

Bruce Kim

From: James F. Evers <jevvers@dcca.hawaii.gov>
Sent: Thursday, March 01, 2018 2:25 PM
To: Bruce Kim
Subject: Dexter Kaiama

OFFICE OF DISCIPLINARY COUNSEL
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via email

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Bruce,

I would like you to consider opening an investigation into potential violations of the Rules of Professional Conduct based on Dexter Kaiama's apparent noncompliance with HRS 480E-15, which prohibits attorneys from representing distressed property owners without a written contract (480E-15(1)), from accepting money without putting it into their client trust accounts (480E-15(3)), and from taking the money without having fully performed (480E-15(4)). "Fully performed" is a defined term that means, in the case of litigation, that the attorney acting on behalf of the homeowner "obtains the desired relief from a court of law, which includes a favorable determination that the mortgage assistance relief service conferred a benefit upon the property owner and is therefore compensable." Any such violations of HRS Chapter 480E would constitute per se UDAPs.

OCP has a pending case involving Kaiama with a continued show cause hearing set for March 14, 2018. His only defense, to date, is based on sovereignty, an argument the court already rejected in denying the homeowners' motion to dismiss, which Kaiama argued.

By separate email I will be attaching the pertinent filings in that pending foreclosure case, involving consumers / homeowners Raymond Fonoti and Willadean Grace.

In what appears to be a pattern, distressed property consultants Rose Dradi and David Keanu Sai take advance payments from distressed property owners (a felony under HRS 480E-12) in preparing a motion to dismiss based on sovereignty grounds. Dradi then typically arranges for Kaiama to argue the motion by special appearance. Aside from not complying with HRS Chapter 480E, Kaiama's collaborating with Dradi and Kaiama may constitute one or more ethical violations. The declaration of John Tokunaga identifies a number of cases where Kaiama appeared, or was supposed to have appeared, and the motion to dismiss was denied. See Tokunaga Declaration bates-stamped pages 29, 38, 58, and 71. In some cases the motion is filed twice and denied each time. The case involving Mr. Fonoti and Ms. Grace is noteworthy because Kaiama's involvement was well after the enactment of HRS 480E-15, and the consumers' declaration testimony suggests Kaiama failed to comply with the law. Kaiama, in his declaration, does not state otherwise.

Thank you for your attention to this matter.

Jim

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