

August 18, 2015

Andreas Müller
Prosecuting Attorney
Office of the Attorney General
Center of Competence of International Crimes
Taubenstrasse 16
CH-3003 Berne

Re: Re-filing of Complaints under Articles 118 and 119 of the Swiss Criminal Procedure Code arising from war crimes committed in the Hawaiian Islands

Dear Prosecuting Attorney Müller,

As you are well aware, my clients, Mr. Kale Kepekaio Gumapac, a Hawaiian subject, and Mr. [REDACTED] have attempted to have the Federal Criminal Court Objections Chamber reverse your decision to abandon the criminal investigation against the alleged perpetrators who committed the war crimes of pillaging, unfair trial, and unlawful confinement, but were unable to do so because of a procedural deficiency.

This procedural deficiency has not diminished or absolved, in the least, the criminal liability of these perpetrators of war crimes. My clients have and continue to suffer grave harm through the inaction of the Swiss authorities. According to Switzerland's Basic Military Manual, "Violations of the laws and customs of war must be punished," and Switzerland "is bound to search for and prosecute in its own courts persons who have committed grave breaches of the provisions of the law of nations in time of war."¹ Furthermore, as a contracting party to the 1949 Geneva Convention, IV, Switzerland is obligated under Article 146 "to search for persons alleged to have committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts."

¹ Switzerland, *Lois et coutumes de la guerre (Extrait et commentaire)*, Règlement 51.711 f, Armée Suisse, 1987, Article 198.

In its recent decision by the Objections Chamber of June 19, 2015, responding to my clients' application for a new time table because of default, the Court not only confirmed the allegations of the war crimes of pillaging and fraud, but it also acknowledged that the Swiss consulate in the Hawaiian Islands is unlawful. The Court stated, "infolge Abwesenheit einer Schweizerischen Poststelle und/oder einer rechtmässigen konsularischen Vertretung der Schweiz auf den Hawaiischen Inseln die Gesuchsteller zwingend einen privaten Kurierdienst hätten beauftragen müssen, welchem sie die Beschwerde in guten Treuen am 1. April 2015, mithin einen Tag vor Ablauf der Beschwerdefrist, übergeben hätten." The acknowledgment by the Objections Chamber that the Swiss Consulate in the Hawaiian Islands is unlawful undermines your previous position taken in your report dated February 3, 2015, that states, "Die Schweiz unterhält diplomatische Beziehungen zu den USA und sogar ein Konsulat in Honolulu."

It is true that Switzerland maintains diplomatic relations with the United States, but it is limited to the 1850 United States-Swiss Treaty and not the 1864 Hawaiian-Swiss Treaty, which, you admit in your report, has not been cancelled. To admit otherwise is also to admit to violating the Hawaiian-Swiss Treaty and international law. My clients are not asking the Swiss authorities for a reappraisal of the annexation of the Hawaiian Islands as stated in your report, but rather are requesting that the Swiss authorities investigate and prosecute the commission of war crimes as a matter of international law. The fact that the Swiss authorities did not know that the Hawaiian Kingdom had been under an illegal and prolonged occupation should speak to the egregious nature of the serious violation of international law by the United States and the effect of the fraud and denationalization that occurred in the Hawaiian Islands since the occupation began.

As you have correctly concluded in your report of February 3, 2015, and which the Objection Chamber affirmed in both its decisions of April 28, 2015 and June 19, 2015, the 1864 Hawaiian-Swiss Treaty was not cancelled. Your report stated, "Am 22. Januar 2015 bekräftigte Kale Kepekaio GUMAPAC schriftlich die Vorwürfe gegen Joseph ACKERMANN und machte zudem Rechte aus Art. 1 des ungekündigten Freundschaftsvertrags zwischen der Schweizerischen Eidgenossenschaft und dem damaligen Hawaiischen König vom 20. Juli 1864 geltend."

The Objections Chamber affirmed the allegations of pillaging by Deutsche Bank who refused to use its title insurance that was purchased by my client, Mr. Gumapac, as a condition of his loan should there be a defect in title in order to cover his debt owed,² as well as acknowledging that the Hawaiian-Swiss Treaty was not cancelled and that Hawai'i was illegally annexed. The Court stated in its June 30, 2015 decision, "mit

² David Keanu Sai, *War Crimes Report: International Armed Conflict and the Commission of War Crimes in the Hawaiian Islands*, para. 15.8-15.10 (Dec. 7, 2014).

Schreiben vom 22. Januar 2015 zudem Sai namens Kale Kepekaio Gumapac (nachfolgend ‘Gumapac’, ‘Beschwerdeführer’ oder ‘Gesuchsteller’) an die Bundesanwaltschaft gelangte und diese aufforderte, ein Strafverfahren gegen Josef Ackermann (nachfolgend ‘Ackermann’), ehemaliger Vorsitzender der Deutschen Bank National Trust Company (nachfolgend ‘Deutsche Bank’), zu eröffnen und dabei Rechte aus Art. 1 des ungekündigten Freundschaftsvertrages zwischen der Schweizerischen Eidgenossenschaft und dem damaligen Hawaiischen König vom 20. Juli 1864 geltend machte; diese Anschuldigung aus einer zivilrechtlichen Streitigkeit zwischen Gumapac und der Deutschen Bank herrühren würde; Gumapac Eigentümer eines Grundstücks auf Hawaii und Hypothekarkreditschuldner der Deutschen Bank gewesen sei; der Eigentumserwerbstitel infolge der illegalen Annexion des Königreichs Hawaii jedoch nichtig sei, da die örtlichen US-amerikanischen Notare gar nicht zur Eigentumsübertragung legitimiert gewesen seien; die Deutsche Bank diesen Umstand nicht erkannt habe und das Haus Gumapacs zur Deckung der Hypothekarforderung liquidiert hätte, anstatt ihre Rechte aus einer ‘title insurance’ geltend zu machen; die Bank daher das Haus Gumapacs geplündert habe im Sinne des Kriegsvölkerrechts.”

The initial decision taken by your office that a domestic law of the United States, being a joint resolution of annexation, annexed Hawai’i contradicts your conclusion that the Hawaiian-Swiss Treaty was not cancelled.³ All “treaties concluded between two States become void through the extinction of one of the contracting parties.”⁴ According to Hyde, “When a state relinquishes its life as such through incorporation into, or absorption by, another state, the treaties of the former are believed to be automatically terminated.”⁵ Therefore, by acknowledging that the Hawaiian-Swiss treaty was not canceled is also acknowledging the continuity of the Hawaiian Kingdom as a state and treaty partner; and that the Swiss Consulate in the Hawaiian Islands cannot be considered lawful because it was established by virtue of Article VII of the 1850 United States-Swiss Treaty and not Article VII of the 1864 Hawaiian-Swiss Treaty.

While the State of Hawai’i cannot claim to be a government *de jure* or *de facto*, customary international law defines the entity as an armed force for the occupying state—the United States of America. Military manuals define armed forces as “organized armed groups which are under a command responsible to that party for the conduct of its subordinates.”⁶ According to Henckaerts and Doswald-Beck, “this definition of armed

³ See Beschwerde (31. März 2015), at para. 19-22.

⁴ L. OPPENHEIM, INTERNATIONAL LAW, vol. 1, 851 (7th ed. 1948).

⁵ Charles Cheney Hyde, *The Termination of the Treaties of a State in Consequence of its Absorption by Another—The Position of the United States*, 26 AM. J. INT’L L. 133 (1932).

⁶ JEAN-MARIE HENCKAERTS AND LOUISE DOSWALD-BECK, CUSTOMARY INTERNATIONAL HUMANITARIAN LAW, vol. I, 14 (2009).

forces covers all persons...who subordinate themselves to its command,”⁷ and that this “definition of armed forces builds upon earlier definitions contained in the Hague Regulations and the Third Geneva Convention which sought to determine who are combatants entitled to prisoner-of-war status.”⁸ Article 1 of the 1907 Hague Convention, IV, provides that

“The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions: (1) To be commanded by a person responsible for his subordinates; (2) To have a fixed distinctive emblem recognizable at a distance; (3) To carry arms openly; and (4) To conduct their operations in accordance with the laws and customs of war.”

The laws and customs of war during occupation applies only to territories that come under the effective control of either the occupier’s military or an occupier’s armed force, such as the State of Hawai‘i, and that the “occupation extends only to the territory where such authority has been established and can be exercised.”⁹ According to Ferraro, “occupation—as a species of international armed conflict—must be determined solely on the basis of the prevailing facts.”¹⁰ Although unlawful, it is a fact that the United States created the State of Hawai‘i through congressional action and signed into law by its President, Dwight D. Eisenhower, in 1959. It is also a fact that the United States approved the constitution of the State of Hawai‘i that provides for its organizational structure, despite the territorial limitation of congressional action.

As an armed force, the State of Hawai‘i established effective control over 137 islands,¹¹ “together with their appurtenant reefs and territorial and archipelagic waters.”¹² These islands include the major islands of Hawai‘i, Maui, O‘ahu, Kaua‘i, Molokai, Lana‘i, Ni‘ihau, and Kaho‘olawe. It is the effectiveness of the control exercised by the State of Hawai‘i over this territory, as an armed force for the United States, which triggers the application of occupation law.

Elements defining the State of Hawai‘i as an armed force under the laws and customs of war are as follows:

⁷ *Id.*, at 15.

⁸ *Id.*

⁹ 1907 Hague Convention, IV, Article 42.

¹⁰ TRISTAN FERRARO, *Determining the beginning and end of an occupation under international humanitarian law*, 94 (no. 885) INT’L REV RED CROSS 133, 134 (Spring 2012).

¹¹ “Hawai‘i Facts and Figures” (December 2014), State of Hawai‘i Department of Business, Economic Development & Tourism.

¹² State of Hawai‘i Constitution, Article XV, section 1, available at <http://lrbhawaii.org/con/>.

- *Allegiance to the United States*—The State of Hawai‘i, as an armed force, bears its allegiance to the United States where its public officers, to include its Governor, take the following oath of office: “I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as [...] to best of my ability;”¹³
- *Commanded by a Person Responsible for His Subordinates*—A Governor who is elected by U.S. citizens in Hawai‘i is head of the State of Hawai‘i. The Governor is responsible for the execution of its laws from its legislature and to carry out the decisions by its courts. The Governor is also the “commander in chief of the armed forces of the State and may call out such forces to execute the laws, suppress or prevent insurrection or lawless violence or repel invasion.”¹⁴ The Governor’s subordinates include all “executive and administrative offices, departments and instrumentalities of the state government;”¹⁵
- *Fixed Distinctive Emblem Recognizable at a Distance*—According to its constitution, “The Hawaiian flag shall be the flag of the State;”¹⁶
- *Carry Arms Openly*—Law enforcement officers of the State of Hawai‘i, to include the Sheriff’s Division, Department of Land and Natural Resources, and the police of the State’s four Counties, all openly carry arms. Also included are the State of Hawai‘i Department of Defense’s Army National Guard and Air National Guard who openly carry arms while in tactical training;
- *Conduct Operations in Accordance with the Laws and Customs of War*—As the Governor is the commander in chief of the State’s Armed Forces, and is responsible for the suppression or prevention of insurrection or lawless violence, as well as repelling an invasion, the State of Hawai‘i is capable of conducting operations in accordance with the laws and customs of war during occupation. The State of Hawai‘i Department of Defense’s Army National Guard and Air National Guard are trained in the laws and customs of war, and has been deployed to international armed conflicts throughout the world, *i.e.* Iraq war, Afghanistan war, Vietnam war, Korean war, World War II, and World War I;¹⁷

¹³ *Id.*, Article XVI, sec. 4.

¹⁴ *Id.*, Article V, sec. 5.

¹⁵ *Id.*, sec. 6.

¹⁶ *Id.*, Article XV, sec. 3.

¹⁷ State of Hawai‘i Department of Defense, available at <http://dod.hawaii.gov/>.

The State of Hawai‘i is not a Military government established under the laws and customs of war, and therefore cannot claim to be vested with police powers of a government for the collection of revenues through taxation, the registration of businesses, trials by courts, and the incarceration of prisoners for the violation of laws. The authority to levy taxes is a fiscal and property right of a state. Taxes constitute a portion of the property of the state and consist of obligatory contributions, which the state is authorized to levy upon individuals and corporations in order to provide necessary services of the state. The state’s government freely exercises this right as long as it is in conformity with its public law. The State of Hawai‘i cannot claim this inherent right because it is not a government.

The public law of the Hawaiian Kingdom provides a list of obligatory contributions, which along with taxes,¹⁸ includes customs and duties on foreign trade,¹⁹ health insurance for visiting tourists,²⁰ land sales,²¹ and bonds.²² Since January 17, 1893, there has been no government over the Hawaiian Islands, but rather only armed forces illegally created by the United States through intervention and in violation of international laws, which include the Provisional Government (1893-1894), Republic of Hawai‘i (1894-1900), Territory of Hawai‘i (1900-1959) and currently the State of Hawai‘i (1959-present). As these entities were pretending to be governments, they were really armed forces, and the collection of revenues were not for the benefit of a government, either *de jure* or *de facto*, in the exercise of its police power, but rather for the maintenance of the armed force. The United States admitted that the Provisional Government “was neither a government *de facto* nor *de jure*,”²³ and that its successor, the Republic of Hawai‘i, was also “self-declared.”²⁴ And as a result of the territorial limits of United States domestic law that renamed the self-declared Republic of Hawai‘i to be the Territory of Hawai‘i in 1900, and then renamed to be the State of Hawai‘i in 1959, these armed forces could not be vested with United States sovereignty because they were situated in the territory of another state, which was not subject to the plenary power of the United States Congress.²⁵

Articles 46-54 of Hague Convention, IV, contain the rules governing the treatment of both personal and real property belonging to inhabitants of occupied territory. Under Article 47, “pillag[ing] is formally forbidden.” In light of the “absolute character of the

¹⁸ See Hawaiian Civil Code, at 117-136.

¹⁹ *Id.*, at 137-150.

²⁰ *Id.*, at 666.

²¹ *Id.*, at 10.

²² *Id.*, at 523, 565, 582, 599, 609, 627, 681.

²³ See Sai, *War Crimes Report*, para. 4.2.

²⁴ *Id.*, at para. 9.5.

²⁵ *Id.*, at para. 12.2.

rule and of its obvious purpose to prevent plundering by any individual, the rule of the article would seem to extend to plundering by any national of the occupant, and generally any person subject to its local jurisdiction, including inhabitants as well as civilian officials of the occupant.”²⁶ An armed force must not plunder for the private use and purpose of maintaining itself.

The State of Hawai‘i is an armed force comprised of private individuals under the guise of being a government. Consequently, the compulsory collection of what it calls taxes, is in fact not taxes at all, but rather revenues derived through pillaging. Pillage or plunder is “the forcible taking of private property,”²⁷ which, according to the Elements of Crimes of the International Criminal Court, must be seized “for private or personal use.”²⁸ As such, the prohibition of pillaging or plundering is a specific application of the general principle of law prohibiting theft.²⁹

Currently the State of Hawai‘i, to include its four Counties, derive their revenues through the collection of fourteen taxes by the State of Hawai‘i (income tax, estate and transfer tax, general excise tax, transient accommodation tax, use tax, public service company tax, banks and other financial corporations franchise tax, fuel tax, liquor tax, cigarette and tobacco tax, conveyance tax, rental motor vehicle and tour vehicle surcharge tax, unemployment insurance tax, and insurance premiums tax), and three taxes by the four Counties (real property tax, motor vehicle weight tax, and public utility franchise tax). The State of Hawai‘i’s primary revenue is the general excise tax, followed by the individual income tax. In 2014, the State of Hawai‘i and the Counties collected \$6.58 billion in what it calls taxes. Of all the war crimes, pillaging through taxation has not only affected the inhabitants of the islands, but also the international community that have traveled through the islands or have been engaged in commercial activities in the islands.

Your February 3, 2015 report concluded that fraud committed by State of Hawai‘i officials was not covered under the Swiss Criminal Code. Your report stated, “Für die Verfolgung des gleichzeitig zur Anzeige gebrachten Betrugs, angeblich begangen durch die sich auf Hawaii befindlichen Beamten Neil ABERCROMBIE, Leutnant Shan TSUTSUI, Frederik PABLO und Joshua WISCH ist die Schweiz auch nicht zuständig. Weder Art. 4, 5, 6 noch 7 des StGB begründen Schweizer Gerichtsbarkeit.” This is a grave mistake because war crimes include “omissions” and not just “acts,” and, as such,

²⁶ ERNST H. FEILCHENFELD, THE INTERNATIONAL ECONOMIC LAW OF BELLIGERENT OCCUPATION 30 (1958).

²⁷ See BLACK’S LAW, at 1148.

²⁸ Elements of Crimes, International Criminal Court, Pillage as a war crime (ICC Statute, Article 8(2)(b)(xvi) and (e)(v)).

²⁹ See HENCKAERTS AND DOSWALD-BECK, at 185.

“acts” that conceal the “omission” must be considered fraud, which by definition is “a false representation of a matter of fact, whether by words or by conduct.”³⁰

The International Criminal Court defines war crimes as “serious violations of the laws and customs applicable in international armed conflict.”³¹ United States Army Field Manual 27-10 expands the definition of a war crime, which is applied in armed conflicts that involve United States troops, to be “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.”³² War crimes include “acts or omissions,”³³ which the latter includes the failure to administer the laws of the occupied state (Article 43, 1907 Hague Convention, IV).

According to the United States Army Field Manual 27-5, a Military government “derives its authority from the customs of war, and not the municipal law.”³⁴ A Military government “is exercised when an armed force has occupied such territory, whether by force or agreement, and has substituted its authority for that of the...previous government. The right of control passes to the occupying force limited only by the rules of international law and established customs of war.”³⁵ Section 28 of FM-27-5 provides for an armed force to proclaim itself into a Military government. While it is true that the State of Hawai‘i “has substituted its authority for that of the...previous government,” it did not proclaim itself to be a Military government in accordance with section 28, and, therefore, has committed fraud by omission for not administering the laws of the occupied State, being the Hawaiian Kingdom. The State of Hawai‘i is an armed force pretending to be a government.

The Objections Chamber confirmed that the State of Hawai‘i is committing fraud as well as committing the war crime of pillaging. The Court stated in its June 19, 2015 decision, “mit Schreiben vom 21. Januar 2015 [REDACTED] (nachfolgend ‘[REDACTED]’, ‘Beschwerdeführer’ oder ‘Gesuchsteller’) und dessen Vertreter David Keanu Sai (nachfolgend ‘Sai’) Strafanzeige bei der Bundesanwaltschaft erhoben und geltend machten, [REDACTED] sei Geschädigter eines Kriegsverbrechens im Sinne von Art. 115 StPO, weil er in den Jahren 2006-2007 und 2011-2013 ungerechtfertigterweise Steuerabgaben an die US-amerikanischen Behörden auf Hawaii geleistet habe; [REDACTED] zudem Opfer eines Betrugs, begangen durch den Staat Hawaii, sei, indem er gemeinsam mit seiner Ehefrau eine Immobilie habe erwerben wollen, was aber aufgrund der fehlenden

³⁰ BLACK’S LAW, 4th ed., at 788 (1968).

³¹ International Criminal Court, *Elements of a War Crime*, Article 8(2)(b).

³² U.S. Army Field Manual 27-10, sec. 499 (July 1956).

³³ See HENCKAERTS AND LOUISE DOSWALD-BECK, at 573.

³⁴ WILLIAM E. BIRKHMIR, *MILITARY GOVERNMENT AND MARTIAL LAW* 53 (3rd ed. 1914).

³⁵ See FM 27-5, at 3.

Legitimität der staatlichen Behörden Hawaiis zur Übertragung des Eigentumstitels nicht möglich sei; daher der Gouverneur des Staates von Hawaii, Neil Abercrombie (nachfolgend ‘Abercrombie’), Leutnant Shan Tsutsui (nachfolgend ‘Tsutsui’), der Direktor der Steuerbehörde Frederik Pablo (nachfolgend ‘Pablo’) und dessen Stellvertreter Joshua Wisch (nachfolgend ‘Wisch’) wegen Plünderung des privaten Eigentums von [REDACTED] und wegen Betrugs strafrechtlich zur Verantwortung zu ziehen seien.”

Unlike the State of Hawai‘i, the United States is a government but it’s exercising of authority in the Hawaiian Islands stands in direct violation of international laws. Therefore, the United States cannot be construed to have committed the act of pillaging since it is a government, but has, instead, appropriated private property through unlawful contributions, *e.g.* federal taxation and the collection of tariffs on goods destined to the Hawaiian Islands, which is regulated by Article 48, 1907 Hague Convention, IV. The subsequent Article (49) provides, “If, in addition to the taxes mentioned in the above article, the occupant levies other money contributions in the occupied territory, this shall only be for the needs...of the administration of the territory in question.” The United States’ collection of its federal taxes from the residents of the Hawaiian Islands, which include both my clients, is an unlawful contribution that is exacted for the sole purpose of supporting the United States federal government and not for “the needs...of the administration of the territory.”

In light of the aforementioned, my clients Mr. Gumapac and Mr. [REDACTED] are re-filing the complaint for war crimes in accordance with Articles 118 and 119 of the Swiss Criminal Procedure Code (S-CPC). Both Mr. Gumapac and Mr. [REDACTED] are expressly declaring that they have and continue to suffer grave harm and respectfully demands that your office re-initiate the previous investigation into the war crime of unfair trial, unlawful confinement, pillaging, and fraud for the State of Hawai‘i’s omission of administering Hawaiian Kingdom law. Both Mr. Gumapac and Mr. [REDACTED] also declare that they wish to participate in the proceedings as both criminal and civil claimants pursuant to Article 118, Swiss Criminal Code (S-CC). Both men are seeking restitution. Therefore, I am incorporating, as though fully set forth in the re-filing of this complaint, the information and evidence your office already has in its possession, which includes my *War Crimes Report: International Armed Conflict and the Commission of War Crimes in the Hawaiian Islands* (Dec. 7, 2014), Mr. [REDACTED] complaint (January 21, 2015), Mr. Gumapac’s amended complaint (January 22, 2015), and the information provided in my clients’ Objection pursuant to Art. 393 ff. StPPO filed the Federal Criminal Court Objections Chamber (March 31, 2015), which is enclosed herein as Appendix “A.”

I requested Mr. Gumapac’s attorney at law to also provide me additional information regarding the criminal proceedings that have been instituted against Mr. Gumapac by the armed force State of Hawai‘i stemming from his unlawful arrest, detainment and extrajudicial proceedings, which I have attached herein as Appendix “B.” Mr. Gumapac herein alleges that the following named individuals committed the war crimes of denial of a fair and regular trial (Article 147, Geneva Convention, IV), the pillaging of his home (Article 33, Geneva Convention, IV), and unlawful arrest and detention by omission in the administration of Hawaiian Kingdom law in accordance with the laws and customs of war on land (Article 43, Hague Convention, IV), the majority of which have already been identified in my *War Crimes Report*, p. 64-65 (Dec. 7, 2014). All of the alleged perpetrators cannot claim they were unaware of Hawai‘i’s occupation, and therefore the alleged crimes were “committed with intent and knowledge.”³⁶

1. **Greg K. Nakamura**—Judge, Circuit Court of the Third Circuit, State of Hawai‘i, whose address is Hale Kaulike, 777 Kilauea Avenue, Hilo, HI 96720-4212,
 - Alleged War crime—*Principal perpetrator of denial of a fair and regular trial;*
2. **Josef Ackermann**, former Chief Executive Officer, Deutsch Bank Management Board, parent company of Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, whose address is Gottfried Keller-Strasse 7, 8001 Zurich, Switzerland,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;*
3. **Jürgen Fitschen**, Co-Chief Executive Officer, Deutsche Bank Management Board, parent company of Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, whose address is Taunusanlage 12, 60325 Frankfurt, Germany,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;*
4. **Anshu Jain**, Co-Chief Executive Officer, Deutsche Bank Management Board, parent company of Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, whose address is Taunusanlage 12, 60325 Frankfurt, Germany,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;*

³⁶ Rome Statute, Art. 30(1).

5. **Stefan Krause**, Chief Financial Officer, Deutsche Bank Management Board, parent company of Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, whose address is Taunusanlage 12, 60325 Frankfurt, Germany,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;*
6. **Stephan Leithner**, Chief Executive Officer Europe (except Germany and UK), Human Resources, Legal & Compliance, Government and Regulatory Affairs, Deutsche Bank Management Board, parent company of Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, whose address is Taunusanlage 12, 60325 Frankfurt, Germany,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;*
7. **Stuart Lewis**, Chief Risk Officer, Deutsche Bank Management Board, parent company of Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, whose address is Taunusanlage 12, 60325 Frankfurt, Germany,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;*
8. **Rainer Neske**, Head of Private and Business Clients, Deutsche Bank Management Board, parent company of Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, whose address is Taunusanlage 12, 60325 Frankfurt, Germany,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;*
9. **Henry Ritchotte**, Chief Operating Officer, Deutsche Bank Management Board, parent company of Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, whose address is Taunusanlage 12, 60325 Frankfurt, Germany,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;*
10. **Charles R. Prather**, attorney for Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, belonging to the law firm RCO Hawaii, LLC, whose address is 900 Fort Street Mall, Suite 800, Honolulu, HI 96813,

- Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;*
11. **Sofia M. Hirosone**, attorney for Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, belonging to the law firm RCO Hawaii, LLLC, whose address is 900 Fort Street Mall, Suite 800, Honolulu, HI 96813,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;*
 12. **Michael G.K. Wong**, attorney for Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, belonging to the law firm RCO Hawaii, LLLC, whose address is 900 Fort Street Mall, Suite 800, Honolulu, HI 96813,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention;* and
 13. **Glenn Swanson**, realtor belonging to the real estate firm Savio Realty, whose address is 15-2911 Pahoia Village Rd, Pahoia, HI 96778,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice unlawful arrest and detention;* and
 14. **Sandra Hegerfeldt**, realtor belonging to the real estate firm Savio Realty, whose address is 15-2911 Pahoia Village Rd, Pahoia, HI 96778,
 - Alleged War Crimes—*Accomplice to pillaging and unlawful arrest and detention;* and
 15. **Jessica Hall**, realtor belonging to the real estate firm Savio Realty, whose address is 15-2911 Pahoia Village Rd, Pahoia, HI 96778,
 - Alleged War Crimes—*Accomplice to pillaging and unlawful arrest and detention;* and
 16. **Dana Kenny**, realtor belonging to the real estate firm Savio Realty, whose address is 15-2911 Pahoia Village Rd, Pahoia, HI 96778,
 - Alleged War Crimes—*Accomplice to pillaging and unlawful arrest and detention;* and
 17. **Shawn H. Tsuha**, at the time of the pillaging, unfair trial and unlawful arrest, Sheriff, State of Hawai‘i Department of Public Safety Sheriff’s Department, whose address is 919 Ala Moana Boulevard, 4th Floor, Honolulu, HI 96814,

- Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention*; and
18. **Patrick Kawai**, Lieutenant, State of Hawai‘i Department of Public Safety Sheriff’s Department, whose address is Hale Kaulike, 777 Kilauea Avenue, Hilo, HI 96720-4212,
 - Alleged War Crimes—*Principal perpetrator of pillaging and accomplice to denial of a fair and regular trial and unlawful arrest and detention*.
 19. **Samuel Jelsma**, Captain, County of Hawai‘i Police Department, State of Hawai‘i, whose address is 15-2615 Kea‘au-Pahoa Road, Hilo, HI 96778,
 - Alleged War Crimes—*Principal perpetrator of unlawful arrest and detention*;
 20. **Reed Mahuna**, Lieutenant, County of Hawai‘i Police Department, State of Hawai‘i, whose address is 15-2615 Kea‘au-Pahoa Road, Hilo, HI 96778,
 - Alleged War Crimes—*Principal perpetrator of unlawful arrest and detention*;
 21. **Brian Hunt**, Patrolman, County of Hawai‘i Police Department, State of Hawai‘i, whose address is 15-2615 Kea‘au-Pahoa Road, Hilo, HI 96778,
 - Alleged War Crimes—*Principal perpetrator of unlawful arrest and detention*;
 22. **Glenn Hara**, Judge, Circuit Court of the Third Circuit, State of Hawai‘i, whose address is Hale Kaulike, 777 Kilauea Avenue, Hilo, HI 96720-4212,
 - Alleged War Crimes—*Principal perpetrator of denial of a fair and regular trial*; and
 23. **Mitch Roth**, Prosecuting Attorney, County of Hawai‘i, whose address is Aupuni Center, 655 Kilauea Avenue, Hilo, HI 96820,
 - Alleged War Crimes—*Principal perpetrator of unlawful arrest and accomplice to denial of a fair and regular trial*.

Mr. [REDACTED] herein alleges that the following named individuals committed the war crime of pillaging his personal property (Article 33, Geneva Convention, IV), fraud by omission in the administration of the Hawaiian Kingdom law in accordance with the laws and customs of war on land (Article 43, Hague Convention, IV), and unlawful appropriation of property (Article 14, Geneva Convention, IV), since the year 2006, which is based on the evidence Mr. [REDACTED] has already provided to the Office of the Attorney General:

1. **Barack Obama**, President of the United States, whose address is 1600 Pennsylvania Avenue NW, Washington, DC 20500,
 - War Crime—*Principal perpetrator of unlawful appropriation of property;*
2. **Jack Lew**, Secretary, United States Treasury, since February 28, 2013, whose address 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220,
 - War Crime—*Principal perpetrator of unlawful appropriation of property;*
3. **Neal Wolin**, former Secretary, United States Treasury, from January 25, 2013 to February 28, 2013, whose address 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220,
 - War Crime—*Principal perpetrator of unlawful appropriation of property;*
4. **Timothy F. Geithner**, former Secretary, United States Treasury, from January 26, 2009 to January 25, 2013, whose address 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220,
 - War Crime—*Principal perpetrator of unlawful appropriation of property;*
5. **Stuart A. Levey**, former Secretary, United States Treasury, from January 20, 2009 to January 26, 2009, whose address 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220,
 - War Crime—*Principal perpetrator of unlawful appropriation of property;*
6. **Henry M. Paulson**, former Secretary, United States Treasury, from July 10, 2006 to January 20, 2009, whose address 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220,
 - War Crime—*Principal perpetrator of unlawful appropriation of property;*
7. **Robert M. Kimmit**, former Secretary, United States Treasury, from June 30, 2006 to July 10, 2006, whose address 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220,
 - War Crime—*Principal perpetrator of unlawful appropriation of property;*

8. **John W. Snow**, former Secretary, United States Treasury, from February 3, 2003 to June 30, 2006, whose address is 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220,
 - War Crime—*Principal perpetrator of unlawful appropriation of property;*
9. **Neal Abercrombie**, former Governor, State of Hawai‘i, from December 6, 2010 to December 1, 2014, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging;*
10. **Linda Lingle**, former Governor, State of Hawai‘i, from December 2, 2002 to December 6, 2010, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging;*
11. **Ben Cayetano**, former Governor, State of Hawai‘i, from December 2, 1994 to December 2, 2002, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging;*
12. **Shan Tsutsui**, Lieutenant Governor, State of Hawai‘i, since December 27, 2012, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging;*
13. **Brian Schatz**, former Lieutenant Governor, State of Hawai‘i, from December 6, 2010 to December 26, 2012, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging;*
14. **Duke Aiona**, former Lieutenant Governor, State of Hawai‘i, from December 4, 2002 to December 6, 2010, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging;*
15. **Mazie Hirono**, former Lieutenant Governor, State of Hawai‘i, from December 2, 1994 to December 2, 2002, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,

- War Crime—*Principal perpetrator of pillaging*;
16. **Frederik Pablo**, former Director of Taxation, State of Hawai‘i, from 2010 to 2014, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging*;
 17. **Stanley Shiraki**, former Director of Taxation, State of Hawai‘i, from 2009 to 2010, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging*;
 18. **Kurt Kawafuchi**, former Director of Taxation, State of Hawai‘i, from 2006 to 2009, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging*;
 19. **Joshua Wisch**, former Deputy Director of Taxation, State of Hawai‘i, from 2012 to 2013, and currently serving as Spokesman for the Attorney General’s Office of the State of Hawai‘i, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging*;
 20. **Randolf L.M. Baldemor**, former Deputy Director of Taxation, State of Hawai‘i, from 2010 to 2012, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging*;
 21. **Ronald B. Randall**, former Deputy Director of Taxation, State of Hawai‘i, from 2009 to 2010, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging*;
 22. **Sandra Yahiro**, former Deputy Director of Taxation, State of Hawai‘i, from 2006 to 2009, whose address is State of Hawai‘i Executive Chambers, State Capital, Honolulu, HI 96813,
 - War Crime—*Principal perpetrator of pillaging*;

23. **Bernard Carvalho**, Mayor for Kaua‘i County, State of Hawai‘i, since December 1, 2008, whose address is 4444 Rice St., Suite 235, Lihue, HI 96766,
- War Crime—*Principal perpetrator of pillaging*;
24. **Kaipo Asing**, former Mayor for Kaua‘i County, State of Hawai‘i, from July 17, 2008 to December 1, 2008, whose address is 4444 Rice St., Suite 235, Lihue, HI 96766,
- War Crime—*Principal perpetrator of pillaging*; and
25. **Bryan Baptiste**, former Mayor for Kaua‘i County, State of Hawai‘i, from 2002 to July 17, 2008, 2008, who is deceased,
- War Crime—*Principal perpetrator of pillaging*;

As a result of the unlawfulness of the Swiss Consulate in the Hawaiian Islands, I was compelled travel to the Swiss Consulate General in San Francisco, USA, to re-file this war crimes complaint. And it is on this very day of August 12, 2015, that the Hawaiian Kingdom was occupied 117 years ago, which makes it the longest occupation in the history of international law.

The re-filing of this complaint is filed with the *Center of Competence of International Crimes*, Office of the Attorney General, because your office already is in possession of the evidence of the alleged war crimes committed against my clients, and has the capacity of exercising *active personality jurisdiction*, *passive personality jurisdiction*, and *universal jurisdiction* in accordance with the Swiss Criminal Code. Accordingly, the Office of the Attorney General is under a duty and obligation to prosecute these cases in accordance with Swiss law and the laws and customs of war on land as aforementioned.

It is the hope of my clients that you and the respected office you represent expeditiously commence criminal proceedings in this matter and secure written charges for their prosecution because they have and continue to suffer pain and injury. Should you require further information or elaborations on the materials submitted, please do not hesitate to contact me by mail at Av. Eugene Lance 44, CH-1212 Grand Lancy/GE, by email at keanu.sai@gmail.com or by phone at +001 808 383 6100.

Sincerely,



Dr. David Keanu Sai

Attorney-in-fact for Mr. Kale Kepekaio Gumapac and Mr. [REDACTED]

Appendix “A”

BESCHWERDEKAMMER DES BUNDESSTRAFGERICHTS

BESCHWERDE

Dr. David Keanu Sai

c/o [REDACTED]

[REDACTED]

[REDACTED] Grand Lancy/GE

Bevollmächtigter der Beschwerdeführer

Beschwerdekammer des Bundesstrafgerichts

Postfach 2720

6501 Bellinzona/TI

BESCHWERDE
(Entsprechend Art. 393 ff. StPO)

Die Beschwerdeführer Kale Kepekaio Gumapac und [REDACTED] [REDACTED] (hiernach kollektiv als BESCHWERDEFÜHRER bezeichnet), erheben hiermit durch ihren Bevollmächtigten höflich Beschwerde gegen die Entscheidung der Schweizerischen Bundesanwaltschaft (hiernach als BUNDESANWALTSCHAFT bezeichnet) vom 3. Februar 2015 betreffens der Strafanzeige wegen Kriegsverbrechen durch BESCHWERDEFÜHRER Gumapac, einen hawaiischen Untertanen, und BESCHWERDEFÜHRER [REDACTED] entsprechend Art. 264c, Abs. 1 Bst. d und 264g Abs. 1 Bst. c StGB; Art. 108 und 109 aMStG.

I. DARSTELLUNG DER TATSACHEN:

1. Am 3. Februar 2015 verfügte die BUNDESANWALTSCHAFT, dass die Schweizer Behörden auf die Strafanzeigen, die infolge der von Professor Niklaus Schweizer im Sinne von Art. 301 StPO eingebrachten Hinweise wegen des Begehens von Kriegsverbrechen gestellt wurden, entsprechend Art. 310 StPO i.V. m. Art. 319 StPO nicht eintreten werden.
2. Die Nichtanhandnahmeverfügung wurde per Einschreiben an Dr. Keanu Sai, Bevollmächtigter der BESCHWERDEFÜHRER, c/o [REDACTED] [REDACTED] Grand Lancy/GE, zugestellt.
3. Im Auftrag von Dr. Sai bestätigte Frau Testini den Eingang der Verfügung am 23 März 2015.
4. Gegen diesen Entscheid kann entsprechend Art. 393 ff StPO innert 10 Tagen seit der Zustellung oder Eröffnung schriftlich und begründet bei der Beschwerdekammer des Bundesstrafgerichts, Postfach 2720, 6501 Bellinzona/TI, Beschwerde erhoben werden.

II. DARLEGUNG DER STREITPUNKTE UND KLAGEBEGEHREN

A. Darlegung der Streitpunkte

1. Die BUNDESANWALTSCHAFT rechtfertigte die Entscheidung, keine Ermittlungen betreffs der mutmaßlichen Kriegsverbrechen einzuleiten mit der Begründung, Straftatbestände entsprechend Art. 310, Abs. 1, Bst. a StPO seien nicht erfüllt.
2. Der Hauptgrund für die Nichteinleitung von Ermittlungen ist, dass die Vereinigten Staaten die Republik Hawai'i im Jahr 1898 angeblich

annektierten, wobei behauptet wird, dass genannte Republik das vormalige Königreich Hawai‘i repräsentierte. Die BUNDESANWALTSCHAFT erklärte: „Die der Annexion zugrunde liegende Resolution übertrug sämtliche Souveränitätsrechte in und über die hawaiischen Inseln und die von Hawaii abhängigen Gebiete mit Zustimmung der Regierung der Republik Hawaii den Vereinigten Staaten von Amerika und machte diese zu amerikanischem Territorium (vgl. *55th Congress of the united [sic] States of America, Joint Resolution to Provide for Annexing the Hawaiian Islands to the United States vom 7. Juli 1898*). Am 21. August 1959 wurde Hawaii als 50. Bundesstaat in die Union der Vereinigten Staaten aufgenommen.“

3. Des Weiteren stellte die BUNDESANWALTSCHAFT fest: „Hawai‘i wird demnach von der offiziellen Schweiz als Teil der USA anerkannt und war im relevanten Tatzeitraum von 2006-2013 aus schweizerischer Sicht weder vollständig noch teilweise von den Vereinigten Staaten besetzt, was eine Anwendung der Genfer Konvention und die sich darauf abstützenden Art. 108 und 109 aMStG bzw. Art. 264b ff. StGB von vornherein ausschliesst.“
4. Die BESCHWERDEFÜHRER, durch ihren Bevollmächtigten, schliessen die in dem Bericht vom 7. Dezember 2014 mit dem Titel „War Crimes Report: International Armed Conflict and the Commission of War Crimes in the Hawaiian Islands (hiernach „War Crime Report“)" enthaltenen und von der BUNDESANWALTSCHAFT in ihrem Bericht zur Kenntnis genommenen Informationen, als wie hier vollständig dargelegt, ein. Der „War Crimes Report“ kommt zu drei hauptsächlichen Schlüssen, die die rechtliche und historische Basis für die Strafanzeige der BESCHWERDEFÜHRER darstellen: (a) Das Hawaiische Königreich existierte als unabhängiger Staat; (b) das Hawaiische Königreich existiert weiterhin als unabhängiger Staat trotz des illegalen Sturzes seiner Regierung durch die Vereinigten Staaten; und (c) unter Verletzung des humanitären Völkerrechts werden Kriegsverbrechen begangen.
5. Die Abstützung der BUNDESANWALTSCHAFT auf die Gemeinsame Resolution zur Annexion der Hawaiischen Inseln durch die Vereinigten Staaten vom 7. Juli 1898 ist klar fehlerhaft, und zwar in vier grundsätzlichen Punkten. *Erstens*, Gesetze des Kongresses der Vereinigten Staaten sind keine Quelle des Völkerrechts; *zweitens*, es gibt keine Vereinbarung zwischen den Vereinigten Staaten und der selbst-erklärten Republik Hawai‘i, die nach dem Recht der USA oder nach dem Völkerrecht erkenntlich wäre; *drittens*, die Vereinigten Staaten sind kraft der Doktrin der Inneren Rechtskraftwirkung [„Collateral Estoppel“] daran gehindert, die Existenz des Hawaiischen Königreiches als Staat zu leugnen; und *viertens*, die BUNDESANWALTSCHAFT anerkennt in ihrem Bericht die Kontinuität des

Hawaiischen Königreichs entsprechend dem Hawaiiisch-Schweizerischen Vertrag von 1864.

a. Gesetze des Kongresses der Vereinigten Staaten sind keine Quelle des Völkerrechts.

6. Quellen des Völkerrechts sind, in Rangfolge: Internationale Übereinkünfte, internationales Gewohnheitsrecht, allgemeine Rechtsgrundsätze wie sie von den Kulturvölkern anerkannt werden, und richterliche Entscheidungen sowie die Lehrmeinungen der fähigsten Völkerrechtler der verschiedenen Nationen (Artikel 38, Statut des Internationalen Gerichtshofs). Die Gesetzgebung eines jeden unabhängigen Staates, einschliesslich der Vereinigten Staaten von Amerika und ihres Kongresses, ist keine Quelle des Völkerechts, sondern stattdessen eine Quelle nationalen Rechts des Staates, dessen Legislative solche Gesetze beschlossen hat. In *The Lotus* hat der internationale Gerichtshof folgendes festgestellt: “Now the first and foremost restriction imposed by international law upon a State is that—failing the existence of a permissive rule to the contrary—it may not exercise its power in any form in the territory of another State (*Lotus*, PCIJ ser. A no. 10 (1927) 18).” J. Crawford zufolge kann eine Beeinträchtigung dieses Prinzips nicht vermutet werden, was er als Lotus-Vermutung bezeichnet (Crawford, *The Creation of States in International Law* 41-42 (2nd ed. 2006)).
7. Da Gesetzgebung des Kongresses, ob aufgrund eines Statuts oder einer Gemeinsamen Resolution, keine extraterritoriale Wirkung ausübt, ist dies keine Quelle des Völkerrechts, welche “Beziehungen zwischen unabhängigen Staaten reguliert (“which ‘governs relations between independent States’ (*Lotus*, 18)).” Der Oberste Gerichtshof der Vereinigten Staaten hat dieses Prinzip immer beherzigt. In *United States v. Curtiss Wright Export Corp.*, 299 U.S. 304, 318 (1936), erklärte der Oberste Gerichtshof der USA: “Neither the Constitution nor the laws passed in pursuance of it have any force in foreign territory unless in respect of our own citizens, and operations of the nation in such territory must be governed by treaties, international understanding and compacts, and the principles of international law.” In *The Apollon*, 22 U.S. 362, 370 (1824), befand der Oberste Gerichtshof: “The laws of no nation can justly extend beyond its own territories except so far as regards its own citizens. They can have no force to control the sovereignty or rights of any other nation within its own jurisdiction.”
8. Falls die Schweiz also behaupten sollte, nationales Recht hätte die Fähigkeit, einen fremden Staat zu annektieren, so käme dies einer Anerkennung der vorgeblichen Annexion Luxemburgs durch Deutschland während des 2.

Weltkriegs und der vorgeblichen Annexion Kuwaits durch Irak während des Golfkriegs gleich. Des weiteren sind die Vereinigten Staaten (ebenso wie die Schweiz) davon ausgeschlossen, von ihrer illegalen Handlung zu profitieren, getreu dem völkerrechtlichen Prinzip *ex iniuria jus non oritur*—,aus Unrecht entsteht kein Recht,‘ was heute als *jus cogens* anerkannt ist. I. Brownlie schreibt dazu: “When elements of certain strong norms (the *jus cogens*) are involved, it is less likely that recognition and acquiescence will offset the original illegality (Brownlie, *Principles of Public International Law* 80 (4th ed. 1990)).”

b. Es existiert keine Übereinkunft zwischen den Vereinigten Staaten und der selbst-erklärten Republik Hawai‘i.

9. In zwischenstaatlichen Beziehungen ist der Präsident das einzige Organ der Bundesregierung der Vereinigten Staaten, nicht der Kongress; und es ist der Präsident, der internationale rechtliche Übereinkommen abschliesst. “He makes treaties with the advice and consent of the Senate, but he alone negotiates. Into the field of negotiations the Senate cannot intrude, and Congress itself is powerless to invade it (*United States v. Curtiss Wright Export Corp.*, 299 U.S. 304, 318 (1936)).” Die Vereinigten Staaten anerkennen zwei Arten von internationalen Übereinkommen – Verträge und Exekutive Übereinkommen [‘executive agreements’]. Ein Vertrag bedeutet “a compact made between two or more independent nations with a view to the public welfare (*Altman & Co. v. United States*, 224 U.S. 583, 600 (1912)). “
10. Gemäss dem Recht der Vereinigten Staaten umfassen Verträge, wie sie in Artikel II, §2 der Bundesverfassung [Federal Constitution] definiert sind, auch Exekutive Übereinkommen, die keine Ratifizierung seitens des Senats oder eine Zustimmung seitens des Kongresses benötigen (*United States v. Belmont*, 301 U.S. 324, 330 (1937); *United States v. Pink*, 315 U.S. 203, 223 (1942); und *American Insurance Ass. v. Garamendi*, 539 U.S. 396, 415 (2003)). In *Weinberger v. Rossi*, 456 U.S. 25 (1982) definierte der Oberste Gerichtshof gemäss der Verfassung sowohl Verträge als auch Exekutive Übereinkommen als Verträge, und in *Altman & Co. v. United States*, 224 U.S. 583 (1912) definierte der Oberste Gerichtshof Exekutive Übereinkommen als Verträge.
11. Die Behauptung der BUNDESANWALTSCHAFT, dass die sogenannte Republik Hawai‘i der Gemeinsamen Resolution [Joint Resolution] bezüglich der Annexion zustimmte, impliziert die Existenz einer internationalen Übereinkunft, ob in Form eines Vertrags oder einer Exekutiven Übereinkunft. Es existiert kein solches Übereinkommen. Diese Behauptung einer Zustimmung der sogenannten Republik Hawai‘i lässt sich vermutlich auf die Gemeinsame Resolution selbst zurückführen, wo es heisst: “Whereas the government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian islands and their dependencies (30

- U.S. Stat. 750 (1898)).” Eine Gemeinsame Resolution stellt keinen Vertrag zwischen zwei Staaten dar, sondern ist ein Übereinkommen zwischen dem Repräsentantenhaus und dem Senat des Amerikanischen Kongresses.
12. Diese sogenannte Zustimmung bezog sich auf den Annexionsvertrag vom 16. Juni 1897, der in Washington, D.C., von der sogenannten Republik Hawai‘i und dem Präsidenten der Vereinigten Staaten William McKinley unterzeichnet wurde. Dieser Vertrag wurde aber vom Senat der Vereinigten Staaten nicht ratifiziert, und zwar auf Grund eines von Königin Lili‘uokalani eingereichten diplomatischen Protests und einer Petition von 21,269 Unterschriften hawaiischer Untertanen und Einwohner des Hawaiischen Königreichs, die sich gegen den Versuch einer Annexion durch Vertrag wandten, eine Tatsache, die Teil des Protokolls des Senats vom Dezember 1897 ist („War Crime Report“, Abs. 5.10).
 13. Die Gemeinsame Resolution wurde als Resolution des Repräsentantenhauses Nr. 259 am 4. Mai 1898 eingebracht, nachdem der Senat nicht genügend Stimmen zusammenbringen konnte, um den sogenannten Annexionsvertrag zu ratifizieren. Während der Debatte im Senat wandte sich eine Reihe von Senatoren gegen die Theorie, dass eine Gemeinsame Resolution es vermöge, eine Annexion von fremdem Territorium vorzunehmen. Senator Augustus Bacon erklärte: “The proposition which I propose to discuss is that a measure which provides for the annexation of foreign territory is necessarily, essentially, the subject matter of a treaty, and that the assumption of the House of Representatives in the passage of the bill and the proposition on the part of the Foreign Relations Committee that the Senate shall pass the bill, is utterly without warrant in the Constitution (31 Cong. Rec. 6145 (June 20, 1898)).” Senator William Allen erklärte: “A Joint Resolution if passed becomes a statute law. It has no other or greater force. It is the same as if it would be if it were entitled ‘an act’ instead of ‘A Joint Resolution.’ That is its legal classification. It is therefore impossible for the Government of the United States to reach across its boundary into the dominion of another government and annex that government or persons or property therein. But the United States may do so under the treaty making power (*Id.*, 6636 (July 4, 1898)).” Senator Thomas Turley erklärte: “The Joint Resolution itself, it is admitted, amounts to nothing so far as carrying any effective force is concerned. It does not bring that country within our boundaries. It does not consummate itself (*Id.*, 6339 (Juni 25, 1898)). “
 14. In einer Rede im Senat, wobei die Senatoren wussten, dass der Vertrag von 1897 nicht ratifiziert worden war, erklärte Senator Stephen White: “Will anyone speak to me of a ‘treaty’ when we are confronted with a mere proposition negotiated between the plenipotentiaries of two countries and ungratified by a tribunal – this Senate – whose concurrence is necessary? There is no treaty; no one can reasonably aver that there is a treaty. No treaty can exist unless it has attached to it not merely acquiescence of those from whom it emanates as a proposal. It must be accepted – joined in by the other party. This has not been done. There is therefore, no treaty (*Id.*, Appendix, 591 (Juni 21, 1898)).” Senator Allen bemängelte auch, dass die Gemeinsame

- Resolution ein Kontrakt oder ein Übereinkommen mit der sogenannten Republik Hawai‘i war. Er erklärte: “Whenever it becomes necessary to enter into any sort of compact or agreement with a foreign power, we cannot proceed by legislation to make that contract (*Id.*, 6636 (July 4, 1898)).”
15. Westel Willoughby, ein Verfassungsexperte der Vereinigten Staaten, äusserte sich folgendermassen: “The constitutionality of the annexation of Hawaii, by a simple legislative act, was strenuously contested at the time both in Congress and by the press. The right to annex by treaty was not denied, but it was denied that this might be done by a simple legislative act... Only by means of treaties, it was asserted, can the relations between States be governed, for a legislative act is necessarily without extraterritorial force – confined in its operation to the territory of the State by whose legislature it is enacted (“War Crimes Report,” Abs. 5.9).” Dies wäre analog zu der Vorstellung, die Vereinigten Staaten könnten durch den Beschluss einer Gemeinsamen Resolution einseitig die Schweiz annectieren. Des Weiteren hat 1988 der Bundesjustizminister [‘Attorney General’] der Vereinigten Staaten diese Kongressprotokolle begutachtet und folgendes festgestellt: „Ungeachtet dieser verfassungsrechtlichen Beanstandungen verabschiedete 1898 der Kongress die Gemeinsame Resolution, und Präsident McKinley unterzeichnete die Massnahme. Dennoch ist es natürlich fragwürdig, ob diese Handlung das verfassungsmässige Recht des Kongresses demonstriert, Territorium zu erwerben (“Notwithstanding these constitutional objections, Congress approved the joint resolution and President McKinley signed the measure in 1898. Nevertheless, whether this action demonstrates the constitutional power of Congress to acquire territory is certainly questionable (D. Kmiec, *Legal Issues Raised by Proposed Presidential Proclamation To Extend the Territorial Sea*, 12 Op. Off. Legal Counsel 238, 252 (1988))“).” Der Justizminister [‘Attorney General’] kam dann zu folgendem Schluss: „Es ist daher unklar, welches verfassungsmässige Recht der Kongress ausübte, als er sich Hawai‘i durch eine Gemeinsame Resolution aneignete (“It is therefore unclear which constitutional power Congress exercised when it acquired Hawaii by joint resolution (*Id.*)”).“
 16. Die sogenannte Republik Hawai‘i war die Nachfolgerin einer provisorischen Regierung, die sich illegalerweise am 17. Januar 1893 infolge einer Intervention der Vereinigten Staaten etablierte (*Id.*, Abs. 4.8). Eine Untersuchung des Präsidenten stellte fest, dass die Vereinigten Staaten die hawaiische Regierung illegalerweise gestürzt hatten und kam zu dem Schluss, dass die provisorische Regierung „weder eine Regierung *de facto* noch *de jure* (“neither a government *de facto* nor *de jure* (*Id.*, Abs. 4.2)“),” sondern selbst-erklärt war.
 17. Als die provisorische Regierung am 4. Juli 1894 ihren Namen in „Republik Hawai‘i“ umänderte, erwarb sie sich keine weitere Autorität und verblieb selbst-erklärt (*Id.*, Abs. 9.5). Dies wurde vom 103. Kongress in einer Gemeinsamen Resolution anerkannt: *Joint resolution to acknowledge the 100th anniversary of the January 17 overthrow of the Kingdom of Hawai‘i, and to offer an apology to the Native Hawaiians on behalf of the United States*

for the overthrow of the Kingdom of Hawai'i (107 U.S. Stat. 1510 (1993)). Diese Gemeinsame Resolution erklärte: “*Whereas*, through the Newlands Resolution, the self-declared Republic of Hawai'i ceded sovereignty over the Hawaiian Islands to the United States (Id.).”

18. Selbst-erklärt oder ‘self-declared’, bedeutet “according to ones’s own testimony or admission (*Collins English Dictionary*).” Selbst-erklärt bedeutet ebenfalls selbst-proklamiert (‘self-proclaimed’), definiert als “giving yourself a particular name, title, etc., usually without any reason or proof that would cause other people to agree with you (*Merriam-Webster Dictionary*).“ Ein selbst-deklariertes Gebilde ist keine Regierung eines vom Völkerrecht anerkannten Staats, ausgenommen dass es diesen Status entweder *de facto* oder *de jure* angenommen hat. Ein selbst-erklärtes Gebilde konnte infolgedessen nicht die Souveränität des hawaiischen Staates an die Vereinigten Staaten übergeben.

c. Die Schweiz anerkennt die Kontinuität des Hawaiischen Königreichs als Staat.

19. Am 22. Januar 2015 machte BESCHWERDEFÜHRER Gumapac seine Rechte als Hawaiischer Untertan geltend, entsprechend Art. 1 des Hawaiisch-Schweizerischen Vertrags von 1864, in welchem es heisst: „Die Hawaiianer werden in jedem Kanton der Schweizerischen Eidgenossenschaft, in Beziehung auf ihre Personen und ihr Eigenthum, auf dem nämlichen Fuße und zu den gleichen Bedingungen aufgenommen, wie die Angehörigen der andern Kantone gegenwärtig zugelassen werden oder es in Zukunft werden könnten.“ Die BUNDESANWALTSCHAFT hielt dies in ihrem Bericht vom 3. Februar 2015 fest und kam ausserdem richtigerweise zu dem Schluss, dass der Hawaiisch-Schweizerische Vertrag von 1864 nicht gekündigt wurde.
20. Letztgenannter Vertrag ist eine internationale Übereinkunft zwischen zwei souveränen und unabhängigen Staaten durch deren Regierungen, nämlich das Hawaiische Königreich und die Schweizerische Eidgenossenschaft. Beide Staaten sind Völkerrechtssubjekte, und Crawford schreibt dazu: “There is a strong presumption that the State continues to exist, with its rights and obligations, despite revolutionary changes in government, or despite a period in which there is no, or no effective, government. Belligerent occupation does not affect the continuity of the State, even where there exists no government claiming to represent the occupied State (Crawford, 34; vgl. hierzu auch “War Crime Report,” Abs. 7.1-7.14).”
21. Die Schweizer Regierung, durch ihre BUNDESANWALTSCHAFT, anerkennt die Kontinuität des Hawaiischen Königreichs in seiner Eigenschaft als Vertragspartner, ungeachtet des illegalen Sturzes seiner Regierung durch die Vereinigten Staaten am 17. Januar 1893. Diese Anerkennung seitens der BUNDESANWALTSCHAFT untergräbt seine Behauptung, dass ein 1898 vom Kongress erlassenes nationales Gesetz der Vereinigten Staaten Hawai‘i, einen fremden Staat, hätte annektieren und amerikanische Souveränität über die Hawaiischen Inseln etablieren können. Im Weiteren muss die Erklärung

der BUNDESANWALTSCHAFT in ihrem Bericht, dass die Schweiz Hawai'i offiziell als Teil der Vereinigten Staaten anerkennt und ein Konsulat in Honolulu unterhält, als direkte Verletzung des Hawaiisch-Schweizerischen Vertrags von 1864 ausgelegt werden. Das schweizerische Konsulat wurde in Honolulu nicht gemäss des Artikels VII des Vertrags eingerichtet, der festhält: „Es steht den beiden kontrahierenden Staaten frei, Konsuln, Vize-Konsuln oder Konsularagenten zum Residieren auf den Gebieten des andern Staates zu ernennen. Bevor aber einer dieser Beamten als solcher handeln kann, muß derselbe in üblicher Form von der Regierung, bei welcher er bestellt ist, anerkannt und angenommen sein. Jeder der beiden kontrahierenden Theile kann, je nachdem er es für nöthig erachtet, bestimmte Plätze vorbehalten, welche zu Sizen für Konsularbeamte durch den andern Theil nicht bezeichnet werden dürfen.“

22. Zusätzlich wurde das schweizerische Konsulat in Honolulu aufgrund des Vertrags zwischen den Vereinigten Staaten und der Schweiz etabliert, eine Tatsache, die den Hawaiisch-Schweizerischen Vertrag direkt verletzt und deswegen einen völkerrechtswidrigen Akt darstellt, wie er in den *Responsibilities of States for Internationally Wrongful Acts* (2001) der Vereinten Nationen definiert wird. Artikel 2 lautet: “There is an internationally wrongful act of a State when conduct consisting of an action or omission: (a) is attributable to the State under international law; and (b) constitutes a breach of an international obligation of the State.” Artikel 16 lautet: “A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State does so with knowledge of the circumstance of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that State.”

d. Die Vereinigten Staaten sind kraft der Doktrin der Inneren Rechtskraftwirkung [‚Collateral Estoppel‘] daran gehindert, die Existenz des Hawaiischen Königreiches als Staat zu leugnen.

23. Am 5. März 2015, während einer Zeugenanhörung im ‚Second Circuit Court for Criminal Proceedings‘ [Bezirksgericht für Straffälle] im Prozess *State of Hawai‘i v. English* (CR 14-1-0819) und *State of Hawai‘i v. Dudoit* (CR 14-1-0820) nahm der Gerichtshof offizielle gerichtliche Notiz richterlicher Tatsachen [‘judicial notice of adjudicative facts,’ eine juristische Praxis im angelsächsischen Rechtssystem], die zum Schluss führen, dass das Hawaiische Königreich weiterhin existiert (*Hearing Transcript*, Exhibit „4“ of Attachment „1“). Diese richterlichen Tatsachen sind enthalten in einer Kurzdarstellung [‚brief‘], verfasst vom Bevollmächtigten der BESCHWERDEFÜHRER, betitelt „The Continuity of the Hawaiian Kingdom and the Legitimacy of the acting government of the Hawaiian Kingdom (Exhibit „1“ of Attachment „1“).
24. Im angelsächsischen Rechtssystem ist eine offizielle gerichtliche Notiz [‘judicial notice’] ein “Vorgang, durch den ein Gericht... das Vorhandensein

und die Wahrheit bestimmter Fakten anerkennt, die aufgrund ihrer Natur nicht eigentlich Gegenstand von Zeugenaussagen sind..., z. B. Gesetze des Staates, das Völkerrecht und historische Ereignisse (“act by which a court... recognizes the existence and truth of certain facts, which from their nature, are not properly the subject of testimony,... e.g. the laws of the state, international law, historical events (*Black’s Law Dictionary* 848 (6th ed. 1990)“).”

25. Seit 1994 kennt der ‚Hawai‘i Intermediate Court of Appeal‘ [Mittlerer Appellationsgerichtshof von Hawai‘i] zwei Präzedenzfälle für diejenigen, die die Jurisdiktion der Vereinigten Staaten über Hawai‘i im Zuge der Entschuldigung des Kongresses der Vereinigten Staaten von 1993 für den illegalen Sturz der Regierung des Hawaiischen Königreichs infrage stellen, nämlich *State of Hawai‘i v. Lorenzo*, 77 Haw. 219 (1994) und *Nishitani v. Baker*, 82 Haw. 281 (1996). Diese beiden Gerichtsfälle hielten fest, dass es dem Beschuldigten obliegt, „die tatsächliche (oder gesetzliche) Grundlage vorzulegen, dass das Königreich als Staat existiert („[to provide] factual (or legal) basis that the Kingdom exists as a state“).“ Die Weigerung des Richters, die strafrechtlichen Anschuldigungen zurückzuweisen, nachdem er von der gerichtlichen Feststellung Notiz genommen hatte, stellt einen Irrtum dar, und ein ‚writ of mandamus‘ [gerichtlichen Befehl auf Vornahme einer Handlung] wurde beim Obersten Gerichtshof von Hawai‘i am 27 März 2015 eingereicht, mit Aktenzeichen SCPW-15-0000236 (Attachment “1“). Obwohl das Gericht sich weigerte, die Anklage abzuweisen, wird durch die Tatsache, dass das Gericht offizielle gerichtliche Notiz der weiterbestehenden Existenz des Hawaiischen Königreichs als Staat nahm, dank der Doktrin der Inneren Rechtskraftwirkung [‚Collateral Estoppel‘] verhindert, dass der sogenannte Bundesstaat Hawai‘i und die Vereinigten Staaten das verleugnen, von dem das Gericht offiziell Notiz nahm.
26. Der sogenannte Staat Hawai‘i ist selbst-erklärt und besitzt weder eine Autorität *de facto* noch eine solche *de jure* als Regierung („War Crimes Report,“ Abs. 12.2). Er ist der Nachfolger der sogenannten provisorischen Regierung, die durch die Intervention vom 17. Januar 1893 etabliert wurde und sich als Regierung ausgab. Die BUNDESANWALTSCHAFT liegt richtig in ihrer Feststellung, dass, wenn man einen Okkupationszustand annimmt, die Besatzungsmacht autorisiert ist, im völkerrechtlich vorgegebenen Rahmen Abgaben, Zölle und Gebühren zu erheben. Indessen kann eine solche Erhebung von Steuern und Abgaben nur durch eine von den Vereinigten Staaten gemäss ‚United States Army Field Manual 27-5‘ und ‚27-10‘ etablierte Militärregierung nach dem Steuerrecht des Hawaiischen Königreichs getätigt werden, und nicht durch den sogenannten Bundesstaat von Hawai‘i und die Bundessteuerbehörde der USA [‚Internal Revenue Service‘] nach amerikanischem Steuerrecht.
27. Die Behauptung der BUNDESANWALTSCHAFT, die gegen Herrn Ackermann als ehemaligen Vorsitzenden der Deutschen Bank gerichteten Vorwürfe des BESCHWERDEFÜHRERS Gumapac wegen der Verwertung eines pfandbelasteten Grundstücks seien rein zivilrechtlicher Natur ist falsch, denn ein pfandbelastetes Grundstück kann nicht verwertet werden, wenn es

Mängel im Eigentumserwerbstitel des Hypothekenschuldners gibt. Diese Mängel sind auf die Tatsache zurückzuführen, dass das öffentliche Notariat und Grundbuchregisteramt des sogenannten Bundesstaats Hawai‘i, der weder de facto noch de jure existiert, nicht rechtmässig sind. Nach hawaiischem Recht muss die Ausführung eines Übergabevertrags, oder einer hypothekarischen Belastung zunächst von „der ausführenden Partei vor dem Grundbuchregisterführer, seinem Beauftragten, oder einem Richter eines Registergerichts oder einem öffentlichen Notar dieses Königreichs bescheinigt (“[acknowledged by] the party executing the same, before the Registrar of Conveyances, or his agent, or some judge of a court of record or notary public of this Kingdom (Hawaiian Kingdom Compiled Laws, §1255),” und dann im Grundbuchregisteramt [‘Bureau of Conveyances’] erfasst werden, wo “alle Kaufverträge, Pachtverhältnisse von über einem Jahr Länge, oder andere Übertragungen von Immobilien innerhalb diese Königreiches erfasst werden müssen (“all deeds, leases for term of more than one year, or other conveyance of real estate within this Kingdom shall be recorded in the office of the Registrar of Conveyances (*Id.*, §1262)“).”

28. Des Weiteren kann die Deutsche Bank in Hawai‘i gar nicht geschäftlich tätig werden, denn sie ist nicht nach hawaiischem Recht als ausländisches Unternehmen registriert. Nach dem *Act Relating to Corporations and Incorporated Companies Organizing under the Laws of Foreign Countries and Carrying on Business in this Kingdom*, “[muss] jede nach ausländischem Recht gegründete Firma oder Kapitalgesellschaft, die bestrebt ist, in diesem Königreich gesschäftlich tätig zu werden und dazu hier Immobilien in Besitz zu nehmen, zu besitzen und zu verkaufen, im Inneministerium folgendes hinterlegen: 1. eine beglaubigte Kopie der Satzung oder Gründungsurkunde der fraglichen Firma oder Kapitalgesellschaft. 2. die Namen der leitenden Angestellten dieser. 3. den Namen einer Person, an die Rechtsnotizen oder Gerichtsentscheide dieses Königreichs zugestellt werden können. 4. einen Jahresbericht, fällig am 1. Juli jeden Jahres, in dem die Aktiven und Passiven des Unternehmens innerhalb dieses Königreichs aufgeführt sind. 5. eine beglaubigte Kopie der Geschäftsordnung der Firma oder Kapitalgesellschaft (“Every corporation or incorporated company formed or organized under the laws of any foreign State, which may be desirous of carrying on business in this Kingdom and to take, hold and convey real estate therein, shall file in the office of the Minister of the Interior: 1. A certified copy of the charter or act of incorporation of such corporation or company. 2. The names of the officers thereof. 3. The name of some person upon whom legal notices and process from the courts of this Kingdom may be served. 4. An annual statement of the assets and liabilities of the corporation or company in this Kingdom on the first day of July in each year. 5. A certified copy of the by-laws of such corporation or company (*Id.*, p. 473)”).”
29. Die BESCHWERDEFÜHRER liefern hiermit den Beweis und die rechtlichen Folgerungen um die Nichthandnahmeverfügung der BUNDESANWALTSCHAFT zurückzuweisen, und beide BESCHWERDEFÜHRER erhalten ihren Anspruch aufrecht, dass gegen sie

Kriegsverbrechen begangen wurden und stützen sich dabei auf die Beweise für den Zeitraum von 2006-2012, die in ihren Strafanzeigen dargelegt wurden. Die Vereinigten Staaten haben keinerlei Anrecht oder Souveränität über die Hawaiischen Inseln. Die Hawaiischen Inseln stehen demnach unter einer illegalen und langwierigen Okkupation seit dem Spanisch-Amerikanischen Krieg von 1898, was eine erstaunliche Ähnlichkeit aufweist mit der deutschen Besetzung von Luxemburg während des Ersten Weltkriegs von 1914-1918, und während des Zweiten Weltkriegs von 1940-1945 (,War Crime Report,‘ Abs. 15,19).

B. Klagebegehren

Die BESCHWERDEFÜHRER verlangen durch ihren Bevollmächtigten vom Ehrenwerten Gericht, dass ihrem Einspruch entsprochen wird und dass die BUNDESANWALTSCHAFT aufgefordert wird, die in der Strafanzeige von den BESCHWERDEFÜHRERN angeschuldigten mutmasslichen Straftäter gerichtlich zu belangen.

Datiert: Honolulu, Hawai‘i, den _____ 2015



Dr. DAVID KEANU SAI
Bevollmächtigter der Beschwerdeführer

English (Translation)

THE FEDERAL CRIMINAL COURT OBJECTIONS CHAMBER

OBJECTION

Day [REDACTED] h.D.

[REDACTED]
[REDACTED] y/GE

Attorney for Objectors

Federal Criminal Court Objections Chamber
P.O. Box 2720
CH-6501 Bellinzona/TI

OBJECTION
(Pursuant to Art. 393 ff. StPO)

The Appellants Mr. Kale Kepekaio Gumapac and Mr. [REDACTED] (hereafter collectively known as OBJECTORS), by and through their attorney-in-fact, respectfully appeals the February 3, 2015 decision of the Office of the Attorney General (hereafter ATTORNEY GENERAL) regarding the war crime complaints by OBJECTOR Gumapac, a Hawaiian subject, and OBJECTOR [REDACTED] according to Article 264C, paragraph 1, lit. d and 264g, paragraph 1, lit. c StGB [Swiss Criminal Code]; Art. 108 and 109 aMStG [Swiss Military Criminal Code].

I. STATEMENT OF FACTS:

1. On February 3, 2015, the ATTORNEY GENERAL concluded that Swiss authorities will not accept the war crime complaints according to Art. 310 StPO [Swiss Criminal Procedure] in connection with Art. 319 StPO that were reported by Professor Niklaus Schweizer in accordance with Art. 301 StPO.
2. The report was sent by certified mail to Dr. David Keanu Sai, attorney for APPELLANTS, c/o [REDACTED], Av. Eugene Lance 44, CH-1212 Grand Lancy/GE.
3. On behalf of Dr. Sai, [REDACTED] acknowledged receipt of the report on March 23, 2015.
4. This decision can be objected according to Art. 393 ff. StPO within 10 days after transmission or publication, in writing to the Federal Criminal Court Appeals Chamber, P.O. Box 2720, CH-6501 Bellinzona/TI.

II. ISSUES PRESENTED AND RELIEF SOUGHT

A. Issues Presented

1. The ATTORNEY GENERAL justified the decision to decline war crime investigations because the elements of the offense concerned have not been fulfilled according to Article 310, paragraph 1, lit. A StPO.
2. The primary reason for denying the investigation is that the United States annexed the Republic of Hawai'i in the year 1898, which it alleges represented the former Kingdom of Hawai'i. The ATTORNEY GENERAL explained, "The resolution providing the basis of the annexation transferred all rights of sovereignty in and over the Hawaiian Islands and the territories depending on Hawai'i with the consent of the government of Republic of Hawai'i to the United States of America and rendered this American territory

(compare 55th Congress of the United States of America, Joint Resolution to Provide for Annexing the Hawaiian Islands to the United States of July 7, 1898). On August 21, 1959, Hawai‘i was admitted as the 50th Federal State into the Union of the United States.”

3. Furthermore, the ATTORNEY GENERAL concluded, “Hawai‘i thus is recognized by official Switzerland as a part of the United States and in the relevant period from 2006 to 2013 in the view of Switzerland was neither completely nor partly occupied by the United States which right from the beginning excludes an application of the Geneva Conventions and Art. 108 and 109 aMSTG respectively Art. 264 b StGB based on them.”
4. The OBJECTORS, by their attorney, incorporate, as though fully set forth herein, the information in the report dated December 7, 2014 entitled “War Crimes Report: International Armed Conflict and the Commission of War Crimes in the Hawaiian Islands (hereafter “War Crimes Report”),” which was acknowledged by the ATTORNEY GENERAL in his report. The War Crimes Report concluded three primary issues that form the legal and historical basis for the OBJECTORS’ complaint: (a) the Hawaiian Kingdom existed as an independent State; (b) the Hawaiian Kingdom continues to exist as an independent State despite the illegal overthrow of its government by the United States, and (c) war crimes are being committed in violation of international humanitarian law.
5. The ATTORNEY GENERAL’S reliance on the joint resolution to provide annexing the Hawaiian Islands to the United States of July 7, 1898 is in plain error on four fundamental points. *First*, United States Congressional laws are not a source of international law; *second*, there is no agreement between the United States and the self-declared Republic of Hawai‘i recognizable under both United States law and international law; *third*, the United States is precluded from denying the existence of the Hawaiian Kingdom as a State by the doctrine of estoppel; and, *fourth*, the ATTORNEY GENERAL, in its report, admits to the continuity of the Hawaiian Kingdom under the 1864 Hawaiian-Swiss Treaty.

a. United States Congressional laws are not a source of international law

6. Sources of international law are, in rank of precedence: international conventions, international custom, general principles of law recognized by civilized nations, and judicial decisions and the teachings of the most highly qualified publicists of the various nations (Article 38, Statute of the International Court of Justice). Legislation of every independent State, to

include the United States of America and its Congress, is not a source of international law, but rather a source of municipal law of the State whose legislature enacted it. In *The Lotus*, the international court stated, “Now the first and foremost restriction imposed by international law upon a State is that—failing the existence of a permissive rule to the contrary—it may not exercise its power in any form in the territory of another State (*Lotus*, PCIJ ser. A no. 10 (1927) 18).” According to Crawford, derogation of this principle will not be presumed, which he refers to as the *Lotus* presumption (J. Crawford, *The Creation of States in International Law* 41-42 (2nd ed. 2006)).

7. Since Congressional legislation, whether by a statute or a joint resolution, has no extraterritorial effect, it is not a source of international law, which “governs relations between independent States (*Lotus*, 18).” The United States Supreme Court has always adhered to this principle. In *United States v. Curtiss Wright Export Corp.*, 299 U.S. 304, 318 (1936), the U.S. Supreme Court stated, “Neither the Constitution nor the laws passed in pursuance of it have any force in foreign territory unless in respect of our own citizens, and operations of the nation in such territory must be governed by treaties, international understandings and compacts, and the principles of international law.” In *The Apollon*, 22 U.S. 362, 370 (1824), the Supreme Court concluded, “The laws of no nation can justly extend beyond its own territories except so far as regards its own citizens. They can have no force to control the sovereignty or rights of any other nation within its own jurisdiction.”
8. For Switzerland to claim that domestic law has the power to annex a foreign State is tantamount to recognizing Germany’s purported annexation of Luxembourg during World War II and Iraq’s purported annexation of Kuwait during the Gulf War. Furthermore, the United States (as well as Switzerland) is precluded from benefiting from its illegal act under the international law principle *ex injuria jus non oritur*—law does not arise from injustice, which is recognized today as *jus cogens*. According to Brownlie, “when elements of certain strong norms (the *jus cogens*) are involved, it is less likely that recognition and acquiescence will offset the original illegality (I. Brownlie, *Principles of Public International Law* 80 (4th ed. 1990).”

b. There is no Agreement between the United States and the self-declared Republic of Hawai‘i

9. In international relations, the President is the sole organ of the Federal Government, not the Congress; and it is the President that enters into international legal agreements. “He makes treaties with the advice and consent of the Senate, but he alone negotiates. Into the field of negotiation the Senate

cannot intrude, and Congress itself is powerless to invade it (*United States v. Curtiss Wright Export Corp.*, 299 U.S. 304, 318 (1936)).” The United States recognizes two forms of international agreements—treaties and executive agreements. A treaty signifies “a compact made between two or more independent nations with a view to the public welfare (*Altman & Co. v. United States*, 224 U. S. 583, 600 (1912)).”

10. Under United States law, treaties, as defined under Article II, §2 of the Federal Constitution, also include executive agreements that do not require ratification by the Senate or approval of Congress (*United States v. Belmont*, 301 U.S. 324, 330 (1937); *United States v. Pink*, 315 U.S. 203, 223 (1942); and *American Insurance Ass. v. Garamendi*, 539 U.S. 396, 415 (2003)). In *Weinberger v. Rossi*, 456 U.S. 25 (1982), the Supreme Court referred to treaties as defined by the Constitution to include both treaties and executive agreements, and in *Altman & Co. v. United States*, 224 U.S. 583 (1912), the Supreme Court referred to executive agreements being treaties.
11. The ATTORNEY GENERAL’S claim that the so-called Republic of Hawai‘i consented to the joint resolution of annexation implies that there is an international agreement, whether by a treaty or an executive agreement. There is no such agreement. This claim of the so-called Republic of Hawai‘i’s consent was probably drawn from the joint resolution itself where it states, “Whereas the Government of the Republic of Hawai‘i having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies (30 U.S. Stat. 750 (1898)).” A joint resolution is not a contract between two States, but rather an agreement between the House of Representatives and the Senate of the United States Congress.
12. This so-called consent was referring to the Treaty of Annexation dated June 16, 1897 that was signed in Washington, D.C., by the so-called Republic of Hawai‘i and United States President William McKinley. This treaty, however, was not ratified by the United States Senate because of diplomatic protests filed by Queen Lili‘uokalani and a petition of 21,269 signatures of Hawaiian subjects and residents of the Hawaiian Kingdom protesting the annexation attempt by a treaty, which was made a part of the Senate records in December 1897 (War Crimes Report, para. 5.10).
13. The joint resolution was introduced as House Resolution no. 259 on May 4, 1898, after the Senate could not garner enough votes to ratify the so-called treaty of annexation. During the debate in the Senate, a list of Senators rebuked the theory that a joint resolution has the effect of annexing a foreign territory. Senator Augustus Bacon, stated, “The proposition which I propose

to discuss is that a measure which provides for the annexation of foreign territory is necessarily, essentially, the subject matter of a treaty, and that the assumption of the House of Representatives in the passage of the bill and the proposition on the part of the Foreign Relations Committee that the Senate shall pass the bill, is utterly without warrant in the Constitution (31 Cong. Rec. 6145 (June 20, 1898)).” Senator William Allen stated, “A Joint Resolution if passed becomes a statute law. It has no other or greater force. It is the same as if it would be if it were entitled ‘an act’ instead of ‘A Joint Resolution.’ That is its legal classification. It is therefore impossible for the Government of the United States to reach across its boundary into the dominion of another government and annex that government or persons or property therein. But the United States may do so under the treaty making power (*Id.*, 6636 (July 4, 1898)).” Senator Thomas Turley stated, “The Joint Resolution itself, it is admitted, amounts to nothing so far as carrying any effective force is concerned. It does not bring that country within our boundaries. It does not consummate itself (*Id.*, 6339 (June 25, 1898)).”

14. In a speech in the Senate where the Senators knew that the 1897 treaty was not ratified, Senator Stephen White stated, “Will anyone speak to me of a ‘treaty’ when we are confronted with a mere proposition negotiated between the plenipotentiaries of two countries and unratified by a tribunal—this Senate—whose concurrence is necessary? There is no treaty; no one can reasonably aver that there is a treaty. No treaty can exist unless it has attached to it not merely acquiescence of those from whom it emanates as a proposal. It must be accepted—joined in by the other party. This has not been done. There is therefore, no treaty (*Id.*, Appendix, 591 (June 21, 1898)).” Senator Allen also rebuked that the joint resolution was a contract or agreement with the so-called Republic of Hawai‘i. He stated, “Whenever it becomes necessary to enter into any sort of compact or agreement with a foreign power, we cannot proceed by legislation to make that contract (*Id.*, 6636 (July 4, 1898)).”
15. According to Westel Willoughby, a United States constitutional scholar, “The constitutionality of the annexation of Hawaii, by a simple legislative act, was strenuously contested at the time both in Congress and by the press. The right to annex by treaty was not denied, but it was denied that this might be done by a simple legislative act...Only by means of treaties, it was asserted, can the relations between States be governed, for a legislative act is necessarily without extraterritorial force—confined in its operation to the territory of the State by whose legislature it is enacted (War Crimes Report, para. 5.9).” This is analogous to the proposition that the United States could unilaterally annex Switzerland by enacting a joint resolution of annexation. Furthermore, in 1988, the United States Attorney General reviewed these Congressional records and

stated, “Notwithstanding these constitutional objections, Congress approved the joint resolution and President McKinley signed the measure in 1898. Nevertheless, whether this action demonstrates the constitutional power of Congress to acquire territory is certainly questionable (D. Kmiec, *Legal Issues Raised by Proposed Presidential Proclamation To Extend the Territorial Sea*, 12 Op. Off. Legal Counsel 238, 252 (1988)).” The Attorney General then concluded, “It is therefore unclear which constitutional power Congress exercised when it acquired Hawaii by joint resolution (*Id.*)”

16. The so-called Republic of Hawai‘i was the successor of a provisional government unlawfully established on January 17, 1893 through United States intervention (*Id.*, para. 4.8). A Presidential investigation found that the United States illegally overthrew the Hawaiian government, and concluded that the provisional government “was neither a government *de facto* nor *de jure* (*Id.*, para. 4.2),” but self-declared.
17. When the provisional government changed its name on July 4, 1894, to the Republic of Hawai‘i, it acquired no more authority and remained self-declared (*Id.*, para. 9.5). This was acknowledged by the 103rd Congress in its *Joint resolution to acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii* (107 U.S. Stat. 1510 (1993)). This joint resolution stated, “*Whereas*, through the Newlands Resolution, the self-declared Republic of Hawai‘i ceded sovereignty over the Hawaiian Islands to the United States (*Id.*)”
18. Self-declared is defined as “according to one’s own testimony or admission (*Collins English Dictionary*).” Self-declared is also self-proclaimed, which is defined as “giving yourself a particular name, title, etc., usually without any reason or proof that would cause other people to agree with you (*Merriam-Webster Dictionary*). A self-declared entity is not a government of a State recognized by international law, unless it was either *de facto* or *de jure*. Therefore, a self-declared entity could not cede the sovereignty of the Hawaiian State to the United States.

c. Switzerland acknowledges the continuity of the Hawaiian Kingdom as a State

19. On January 22, 2015, OBJECTOR Gumapac invoked his rights as a Hawaiian subject under Article 1 of the 1864 Hawaiian-Swiss Treaty, which states, “Hawaiians shall be received and treated in every canton of the Swiss Confederation, as regards their persons and their properties, on the same footing and in the same manner now or may hereafter be treated, the citizens

of other cantons.” The ATTORNEY GENERAL noted this in its report of February 3, 2015, and also correctly concluded the 1864 Hawaiian-Swiss Treaty was not cancelled.

20. This treaty is an international compact entered into between two sovereign and independent States through their governments, the Hawaiian Kingdom and the Swiss Confederation. Both States are subjects of international law, and according to Crawford, “There is a strong presumption that the State continues to exist, with its rights and obligations, despite revolutionary changes in government, or despite a period in which there is no, or no effective, government. Belligerent occupation does not affect the continuity of the State, even where there exists no government claiming to represent the occupied State (Crawford, 34; also see War Crimes Report, para. 7.1-7.14).”
21. The Swiss government, by its ATTORNEY GENERAL, acknowledges the continuity of the Hawaiian Kingdom as an independent State, being a contracting party, despite the illegal overthrow of its government by the United States on January 17, 1893. This admittance by the ATTORNEY GENERAL undermines his claim that a domestic law of the United States enacted by its Congress in 1898 could have annexed Hawai‘i, a foreign State, and established United States sovereignty over the Hawaiian Islands. Furthermore, the ATTORNEY GENERAL’S statement in his report that Switzerland officially recognizes Hawai‘i as part of the United States and maintains a Consulate in Honolulu must be construed as a direct violation of the 1864 Hawaiian-Swiss Treaty. The Swiss Consulate was not established in Honolulu according to Article VII of the treaty, which states, “It shall be free for each of the two contracting parties to nominate Consuls, Vice-Consuls or Consular Agents, in the territories of the other. But before any of these officers can act as such, he must be acknowledged and admitted by the government to which he is sent, according to the ordinary usage, and either of the contracting parties may except from the residence of consular officers such particular places as it may deem fit.”
22. Additionally, the Swiss Consulate in Honolulu was established by virtue of the United States-Swiss Treaty, which stands in direct violation of the Hawaiian-Swiss Treaty, and therefore is an international wrongful act as defined in the United Nations’ *Responsibilities of States for Internationally Wrongful Acts* (2001). According to Article 2, “There is an internationally wrongful act of a State when conduct consisting of an action or omission: (a) is attributable to the State under international law; and (b) constitutes a breach of an international obligation of the State.” Article 16 states, “A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State

does so with knowledge of the circumstance of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that State.”

d. United States is precluded from denying the existence of the Hawaiian Kingdom as a State by the doctrine of collateral estoppel

23. On March 5, 2015, during an evidentiary hearing held at the Second Circuit Court for criminal proceedings in *State of Hawai‘i v. English* (CR 14-1-0819) and *State of Hawai‘i v. Dudoit* (CR 14-1-0820), the Court took judicial notice, being a common law doctrine, of adjudicative facts that concludes the Hawaiian Kingdom continues to exist (*Hearing Transcript*, Exhibit “4” of Attachment “1”). These adjudicative facts are embodied in a brief authored by the attorney for the OBJECTORS entitled “The Continuity of the Hawaiian Kingdom and the Legitimacy of the *acting* government of the Hawaiian Kingdom (Exhibit “1” of Attachment “1”).”
24. Under the common law system, a judicial notice is the “act by which a court...recognizes the existence and truth of certain facts, which from their nature, are not properly the subject of testimony, ... *e.g.* the laws of the state, international law, historical events (Black’s Law 848 (6th ed. 1990)).”
25. Since 1994, the Hawai‘i Intermediate Court of Appeals (ICA) set two precedent cases for those challenging the jurisdiction of Hawai‘i in the aftermath of the United States 1993 Congressional apology for the illegal overthrow of the Hawaiian Kingdom government, *State of Hawai‘i v. Lorenzo*, 77 Haw. 219 (1994) and *Nishitani v. Baker*, 82 Haw. 281 (1996). These two cases stated that the defendants have a burden to provide a “factual (or legal) basis for concluding that the Kingdom exists as a state.” The refusal of the judge to dismiss the criminal complaints after he took judicial notice was in error and a petition for writ of mandamus was filed with the Hawai‘i Supreme Court on March 27, 2015, SCPW-15-0000236 (Attachment “1”). Despite the refusal to dismiss, the Court’s taking judicial notice of the continued existence of the Hawaiian Kingdom as a State precludes the so-called State of Hawai‘i and the United States from denying what was judicially noticed under the doctrine of collateral estoppel.
26. The so-called State of Hawai‘i is self-declared and does not possess either *de facto* or *de jure* authority as a government (War Crimes Report, para. 12.2). It is a successor of the provisional government established through intervention on January 17, 1893, impersonating as a government. The ATTORNEY GENERAL is correct in his statement that, if one assumes a state of occupation, the occupying power is authorized within the framework provided

by international law, to levy taxes, customs duties and fees. However, such levying of taxes and fees could only be done by a military government established by the United States according to the United States Army Field Manual 27-5 and 27-10 observing the taxation laws of the Hawaiian Kingdom, and not by the so-called State of Hawai'i and the Internal Revenue Service of the US Federal Government on the basis of US taxation law.


27. The PROSECUTOR'S claim that the accusation directed against Ackermann, as former Chief Executive Officer of Deutsche Bank, by OBJECTOR Gumapac is a purely civil matter regarding liquidation of mortgaged property is in error, because one cannot liquidate mortgaged property if there was a defect in the mortgagor's title. This defect is attributed to the fact that the notary public and registrar of conveyances of the State of Hawai'i, which is neither *de facto* nor *de jure*, are not a lawful. Under Hawaiian law, the execution of a deed of conveyance or mortgage must first be acknowledged by "the party executing the same, before the Registrar of Conveyances, or his agent, or some judge of a court of record or notary public of this Kingdom (Hawaiian Kingdom Compiled Laws, §1255)," and then recorded in the Bureau of Conveyances, where "all deeds, leases for term of more than one year, or other conveyance of real estate within this Kingdom shall be recorded in the office of the Registrar of Conveyances (*Id.*, §1262)."
28. Furthermore, Deutsche Bank cannot do business in the Hawaiian Kingdom because it is not registered as a foreign corporation under Hawaiian law. Under *An Act Relating to Corporations and Incorporated Companies Organizing under the Laws of Foreign Countries and Carrying on Business in this Kingdom*, "Every corporation or incorporated company formed or organized under the laws of any foreign State, which may be desirous of carrying on business in this Kingdom and to take, hold and convey real estate therein, shall file in the office of the Minister of the Interior: 1. A certified copy of the charter or act of incorporation of such corporation or company. 2. The names of the officers thereof. 3. The name of some person upon whom legal notices and process from the courts of this Kingdom may be served. 4. An annual statement of the assets and liabilities of the corporation or company in this Kingdom on the first day of July in each year. 5. A certified copy of the by-laws of such corporation or company (*Id.*, p. 473)."
29. The OBJECTORS herein provided the necessary evidence and conclusions of law in rebuttal to the decision made by the ATTORNEY GENERAL, and both OBJECTORS maintain that war crimes have been committed against themselves based on the evidence provided in their complaints between the years 2006 to 2013. The United States has no claim or sovereignty over the Hawaiian Islands. Therefore, the Hawaiian Islands have been under an illegal

and prolonged occupation since the Spanish-American War, 1898, which bears a striking resemblance to the German occupation of Luxembourg from 1914-1918 during World War I and from 1940-1945 during World War II (War Crimes Report, para. 15.19).

B. Relief Sought

1. The OBJECTORS, by their attorney, request that this Honorable Court in Chambers grant its appeal and direct the ATTORNEY GENERAL to prosecute those alleged perpetrators named in the complaints by the OBJECTORS.

DATED: Honolulu, Hawai'i, March 31, 2015.


DAVID KEANU SAI, Ph.D.
Attorney for Objectors

Appendix “B”

Law Offices of Dexter K. Kaiama

111 Hekili Street, Suite A1607
Kailua, Hawai'i 96734

Tel No. (808) 284-5675
E-Mail: cdexk@hotmail.com

August 10, 2015

Hand-Delivered

David Keanu Sai, Ph.D.
P.O. Box 2194
Honolulu, Hawai'i 96805-2194

Re: My Client:	Kale Kepekaio Gumapac
Criminal Charge:	Criminal Trespass in the First Degree
Date Alleged Incident:	August 20, 2014
Prosecutor's Complaint Filed:	October 14, 2014
Report No.:	C14021935/PN

Dear Dr. Sai,

I represent Kale Kepekaio Gumapac in connection with the above-referenced criminal charge of Criminal Trespass in the First Degree, a misdemeanor that is punishable by up to one year in jail and a fine of up to \$2,000.00. An arraignment and plea took place before Judge Glenn Hara with the Circuit Court of the Third Circuit, State of Hawai'i. A jury trial has been set to begin on September 28, 2015. I also asked Mr. Gumapac to provide, in his words, a written testimony and chronology of events that centered on the pillaging of his home. Please see Exhibit "1."

As a matter of grave urgency, I have been authorized and instructed by Mr. Gumapac to:

- (a) Notify you of additional war crime violations that are being perpetrated against him;
- (b) Request you supplement your December 7, 2014 "*War Crimes Report: International Armed Conflict And The Commission Of War Crimes In The Hawaiian Islands*" (hereinafter "*War Crimes Report*") and immediately apprise the Swiss Government of said further perpetrations of war crimes; and
- (c) Demand, as the attorney-in-fact for Mr. Gumapac, that the Swiss Government begin immediate prosecution, and provide public notice of said prosecution, in order to protect Mr. Gumapac from being subjected to the further denial of a fair and regular trial and potential for unlawful confinement in violation of the Geneva Convention IV.

Notice of prior war crimes, perpetrated against Mr. Gumapac, has been well articulated in Sections 15.2 – 15.21 of your December 7, 2014 *War Crimes Report* to the Swiss Government. As legal counsel for Mr. Gumapac, I am instructed and it is my duty to report that the instant

Dr. Keanu Sai, Ph.D.

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Criminal Trespass in the First Degree charge is directly attributable to the prior war crimes (deprivation of a fair and regular trial, pillaging, and unlawful confinement) as provided in said paragraphs (15.2 – 15.21) of your *War Crimes Report* to the Swiss Government.

As provided in paragraph 15.20, the pillaging of Mr. Gumapac's home also resulted in his arrest and unlawful confinement. In that instance, Mr. Gumapac was charged with Criminal Trespass in the Second Degree, a petty misdemeanor. Though Mr. Gumapac was unlawfully confined, as a result that initial arrest, the petty misdemeanor charges were eventually dropped by the Prosecutor's Office for the State of Hawai'i.

The instant matter that I bring to your attention occurred on or about August 20, 2014. Though the lawful occupant of his home, Mr. Gumapac was again arrested, removed from his home, and unlawfully confined. Please see attached Exhibit "2." The arresting officer was Hawai'i Police Officer Brian Hunt, badge no. 6225. Officer Hunt's commanding officer at the time was Captain Samuel Jelsma, and his deputy commander in charge was Lieutenant Reed Mahuna.

Mr. Gumapac now faces Criminal Trespass in the First Degree charges with the possibility of up to one (1) year in jail if convicted by an unlawfully constituted court. We assert that the increased severity of charge, by the Prosecutor's Office, was deliberately brought to intimidate Mr. Gumapac from asserting his rights as a protected citizen. The Hawai'i County Prosecuting Attorney is Mitch Roth.

Finally, I am obligated to notify you that Glenn Hara is the assigned Circuit Court Judge to preside over Mr. Gumapac's Criminal Trespass in the First Degree jury trial. Paragraph 15.5 of your December 7, 2014 *War Crime Report* provides the ruling of Judge Hara, on a similar motion to dismiss for lack of subject matter jurisdiction in another case before the Third Circuit Court of the State of Hawai'i, whereby Judge Hara stated as follows:

"what you're asking the court to do is commit suicide, because once I adopt Your argument, I have no jurisdiction over anything. Not only these kinds of cases ..., but jurisdiction of the courts evaporate. All the courts across the state from the supreme court down, and we have no judiciary. I can't do that."

In light of Judge Hara's prior ruling, and the rationale expressed in his ruling, Mr. Gumapac's urgent concern that he will again be a victim of the war crime, the deprivation of a fair and regular trial, is well founded. Furthermore, the unlawful retention of the court's jurisdiction, over the

Dr. Keanu Sai, Ph.D.
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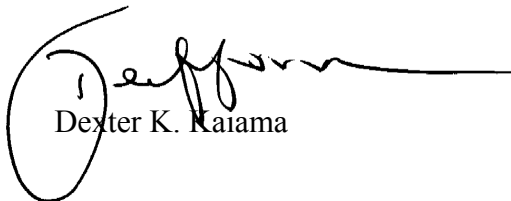
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criminal complaint, will likely lead to his unlawful confinement of up to one (1) year in prison.

Accordingly, on behalf of Mr. Kale Kepekaio Gumapac, and as a matter of grave urgency, I respectfully demand that you supplement your re-filing of the complaint and immediately apprise the Swiss Government of said further perpetrations of war crimes, and demand, the Swiss Government begin immediate prosecution, and provide public notice of said prosecution of the war crimes and against the alleged perpetrators of said war crimes as more fully set forth in your *War Crimes Report*. Additionally, I would also name as accomplices to the pillaging of Mr. Gumapac's home the following individuals: Glenn Swanson, Sandra Hegerfeldt, Jessica Hall and Dana Kenny of Savio Realty in the town of Pahoehoe, island of Hawai'i.

Thank you for your attention and immediate assistance on this matter. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Dexter K. Kaiama

pc: Kale Kepekaio Gumapac

Exhibit “1”

Exhibit “2”

As per your request, I am submitting in writing the chronology of events that resulted in my unlawful incarceration and unfair trial. Pillaging and plundering of my home and land by enforcement officers and their accomplices with no jurisdiction took place.

I was unlawfully arrested for refusing to obey unlawful Judge Greg Nakamura's order to vacate my home at 7 am on November 21, 2013 by Lt. Patrick Kawai of the State of Hawaii Sheriff's Dept. Judge Greg Nakamura did not provide me a fair and regular due to lack of subject matter jurisdiction. I informed Lt. Kawai and the deputies from the Fugitive Task Force prior to my eviction that they were about to commit war crimes of pillaging and plundering by enforcing an unlawful order of an unfair and irregular trial. They ignored the warning and proceeded to take control of all my furniture, personal property, Laulima Title Search and Claims office equipment, computers and desks. The sheriffs then proceeded to search my home without my consent. Lt. Patrick Kawai arrested me for failing to vacate the property within 10 minutes thus committing another war crime of unlawful incarceration. I had no reason to vacate my home and property that was legally mine. I have video of many of the deputies involved but do not know their names.

I was handcuffed and transported to the Hilo jail where I was processed and incarcerated until my arraignment before an unlawful Judge Van de Car. I informed her that I did not recognize this court as it has no jurisdiction and she ordered that I be put in jail. I was bailed out later that night and began my search for a place to live. I was forced to live with people who offered me temporary shelter while I searched to rent a home that would be big enough to restore my business of Laulima Title Search and Claims.

Process server Bob Dukat of Pyramid Processing assisted the Sheriff's in my eviction by providing surveillance and arranging to have Big Island Moving and Storage to remove all my property from my home and holding it hostage until I paid the ransom to have it released from storage. Big Island Moving and Storage charged me \$3109.40 to get my property and furniture out of hock.

I was forced to attend a hearing to enter my plea of not guilty with unlawful District Judge Freitas on December 3, 2013. My attorney Dexter Kaiama informed the unlawful court that he would be representing me. The pre-trial hearing was set for February 16, 2014.

Once again, I was forced to appear before unlawful Harry Freitas. At the pre-trial hearing my attorney Dexter Kaiama filed a motion to dismiss based on the court's lack subject matter jurisdiction. Freitas set a hearing for March 6, 2014 to hear arguments regarding our motion to dismiss.

On July 22, 2014 Judge Harry Freitas signed an order submitted by the prosecutor to dismiss the case "nolle prosequi". I immediately made plans to move back into my vacant home.

Throughout this process and unbeknownst to me, I was not informed that my home had been auctioned and bought at auction by Deutsche Bank. Deutsche Bank was provided irrefutable evidence that the title to my property was defective and according to the mortgage contract that was signed by both parties, the bank and myself, there is a contractual remedy to pay my monetary obligation in full instead of foreclosing on my home.

Deutsche Bank ignored our notice regarding the defective title. To complicate matters for Deutsche Bank, their loan servicer, OCWEN, was caught for fraudulent foreclosures and settled with Attorney Generals from several states including Hawaii. My loan and foreclosure fell under this agreement. I received a settlement offer from Ocwen and if I choose to accept the settlement it would not hinder the right to proceed with any legal action against Ocwen and/or Deutsche Bank. My home was illegally foreclosed on by Deutsche Bank.

Deutsche Bank retained the services of Realtor Jessica Hall of Hawaii Life Realty to put my home on the market. I notified my attorney Dexter Kaiama and asked that he send a cease and desist letter to Jessica Hall and inform her that she was committing a war crime. She chose to ignore the warning and sold my home through another Realtor Glenn Swanson of Savio Realty in Pahoa. Realtor Glenn Swanson was also sent a cease and desist letter of which his Brokers in Charge Sandra Hegerfeldt and Dana Kenny got involved by defending their actions to sell my property that was taken away during an unfair and irregular court proceeding.

I moved back into my home and was confronted by Realtor Glenn Swanson and the potential buyer of my home as they were trying to break the lock on the door. I informed him that he was committing a war crime and he did not inform the potential buyer of all the legal problems that went with the home and he got in his car and left.

A few days later 6 police officers came to my home, 2 Sergeants and 4 patrol officers. I confronted them at the entry gate and provided them with Judge Harry Freitas' signed order to dismiss first criminal trespass charge, the settlement offer letter from Ocwen as a result of fraudulently foreclosing on my home and informing the officer in charge that this was not a criminal matter but a civil matter. Upon verifying Judge Freitas' order and Ocwen letter the Sergeant said there was nothing they could do and ordered his officers to leave. Realtor Glenn Swanson was furious that they did not arrest me.

4 days later a group of 3 officers came to my home late at 9 pm, 1 Sergeant and 2 Patrol Officers. I proceeded to tell them the same thing that I told the previous group of

officers and showed them the same documents. The Sergeant reviewed the documents and declared there was nothing they could do about this and walked out to their cars. Realtor Glenn Swanson was waiting and questioned the officers as to why are they not arresting me? The Sergeant told Glenn that he was not going to stick his neck out on this arrest and left. Realtor Glenn Swanson was visibly upset.

The very next morning of August 20, 2014 at 7 am, 2 rookie police officers come to my home and proceed to question me. Again, I informed them like I did the previous officers of the unlawful foreclosure. They were confused as to what to do next so they called the Pahoa Police Station and were told that they have to arrest me on orders from Hawaii County Prosecutor Mitch Roth. Officer Brian Hunt unlawfully arrested me and took me to the Pahoa Police Station for processing. Prior to the arrest I informed both officers that they would be charged with a war crime for unlawful incarceration. The Police Captain in charge at the time of my arrest was Officer Samuel Jelsma, and second in command was his Lieutenant, Officer Reed Mahuna.

I was bailed out that morning and given an arraignment hearing on September 25, 2014. Realtor Glenn Swanson and Jessica Hall were at my home and took possession of my private and business property. They also took possession of my home and threatened that if I came on my own property again that I would be arrested and charged with a more serious crime. Realtor Glenn Swanson proceeded to rent my home out with all my property still there and allowing the renters full access to all my private and business property and files. I was given 2 weeks to remove my property before Realtor Glenn Swanson would remove it and destroy it. I hurriedly found another place to rent and got friends to help me move. Realtor Glenn Swanson would oversee everything.

This is my statement to the best of knowledge.

Kale Gumapac