(1) because there is clear evidence that the court lacked subject matter jurisdiction.
- On April 3, 2012, my clients’ motion was heard before the Honorable Judge Nakamura, where he took judicial notice of the *Lili ‘uokalani assignment* and the *Agreement of restoration*, being two sole executive agreements. Instead of dismissing Plaintiff’s Complaint, Judge Nakamura denied my clients’ 12(b)(1) Motion to Dismiss in violation of my clients’ rights to be tried by a court of competent jurisdiction.
- On June 26, 2012, Judge Nakamura signed an Order granting Writ of Possession.

My clients have been deprived of their right to a fair and regular trial by a court that does not have subject matter jurisdiction and stands in direct violation of the 1893 *Lili ‘uokalani assignment & Agreement of restoration*, 1899 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law. An appropriate court with subject matter jurisdiction is an Article II Federal Court, which is a military court established by the President through executive order which would administer the civil and penal laws of the Hawaiian Kingdom under the international laws of occupation. However, the Circuit Court of the Third Circuit would have jurisdiction if your office established a military

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government that utilizes the infrastructure of the State of Hawai'i government to administer Hawaiian Kingdom law.

At present, the only war crime committed was the denial of my clients' right to a fair and regular trial, but should First Hawaiian Bank enforce the Order of eviction and my clients are removed from their residence, a second war crime will be committed because private property cannot be confiscated. Article 46 of the 1907 Hague Convention, IV, states, "Family honour and rights, the lives of persons, and private property... must be respected. Private property cannot be confiscated." And Article 53 of the 1949 Geneva Question, IV, provides, "Any destruction by the Occupying Power of real or personal property belonging individually... to private persons... is prohibited."

In the *Trial of Friedrich Flick and Five Others, United States Military Tribunal, Nuremberg*, 9 Law Reports of Trials of Law Criminals (United Nations War Crime Commission) 1, 19 (1949), the U.S. Military Tribunal stated:

...responsibility of an individual for infractions of international law is not open to question. In dealing with property located outside his own State, he must be expected to ascertain and keep within the applicable law. **Ignorance thereof will not excuse guilt but may mitigate punishment** (emphasis added).

#### PROTEST AND DEMAND

In light of the aforementioned, I am formally lodging a protest and demand, on behalf of my clients, that your office:

1. Comply with the 1893 *Lili'uokalani assignment & Agreement of restoration*, 1899 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law;
2. Establish a military government, to include tribunals, to administer and enforce the civil and penal laws of the Hawaiian Kingdom pursuant to

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HQ USPACOM  
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July 2, 2012  
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3. *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention, IV;
4. Order the Honorable Greg Nakamura to cease and desist these proceedings against my clients;
5. Compensate my clients for War Crimes committed against them and *restitutio in integrum* of their property that was the subject of the foreclosure and eviction proceedings.

Due to the large volume of pages, I'm attaching a CD that has PDF files of: (1) Plaintiff's Complaint; (2) my clients' Motion to Dismiss Plaintiff's Complaint for Ejectment; (3) Plaintiff's Opposition to the Motion to Dismiss; (4) my clients' Reply to the Opposition; (5) transcripts of the hearing on my client's Motion to Dismiss wherein the Honorable Judge Nakamura took judicial notice of the *Lili'uokalani assignment* and the *Agreement of restoration*; (6) Order denying my clients' Motion to Dismiss; and (7) Writ of Possession.

I am also providing PDF files of the doctoral dissertation of Dr. Keanu Sai who received his Ph.D. from the University of Hawai'i at Manoa in Political Science in 2008, and his law reviewed journal articles published at the University of Hawai'i at Manoa and the University of San Francisco School of Law regarding the prolonged occupation of the Hawaiian Kingdom. I respectfully direct your attention to Chapter 5, "Righting the Wrong," of Dr. Sai's dissertation, which provides a comprehensive plan for establishing a military government with the utilization of the current governmental infrastructure of the State of Hawai'i.

Dr. Sai served as lead agent for the *acting* government of the Hawaiian Kingdom in arbitral proceedings at the Permanent Court of Arbitration, The Hague, Netherlands, in *Larsen v. Hawaiian Kingdom*, 119 International Law Reports 566 (2001), and filed a complaint with the United Nations Security Council on July 5, 2001 regarding the

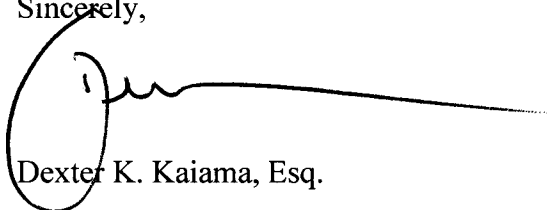
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prolonged occupation of the Hawaiian Kingdom. International law journal articles on the international arbitration and the Security Council complaint were published in the *American Journal of International Law*, (95 *American Journal of International Law* 927-933), and the *Chinese Journal of International Law*, (2(1) *Chinese Journal of International Law* 655-684).

Dr. Sai gave a presentation of the prolonged occupation of the Hawaiian Islands to the Officer's Corps of the 25<sup>th</sup> Infantry Division in 2001 at the invitation of Brigadier General James M. Dubik, Commander. Dr. Sai also gave a presentation on the prolonged occupation of the Hawaiian Islands to Colonel James Herring, Staff Judge Advocate for the Army's 8<sup>th</sup> Theater Sustainment Command, and his staff of officers at Wheeler Court House on February 25, 2009.

It is undisputedly clear that notice regarding the prolonged occupation of the Hawaiian Kingdom has been provided to this office. We now respectfully demand that your office comply with your military obligations and provide my clients the relief they are entitled to under international law.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dexter K. Kaiama', with a long horizontal flourish extending to the right. The signature is written over a circular stamp or mark.

Dexter K. Kaiama, Esq.

Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
July 2, 2012  
Re: WAR CRIME: PROTEST & DEMAND

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The White House  
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Washington, DC 20500

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U.S. Department of Defense  
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**LAW OFFICE OF  
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Seven Waterfront Plaza  
500 Ala Moana Blvd., Suite 400  
Honolulu, Hi 96813

Tel. No. (808) 342-4028  
Fax No. (808) 587-7880

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HQ USPACOM  
Attn JOO  
Box 64028  
Camp H.M. Smith, HI 96861-4031

Re: WAR CRIME: PROTEST AND DEMAND  
Alleged War Criminal: Judge Glenn S. Hara  
Victim: Elaine E. Kawasaki

Dear ADMIRAL SAMUEL J. LOCKLEAR III, USN:

NOTICE REQUIRED BY SECTION 495(b), SECTION I—REMEDIES  
AND REPRISALS, CHAPTER 8—REMEDIES FOR VIOLATION OF  
INTERNATIONAL LAW; DEPARTMENT OF THE  
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**Belligerent.** In the event of violation of the law of war, the injured party may legally resort to remedial action of the following types:

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b. Protest and demand for compensation and/or punishment of the individual offenders. Such communications may be sent through the protecting, a humanitarian organization performing the duties of a protecting power, or a neutral state, or by parlementaire direct to the commander of the offending forces. Article 3, [Hague Convention] IV, provides in this respect:

**A belligerent party which violates the provisions of the said Regulations, shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.**

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**Section 502 (FM 27-10). Grave Breaches of the Geneva Conventions of 1949 as War Crimes.** The Geneva Conventions of 1949 define the following acts as “grave breaches,” if committed against persons or property protected by the Conventions:

c. *GC [Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949]*

***Grave breaches to which the preceding Article relates shall be those involving...willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention... (GC, art. 147.)***

Pursuant to the authorization and instructions of my client, I hereby provide notice that my client has been deprived of a fair and regular trial in ejectment proceedings in the Circuit Court of the Third Circuit of the State of Hawai‘i. As a practicing attorney and officer of the court, I took an oath to support and defend the constitutions of the United States of America and the State of Hawai‘i.

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In the case of my client, as more fully set forth herein below, she raised jurisdictional arguments centered on two sole executive agreements entered into in 1893 between President Grover Cleveland, representing the United States of America, and Queen Lili'uokalani, representing the Hawaiian Kingdom. The first sole executive agreement, called the *Lili'uokalani assignment*, is a temporary and conditional assignment by the Queen of her executive power under threat of war, and binds the President and his successors in office to administer Hawaiian law.

The second sole executive agreement, called the *Agreement of restoration*, binds the President and his successors in office to restore the Hawaiian government, return the executive power to the Queen or her successor in office, and thereafter for the Queen or successor in office to grant amnesty to certain insurgents. The Congress politically prevented President Cleveland from using force to carry into effect these international agreements.

Unable to procure a treaty of cession from the Hawaiian Kingdom government acquiring the Hawaiian Islands as required by international law, Congress enacted a *Joint Resolution To provide for annexing the Hawaiian Islands to the United States*, which was signed into law by President McKinley on July 7, 1898 during the Spanish-American War (30 U.S. Stat. 750) as a war measure. The Hawaiian Kingdom came under military occupation on August 12, 1898 at the height of the Spanish-American War. The occupation was justified as a military necessity in order to reinforce and supply the troops that have been occupying the Spanish colonies of Guam and the Philippines since May 1, 1898. Following the close of the Spanish-American War by the Treaty of Paris signed

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December 10, 1898 (30 U.S. Stat. 1754), U.S. troops remained in the Hawaiian Islands and continued its occupation to date in violation of international law.

Article 6, 1863 Lieber Code, regulated U.S. troops during the occupation of the Hawaiian Islands in 1898 and mandated the Commander of U.S. troops to administer the laws of the occupied country, being the civil and penal laws of the Hawaiian Kingdom. Article 6 was superseded by Article 43, 1899 Hague Convention, II (32 U.S. Stat. 1803), and then superseded by Article 43, 1907 Hague Convention, IV (36 U.S. Stat. 2227). Article 43 of the 1907 Hague Convention, IV, reinforces the 1893 *Lili 'uokalani assignment* that mandates the President to administer the civil and penal laws of the Hawaiian Kingdom. On August 12, 1949, the United States signed and ratified the (IV) *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* of 12 August 1949 (6 U.S.T. 3516, T.I.A.S No. 3365, 75 U.N.T.S. 287). In July 1956, the U.S. Department of the Army published Field Manual 27-10—The Law of Land Warfare.

Furthering the illegal occupation, President McKinley signed into United States law *An Act To provide a government for the Territory of Hawai 'i* on April 30, 1900 (31 U.S. Stat. 141); and on March 18, 1959, President Eisenhower signed into United States law *An Act To provide for the admission of the State of Hawai 'i into the Union* (73 U.S. Stat. 4). These laws, which include the 1898 joint resolution of annexation, have no extraterritorial effect and stand in direct violation of the *Lili 'uokalani assignment* and *Agreement restoration*, being international compacts, the 1907 Hague Convention, IV, and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, IV.

**Section 509 (FM 27-10). Defense of Superior Orders**

*a.* The fact that the law of war has been violated pursuant to an order of a superior authority, whether military or civil, does not deprive the act in question of its character of a war crime, nor does it constitute a defense in

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the trial of an accused individual, unless he did not know and could not reasonably have been expected to know that the act ordered was unlawful. In all cases where the order is held not to constitute a defense to an allegation of war crime, the fact that the individual was acting pursuant to orders may be considered in mitigation of punishment.

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As the Commander of the U.S. Pacific Command, your office is the direct extension of the United States President in the Hawaiian Islands through the Secretary of Defense. As the Hawaiian Kingdom continues to remain an independent and sovereign State, the *Lili 'uokalani assignment* and Article 43 of the 1907 Hague Convention IV mandates your office to administer Hawaiian Kingdom law in accordance with international law and the laws of occupation. The violations of my client's right to a fair and regular trial are directly attributable to the President's failure, and by extension your office's failure, to comply with the *Lili 'uokalani assignment* and Article 43 of the 1907 Hague Convention, IV, which makes this an international matter.

STATEMENT OF FACTS

My client is Elaine E. Kawasaki whose residential property was non-judicially foreclosed on and ejection proceedings instituted in the Circuit Court of the Third Circuit, Hilo, Island of Hawai'i (Civil No. 3CC11-1-000106). In these proceedings, the Honorable Judge Glenn S. Hara committed a war crime by willfully depriving my client of a fair and regular trial prescribed by the Geneva Convention, IV. According to Section 499—War Crimes, Department of the Army Field Manual 27-10, "The term 'war crime' is the

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technical expression for a violation of the law of war by any person or persons, military or civilian. Every violation of the law of war is a war crime.”

- On March 15, 2011, First Hawaiian Bank filed their Complaint (“Plaintiff’s Complaint”) against my client.
- On May 18, 2012, my client filed a Motion to Dismiss Plaintiff’s Complaint for Ejectment pursuant to Hawai‘i Rules of Civil Procedure Rule 12(b)(1) because there is clear evidence that the court lacked subject matter jurisdiction.
- On June 15, 2012, my client’s motion was heard before the Honorable Judge Hara, where he took judicial notice of the *Lili ‘uokalani assignment* and the *Agreement of restoration*, being two sole executive agreements. Instead of dismissing Plaintiff’s Complaint, Judge Hara denied my clients’ 12(b)(1) Motion to Dismiss in violation of my clients’ rights to be tried by a court of competent jurisdiction.

My client has been deprived of her right to a fair and regular trial by a court that does not have subject matter jurisdiction and stands in direct violation of the 1893 *Lili ‘uokalani assignment & Agreement of restoration*, 1899 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law. An appropriate court with subject matter jurisdiction is an Article II Federal Court, which is a military court established by the President through executive order which would administer the civil and penal laws of the Hawaiian Kingdom under the international laws of occupation. However, the Circuit Court of the Third Circuit would have jurisdiction if your office established a military government that utilizes the infrastructure of the State of Hawai‘i government to administer Hawaiian Kingdom law.

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At present, the only war crime committed was the denial of my client's right to a fair and regular trial, but should Judge Hara sign the Order granting Summary Judgment and the Writ of Possession and my client is forcibly removed from her residence, a second war crime will be committed because private property cannot be confiscated. Article 46 of the 1907 Hague Convention, IV, states, "Family honour and rights, the lives of persons, and private property...must be respected. Private property cannot be confiscated." And Article 53 of the 1949 Geneva Question, IV, provides, "Any destruction by the Occupying Power of real or personal property belonging individually...to private persons...is prohibited."

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...responsibility of an individual for infractions of international law is not open to question. In dealing with property located outside his own State, he must be expected to ascertain and keep within the applicable law. **Ignorance thereof will not excuse guilt but may mitigate punishment** (emphasis added).

#### PROTEST AND DEMAND

In light of the aforementioned, I am formally lodging a protest and demand, on behalf of my client, Elaine E. Kawasaki, that your office:

1. Comply with the 1893 *Lili'uokalani assignment & Agreement of restoration*, 1899 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law;

Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
July 6, 2012  
Re: WAR CRIME: PROTEST & DEMAND

2. Establish a military government, to include tribunals, to administer and enforce the civil and penal laws of the Hawaiian Kingdom pursuant to *Lili 'uokalani assignment* and Article 43 of the 1907 Hague Convention, IV;
3. Order the Honorable Glenn S. Hara to cease and desist these proceedings against my client;
4. Compensate my client for War Crimes committed against her and *restitutio in integrum* of her property that was the subject of the ejectment proceedings.

Due to the large volume of pages, I'm attaching a CD that has PDF files of: (1) my client's Motion to Dismiss Plaintiff's Complaint for Ejectment; (2) Plaintiff's Opposition to the Motion to Dismiss; (3) my client's Reply to the Opposition; (4) and transcripts of the hearing on my client's Motion to Dismiss wherein the Honorable Judge Hara took judicial notice of the *Lili 'uokalani assignment* and the *Agreement of restoration*.

I am also providing PDF files of the doctoral dissertation of Dr. Keanu Sai who received his Ph.D. from the University of Hawai'i at Manoa in Political Science in 2008, and his law reviewed journal articles published at the University of Hawai'i at Manoa and the University of San Francisco School of Law regarding the prolonged occupation of the Hawaiian Kingdom. I respectfully direct your attention to Chapter 5, "Righting the Wrong," of Dr. Sai's dissertation, which provides a comprehensive plan for establishing a military government with the utilization of the current governmental infrastructure of the State of Hawai'i.

Dr. Sai served as lead agent for the *acting* government of the Hawaiian Kingdom in arbitral proceedings at the Permanent Court of Arbitration, The Hague, Netherlands, in *Larsen v. Hawaiian Kingdom*, 119 International Law Reports 566 (2001), and filed a

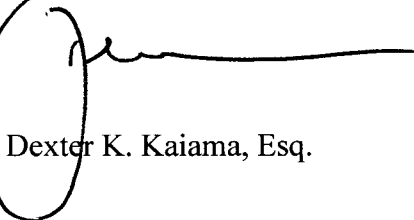
Admiral Samuel J. Locklear III, USN  
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complaint with the United Nations Security Council on July 5, 2001 regarding the prolonged occupation of the Hawaiian Kingdom. International law journal articles on the international arbitration and the Security Council complaint were published in the *American Journal of International Law*, (95 American Journal of International Law 927-933), and the *Chinese Journal of International Law*, (2(1) Chinese Journal of International Law 655-684).

Dr. Sai gave a presentation of the prolonged occupation of the Hawaiian Islands to the Officer's Corps of the 25<sup>th</sup> Infantry Division in 2001 at the invitation of Brigadier General James M. Dubik, Commander. Dr. Sai also gave a presentation on the prolonged occupation of the Hawaiian Islands to Colonel James Herring, Staff Judge Advocate for the Army's 8<sup>th</sup> Theater Sustainment Command, and his staff of officers at Wheeler Court House on February 25, 2009.

It is undisputedly clear that notice, regarding the prolonged occupation of the Hawaiian Kingdom, has been provided to this office. We now respectfully demand that your office comply with your military obligations and provide my client the relief he is entitled to under international law.

Sincerely,

A handwritten signature in black ink, appearing to read "Dexter K. Kaiama", is written over a large, hand-drawn oval. The signature is fluid and cursive, extending to the right of the oval.

Dexter K. Kaiama, Esq.



Admiral Samuel J. Locklear III, USN  
HQ USPACOM  
Attn JOO  
July 6, 2012  
Re: WAR CRIME: PROTEST & DEMAND

Encls.

CC: BARRACK OBAMA, President  
The White House  
1600 Pennsylvania Ave., NW  
Washington, DC 20500

LEON PANETTA, Secretary of Defense  
U.S. Department of Defense  
1400 Defense Pentagon  
Washington, DC 20301-1400

PRESIDENT  
United Nations Security Council  
1st Avenue & E 44th Street  
New York, NY 10017

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Sent To Admiral Locklear, HQ USPALCOM  
 Street, Apt. No., or PO Box No. Box 64028  
 City, State, ZIP+4 Camp Smith, HI 96861-4031

**LAW OFFICE OF  
DEXTER K. KAIAMA**

Seven Waterfront Plaza  
500 Ala Moana Blvd., Suite 400  
Honolulu, HI 96813

Tel. No. (808) 342-4028  
Fax No. (808) 587-7880

July 6, 2012

ADMIRAL SAMUEL J. LOCKLEAR III, USN  
HQ USPACOM  
Attn JOO  
Box 64028  
Camp H.M. Smith, HI 96861-4031

Re: WAR CRIME: PROTEST AND DEMAND  
Alleged War Criminal: Judge Greg Nakamura  
Victim: Harris Bright

Dear ADMIRAL SAMUEL J. LOCKLEAR III, USN:

NOTICE REQUIRED BY SECTION 495(b), SECTION I—REMEDIES  
AND REPRISALS, CHAPTER 8—REMEDIES FOR VIOLATION OF  
INTERNATIONAL LAW; DEPARTMENT OF THE  
ARMY FIELD MANUAL 27-10

The following information is provided to you as required by Section 495(b), Department of the Army Field Manual 27-10; Hague Convention No. IV, *Respecting the Laws and Customs of War on Land*, 18 October 1907; the Geneva Convention *Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949; and Title 18 U.S.C. §2441(c)(1)—Definition of War Crime.

**Section 495 (FM 27-10). Remedies of Injured**

**Belligerent.** In the event of violation of the law of war, the injured party may legally resort to remedial action of the following types:

*a.* Publication of the facts, with a view to influencing public opinion against the offending belligerent.

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July 5, 2012  
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*b.* Protest and demand for compensation and/or punishment of the individual offenders. Such communications may be sent through the protecting, a humanitarian organization performing the duties of a protecting power, or a neutral state, or by parlementaire direct to the commander of the offending forces. Article 3, [Hague Convention] IV, provides in this respect:

**A belligerent party which violates the provisions of the said Regulations, shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.**

...

**Section 502 (FM 27-10). Grave Breaches of the Geneva Conventions of 1949 as War Crimes.** The Geneva Conventions of 1949 define the following acts as “grave breaches,” if committed against persons or property protected by the Conventions:

*c. GC [Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949]*

***Grave breaches to which the preceding Article relates shall be those involving...willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention... (GC, art. 147.)***

Pursuant to the authorization and instructions of my client, I hereby provide notice that my client has been deprived of a fair and regular trial in ejection proceedings in the Circuit Court of the Third Circuit of the State of Hawai‘i. As a practicing attorney and officer of the court, I took an oath to support and defend the constitutions of the United States of America and the State of Hawai‘i.

Under the *Supremacy clause* (Art. VI, clause 2, U.S. Const.), “all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.” According to the U.S. Supreme Court in *U.S. v. Belmont*, 301 U.S. 324 (1937),

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*U.S. v. Pink*, 315 U.S. 203 (1942), and *American Insurance Association v. Garamendi*, 539 U.S. 396, (2003), sole-executive agreements are treaties.

In the case of my client, as more fully set forth herein below, he raised jurisdictional arguments centered on two sole executive agreements entered into in 1893 between President Grover Cleveland, representing the United States of America, and Queen Lili'uokalani, representing the Hawaiian Kingdom. The first sole executive agreement, called the *Lili'uokalani assignment*, is a temporary and conditional assignment by the Queen of her executive power under threat of war, and binds the President and his successors in office to administer Hawaiian law.

The second sole executive agreement, called the *Agreement of restoration*, binds the President and his successors in office to restore the Hawaiian government, return the executive power to the Queen or her successor in office, and thereafter for the Queen or successor in office to grant amnesty to certain insurgents. The Congress politically prevented President Cleveland from using force to carry into effect these international agreements.

Unable to procure a treaty of cession from the Hawaiian Kingdom government acquiring the Hawaiian Islands as required by international law, Congress enacted a *Joint Resolution To provide for annexing the Hawaiian Islands to the United States*, which was signed into law by President McKinley on July 7, 1898 during the Spanish-American War (30 U.S. Stat. 750) as a war measure. The Hawaiian Kingdom came under military occupation on August 12, 1898 at the height of the Spanish-American War. The occupation was justified as a military necessity in order to reinforce and supply the troops that have been occupying the Spanish colonies of Guam and the Philippines since May 1, 1898. Following the close of the Spanish-American War by the Treaty of Paris signed

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December 10, 1898 (30 U.S. Stat. 1754), U.S. troops remained in the Hawaiian Islands and continued its occupation to date in violation of international law.

Article 6, 1863 Lieber Code, regulated U.S. troops during the occupation of the Hawaiian Islands in 1898 and mandated the Commander of U.S. troops to administer the laws of the occupied country, being the civil and penal laws of the Hawaiian Kingdom. Article 6 was superseded by Article 43, 1899 Hague Convention, II (32 U.S. Stat. 1803), and then superseded by Article 43, 1907 Hague Convention, IV (36 U.S. Stat. 2227). Article 43 of the 1907 Hague Convention, IV, reinforces the 1893 *Lili 'uokalani assignment* that mandates the President to administer the civil and penal laws of the Hawaiian Kingdom. On August 12, 1949, the United States signed and ratified the (IV) *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* of 12 August 1949 (6 U.S.T. 3516, T.I.A.S No. 3365, 75 U.N.T.S. 287). In July 1956, the U.S. Department of the Army published Field Manual 27-10—The Law of Land Warfare.

Furthering the illegal occupation, President McKinley signed into United States law *An Act To provide a government for the Territory of Hawai'i* on April 30, 1900 (31 U.S. Stat. 141); and on March 18, 1959, President Eisenhower signed into United States law *An Act To provide for the admission of the State of Hawai'i into the Union* (73 U.S. Stat. 4). These laws, which include the 1898 joint resolution of annexation, have no extraterritorial effect and stand in direct violation of the *Lili 'uokalani assignment* and *Agreement restoration*, being international compacts, the 1907 Hague Convention, IV, and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, IV.

**Section 509 (FM 27-10). Defense of Superior Orders**

*a.* The fact that the law of war has been violated pursuant to an order of a superior authority, whether military or civil, does not deprive the act in question of its character of a war crime, nor does it constitute a defense in

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the trial of an accused individual, unless he did not know and could not reasonably have been expected to know that the act ordered was unlawful. In all cases where the order is held not to constitute a defense to an allegation of war crime, the fact that the individual was acting pursuant to orders may be considered in mitigation of punishment.

**Section 510 (FM 27-10). Government Officials**

The fact that a person who committed an act which constitutes a war crime acted as the head of a State or as a responsible government official does not relieve him from responsibility for his act.

As the Commander of the U.S. Pacific Command, your office is the direct extension of the United States President in the Hawaiian Islands through the Secretary of Defense. As the Hawaiian Kingdom continues to remain an independent and sovereign State, the *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention IV mandates your office to administer Hawaiian Kingdom law in accordance with international law and the laws of occupation. The violations of my client's right to a fair and regular trial are directly attributable to the President's failure, and by extension your office's failure, to comply with the *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention, IV, which makes this an international matter.

STATEMENT OF FACTS

My client is Harris Bright, a Hawaiian subject and protected person, whose residential property was non-judicially foreclosed on and ejection proceedings instituted in the District Court of the Third Circuit, Hilo, Island of Hawai'i (Civil No. 3RC11-1-000661, District Court of the Third Circuit, Puna Division, State of Hawai'i). My client purchased title insurance to protect the lender in the event there is a defect in title, which was a condition of the loan, but the lender disregarded the policy and proceeded against my client for eviction. The Honorable Judge Harry Freitas dismissed

Admiral Samuel J. Locklear III, USN  
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Re: WAR CRIME: PROTEST & DEMAND

the complaint and granted my client's motion for dismissal because of a title issue created by the aforementioned *Lili'uokalani assignment*. The bank re-filed an ejectment complaint in the Circuit Court of the Third Circuit, State of Hawai'i (Civil no. 3CC11-1-000389), wherein the Honorable Judge Greg K. Nakamura committed a war crime by willfully depriving my client, as a protected person, of a fair and regular trial prescribed by the Geneva Convention, IV. According to Section 499—War Crimes, Department of the Army Field Manual 27-10, "The term 'war crime' is the technical expression for a violation of the law of war by any person or persons, military or civilian. Every violation of the law of war is a war crime."

- On September 28, 2011, Deutsche Bank National Trust Company Americas, as Trustee for Rali 2007QS2, filed their Complaint for Summary Possession and Ejectment ("Plaintiff's Complaint") against my client.
- On December 29, 2011, my client filed a Motion to Dismiss Plaintiff's Complaint for Ejectment pursuant to Hawai'i Rules of Civil Procedure Rule 12(b)(1) because there is clear evidence that the court lacked subject matter jurisdiction.
- On January 23, 2012, my client's motion was heard before the Honorable Judge Nakamura, where he took judicial notice of the *Lili'uokalani assignment* and the *Agreement of restoration*, being two sole executive agreements. Instead of dismissing Plaintiff's Complaint, Judge Nakamura denied my client's 12(b)(1) Motion to Dismiss in violation of my client's rights to be tried by a court of competent jurisdiction.
- On January 30, 2012, Judge Nakamura signed an Order denying my client's motion to dismiss



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My client has been deprived of his right to a fair and regular trial by a court that does not have subject matter jurisdiction and stands in direct violation of the 1893 *Lili'uokalani assignment & Agreement of restoration*, 1899 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law. An appropriate court with subject matter jurisdiction is an Article II Federal Court, which is a military court established by the President through executive order which would administer the civil and penal laws of the Hawaiian Kingdom under the international laws of occupation. However, the Circuit Court of the Third Circuit would have jurisdiction if your office established a military government that utilizes the infrastructure of the State of Hawai'i government to administer Hawaiian Kingdom law.

At present, the only war crime committed was the denial of my client's right to a fair and regular trial, but should Judge Nakamura sign the Order granting the Writ of Possession and my client is forcibly removed from his residence, a second war crime will be committed because private property cannot be confiscated. Article 46 of the 1907 Hague Convention, IV, states, "Family honour and rights, the lives of persons, and private property...must be respected. Private property cannot be confiscated." And Article 53 of the 1949 Geneva Question, IV, provides, "Any destruction by the Occupying Power of real or personal property belonging individually...to private persons...is prohibited."

In the *Trial of Friedrich Flick and Five Others, United States Military Tribunal, Nuremberg*, 9 Law Reports of Trials of Law Criminals (United Nations War Crime Commission) 1, 19 (1949), the U.S. Military Tribunal stated:

...responsibility of an individual for infractions of international law is not open to question. In dealing with property located outside his own State, he must be expected to ascertain and keep within the applicable law. **Ignorance thereof will not excuse guilt but may mitigate punishment** (emphasis added).

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PROTEST AND DEMAND

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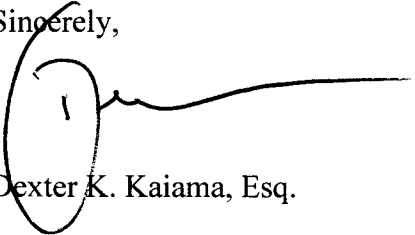
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HQ USPACOM  
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Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a long horizontal stroke that tapers to the right.

Dexter K. Kaiama, Esq.

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CC: BARRACK OBAMA, President  
The White House  
1600 Pennsylvania Ave., NW  
Washington, DC 20500

LEON PANETTA, Secretary of Defense  
U.S. Department of Defense  
1400 Defense Pentagon  
Washington, DC 20301-1400

PRESIDENT  
United Nations Security Council  
1st Avenue & E 44th Street □  
New York, NY 10017