

## **DECLARATION OF DAVID KEANU SAI, PH.D.**

I, David Keanu Sai, Ph.D., declare under penalty that the following is true and correct:

1. Exhibits “1” – “12” that are referenced herein are available at: [http://hawaiiankingdom.org/pdf/Sai\\_Dec\\_UNHRC\\_Exhibits.pdf](http://hawaiiankingdom.org/pdf/Sai_Dec_UNHRC_Exhibits.pdf).
2. By virtue of a Limited Power of Attorney, Declarant represents Mr. Kale Kepekaio Gumapac in administrative criminal proceedings before Swiss authorities concerning the allegations of war crimes that resulted from the deliberate failure and refusal by Deutsche Bank, as the assignee of Argent Mortgage Company, LLC, to file an insurance claim under its loan title insurance policy purchased by Mr. Gumapac after they were notified and provided evidence of Mr. Gumapac’s defective title in fee-simple. Attached hereto as Exhibit “1” is a true and correct copy of the Limited Power of Attorney dated December 10, 2014.
3. Mr. Gumapac was required, as a condition of the loan, to purchase a loan title insurance policy for the protection of the lender if there is found to be a defect in his title to property. While a defective title renders Mr. Gumpac’s mortgage with Deutsche Bank void and the promissory note unsecured, the title insurance would cover the debt owed by Mr. Gumapac to Deutsche Bank. Attached hereto as Exhibit “2” is a true and correct copy of the Lender’s Title Insurance Policy Mr. Gumapac purchased for Deutsche Bank, as the assignee of Argent Mortgage Company, LLC.
4. Mr. Gumapac provided Deutsche Bank evidence of the defective title to property and demanded that Deutsche Bank file an insurance claim under the loan policy Mr. Gumapac purchased at escrow. Attached hereto as Exhibit “3” is a true and correct copy of Mr. Gumapac’s demand letter to Deutsche Bank dated November 22, 2011 without exhibits. Deutsche Bank refused to file the title insurance claim and proceeded to commit the war crimes of “willfully depriving a protected person of the rights of fair and regular trial (Art. 147, Fourth Geneva Convention),” “unlawful confinement (Id.),” and “pillaging” (Art. 33, Fourth Geneva Convention),” through extrajudicial proceedings in the Third Circuit Court of the State of Hawai‘i.
5. At all times throughout the extrajudicial proceedings, Mr. Gumapac maintained that the Court was not properly constituted and provided actual notice with

evidence that the Hawaiian Kingdom continues to exist as an independent and sovereign State that has been under an illegal and prolonged occupation by the United States of America since the Spanish-American War in 1898. Under international law, the American occupation of the Hawaiian Kingdom is an international armed conflict “even if the...occupation [met] with no armed resistance (Art. 2, Fourth Geneva Convention).” At no time can the alleged war criminals claim they were unaware of the facts that established an armed conflict between the Hawaiian Kingdom and the United States of America. According to the *Elements of Crimes adopted at the 2010 Review Conference of the Rome Statute of the International Criminal Court, Kampala, 31 May – 11 June 2010*, “there is no requirement for a legal evaluation by the perpetrator as to the existence of an armed conflict or its character as international or non-international. ...There is only [however] a requirement for the awareness of the factual circumstances that established the existence of an armed conflict.”

6. Here follows the list of alleged war criminals who have been under a war crimes investigation by the Swiss Attorney General’s Office since August of 2014, which is now before the Swiss Federal Criminal Court in Bellinzona, Switzerland:
  - a. Josef Ackermann, as former CEO of Deutsche Bank;
  - b. Jürgen Fitschen, Anshu Jain, Stefan Krause, Stephan Leithner, Stuart Lewis, Rainer Neske and Henry Richotte, as members of Deutsche Bank’s Management Board;
  - c. Greg Nakamura, as Judge of the Third Circuit Court in *Deutsche Bank National Trust Company v. Gumapac*, civil no. 11-1-0590;
  - d. Charles Prather, Sofia Hiroson, Michael Wong, as the attorneys for Deutsche Bank in *Deutsche Bank National Trust Company v. Gumapac*, civil no. 11-1-0590;
  - e. Glenn Swanson, Sandra Hegerfeldt, Jessica Hall, Dana Kenny, as realtors for the firm Savio Realty;
  - f. Shawn Tsuha, Patrick Kawai, as officials of the State of Hawai‘i Department of Public Safety Sheriff’s Department in *Deutsche Bank National Trust Company v. Gumapac*, civil no. 11-1-0590;

- g. Samuel Jelsma, Reed Mahuna, Brian Hunt, as officials of the County of Hawai'i Police Department in *State of Hawai'i v. Gumapac*, criminal no. 3DCW-13-0002865;
  - h. Glenn Hara, as Judge of the Third Circuit in *State of Hawai'i v. Gumapac*, criminal no. 3DCW-13-0002865; and
  - i. Mitch Roth, as Prosecuting Attorney for the County of Hawai'i in *State of Hawai'i v. Gumapac*, criminal no. 3DCW-13-0002865.
- 7. A previous complaint alleging war crimes against the aforementioned perpetrators was the subject of a decision by the Swiss Federal Criminal Court Objections Chamber dated April 28, 2015 in *Gumapac, et al. v. Office of the Federal Attorney General*, case no. BB 2015.36+37. Declarant has redacted the name of the other complainant for security reasons. After a recital of the allegations, the Court concluded it could not accept the Objection because of a procedural technicality. Attached hereto as Exhibit "4" is a true and correct copy of the Decision of the Objections Chamber dated April 28, 2015 in German with an English translation.
- 8. Declarant is informed and believes, and upon such information and belief, that a former Prosecutor of the Attorney General's War Crime Unit (Center of Competence for International Crimes) admitted to another lawyer in Zurich, Switzerland, that after receiving the war crime complaints, the War Crime Unit could not refute the evidence of war crimes being committed in Hawai'i, and stated, anecdotally, it was as if a bomb went off in the office. The former Prosecutor also admitted that the Swiss Attorney General's Office deliberately used a procedural technicality to prevent the Federal Criminal Court from reviewing the investigation. Declarant was notified of this information after the Federal Criminal Court issued their decision on April 28, 2015.
- 9. With this knowledge, the Declarant filed, on behalf of Mr. Gumapac, a renewed War Crime Complaint with the Swiss Attorney General dated August 18, 2015 under Articles 118 and 119 of the Swiss Criminal Procedure Code. Attached hereto as Exhibit "5" is a true and correct copy of the renewed Complaint to the Swiss Attorney General. Included in the renewed Complaint, was a report by the

Declarant titled “War Crime Report: International Armed Conflict and the Commission of War Crimes in the Hawaiian Islands” dated December 7, 2014. Attached hereto as Exhibit “6” is a true and correct copy of the War Crime Report without attachments.

10. On January 28, 2016, the Prosecutor of the Swiss Attorney General’s Office issued an investigative report denying that war crimes have been committed against Mr. Gumapac claiming the United States of America annexed Hawai‘i in 1898, and therefore Hawai‘i is not occupied. Attached hereto as Exhibit “7” is a true and correct copy of the Prosecutor’s Report dated January 28, 2016 in German with an English translation. In his report, the Prosecutor took the position that Hawai‘i was annexed by a Congressional joint resolution on July 7, 1898, being a United States law. The Prosecutor is in plain error because a joint resolution is a “national law” of the United States and not a source of “international law.” According to the United States Supreme Court, *U.S. v. Curtiss-Wright Export*, 299 U.S. 304, 318 (1936), “Neither the Constitution nor the laws passed in pursuance of it have any force in foreign territory...and operations of the nation in such territory must be governed by treaties, international understandings and compacts, and the principles of international law.” Additionally, the Permanent Court of International Justice, in *Lotus*, PCIJ ser. A no. 10 (1927) 18, 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.”
11. Under Article 393 of the Swiss Criminal Procedure Code “An objection is admissible against...the rulings...of the public prosecutor...responsible for prosecuting contraventions,” and under Article 396 of the same, “An objection against decisions issued in writing...must be filed within 10 days in writing and with a statement of grounds with the objections authority.” Declarant received the Prosecutor’s Report dated January 28, 2016 on February 13, 2016, which made the ten-day period expire on February 23, 2016.
12. On February 20, 2016, the Federal Criminal Court Objections Chamber received

Mr. Gumapac's Objection dated February 17, 2016, through the Swiss Postal Service in Geneva. On February 22, 2016, the Court issued an Order to the Prosecutor to immediately provide all evidence of his investigation to the Court. Attached hereto as Exhibit "8" is a true and correct copy of the Objection to the Prosecutor's Report of January 28, 2016 in German with an English translation. Also attached herein as Exhibit "9" is a true and correct copy of the Order by the Objections Chamber to the Prosecutor of February 22, 2016 in German with an English translation.

13. The Declarant received a letter from the Federal Criminal Court dated March 2, 2016 that the case has been accepted for review and for Declarant to deposit CHF (Swiss Francs) 2,000.00 into the Court's account as payment of security by March 14, 2016. Article 383 of the Swiss Criminal Procedure Code provides, "The director of appellate proceedings may require the private claimant to lodge security within a time limit to cover any costs and damages." The Court also stated that the undersigned would need to provide another copy of the written Objection dated February 17, 2016 with an original signature. Compliance with time limits is covered under Article 91 of the Swiss Criminal Procedure Code, which states, "Submissions must be delivered on the day of expiry of the time limit at the latest to the criminal justice authority or handed for delivery to SwissPost, a Swiss diplomatic or consular representation." Attached hereto as Exhibit "10" is a true and correct copy of the Objections Chamber's Letter dated March 2, 2016 in German with an English translation.
14. On March 9, 2016, the undersigned delivered a copy of a receipt confirming the deposit of CHS (Swiss Francs) 2,000.00 for security, and a copy of the Objection dated February 17, 2016 with the original signature to the Swiss Consulate in San Francisco, United States. Attached hereto as Exhibit "11" is a true and correct copy of the Letter to the Objections Chamber dated March 9, 2016 in German with an English translation, without a copy of the Objection dated February 17, 2016 with an original signature since the Objection is already provided in Exhibit "8." Attached hereto as Exhibit "12" is a true and correct copy of the Acknowledgment by the Swiss Consulate in San Francisco dated March 9, 2016,

which is evidenced by stamp on the top left corner of the document.

15. The purpose of these proceedings is to have the Federal Criminal Court uphold Mr. Gumapac's Objection that a United States law cannot annex a foreign State. According to Article 397(3) of the Swiss Criminal Procedure Code, if the Court "upholds an objection to a ruling abandoning proceedings, it may issue instructions to the public prosecutor...on the continuation of the proceedings."

Dated: Mountain View, Hawai'i, May 23, 2016.



DAVID KEANU SAI, PH.D.