

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES**

**PUBLIC**

1. **Name:** State full name (include any former names used).

**Florence Toshie Nakakuni**

2. **Position:** State the position for which you have been nominated.

**United States Attorney for the District of Hawaii**

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

**U.S. Attorney's Office, 300 Ala Moana Blvd., Room 6-100, Honolulu, Hawaii 96850.**

4. **Birthplace:** State date and place of birth.

**1952 - Honolulu, Hawaii.**

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

**William S. Richardson School of Law  
University of Hawaii - Manoa  
August 1975 to May 1978  
J.D. - May 1978**

**University of California - Davis  
School of Law (King Hall)  
January 1977 to May 1977  
No degree received**

**University of Hawaii - Manoa  
September 1970 to May 1975  
B.A. - May 1975  
B.Ed. - May 1975  
Fifth Year Teaching Certificate - May 1975**

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

**U.S. Attorney's Office  
District of Hawaii  
300 Ala Moana Blvd., Room 6-100  
Honolulu, Hawaii 96850**

**Assistant U.S. Attorney  
April 1985 to present**

**1992 - 1995 -- OCDETF Attorney  
1995 - December 2002 -- Strike Force Chief**

**January 2003 - May 2005  
Chief, Drug Section**

**June 2005 to present  
Chief, Drug and Organized Crime Section**

**Navy Office of General Counsel  
Naval Supply Center  
Pearl Harbor, Hawaii  
August 1982 -- Assistant Counsel  
Mid 1984 to March 1985 - Counsel**

**Office of Information and Privacy Appeals  
Department of Justice  
Washington, D.C. 20530  
August 1980 to August 1982 - Attorney-Advisor**

**Law Clerk to the Late Justice Thomas S. Ogata  
Supreme Court of Hawaii  
Honolulu, Hawaii  
August 1978 to July 1980 - Law Clerk**

**Contracts Office  
University of Hawaii  
Honolulu, Hawaii 96822  
June 1977 to August 1977 - Law Clerk**

**Associated Students of the University of Hawaii  
University of Hawaii  
Honolulu, Hawaii 96822  
March 1976 to August 1976 - Student Mediator**

**Gill Park and Park  
333 Queen Street  
Honolulu, Hawaii 96813  
October 1975 to December 1976 - Law Clerk**

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

**None.**

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

**B.A. Ed., University of Hawaii, with honors; Phi Kappa Phi**

**Honors and Awards received as an Assistant U.S. Attorney**

- a. **June 1993. DOJ EOUSA Director's Award for Outstanding Achievement in Asset Forfeiture.**
- b. **1995. Drug Enforcement Administration, Los Angeles Field Division, Honolulu District Office, for outstanding contributions in the field of drug law enforcement.**
- c. **1999. Honolulu Police Department commendation for assistance provided to the department.**
- d. **December 1999. Federal Bureau of Investigation for assistance provided to the FBI Honolulu Division.**
- e. **April 2000. OCDETF Pacific Region Certificate of Appreciation.**
- f. **May 2003. Hawaii Joint Police Association Distinguished Service Award.**

- g. May 2003. Department of Labor, Office of Inspector General, Office of Labor Racketeering & Fraud Investigations, San Francisco Region for the successful prosecution of Gary Rodrigues in the District of Hawaii.**
- h. August 2003. United States Marshals Service Certificate of Appreciation.**
- i. November 2004. DOJ EOUSA Director's Award for Superior Performance as an AUSA.**
- j. November 17, 2004. Commendation letter from Senator Daniel K. Inouye in connection with the Director's Award.**

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

**Hawaii State Bar Association**

**1991-1992 Co-chair of the Consumer Protection Committee**

**2004-2005 Member, Judicial Evaluation Committee**

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

**1978 Hawaii - no lapses in membership.**

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

**Admitted to the District Court for the District of Hawaii and State Courts of Hawaii in 1978. Admitted to the Ninth Circuit Court of Appeals in 1978. No lapses in membership.**

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which

you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

**None except my (Buddhist) temple, the Honpa Hongwanji Betsuin, 1727 Pali Highway, Honolulu, HI 96813.**

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

**No.**

12. **Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

**None.**

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

**None.**

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

**None.**

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the

date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

**None.**

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

**I have done my best to identify all items called for in this question, including a review of my personal files and searches of publicly available electronic databases. I have located the following:**

**The Honolulu Advertiser, Jim Dooley, "Memorial celebrates life of clerk Walter Chinn," 5/2/09**

**AP, n/a, "2 convicted in Pali Golf Course killing," 3/21/09**

**The Honolulu Advertiser, Jim Dooley, "Pair found guilty in 2004 Pali murders," 3/21/09**

**Honolulu Star Bulletin, Debra Barayuga, "Former UPW leader ordered to prison," 11/13/07**

**Honolulu Star Bulletin, Debra Barayuga, "Court denies appeal for Rodrigues," 8/24/07**

**The Honolulu Advertiser, David Waite, "Rodrigues' conviction on fraud is upheld," 6/12/07**

**Honolulu Star Bulletin, B J Reyes, "Rodrigues' attorneys keep up legal fight," 6/12/07**

**Pacific Business News, Harold Nedd, "Veteran prosecutor to run key anti-crime effort," 6/3/05**

**Honolulu Star Bulletin, Debra Barayuga, "Rodrigues vows appeal," 10/1/03**

**The Honolulu Advertiser, David Waite, "Rodrigues ordered to court," 11/28/02**

**The Honolulu Advertiser, Kobayashi Ken, "Rodrigues subject of grand jury inquiry," 6/18/99**

13. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

**None.**

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

**None.**

14. Legal Career: Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

**August 1978 to July 1980  
Law Clerk to Associate Justice Thomas S. Ogata (deceased)  
Supreme Court of Hawaii  
Honolulu, Hawaii 96804**

- ii. whether you practiced alone, and if so, the addresses and dates;

**No.**

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

**August 1980 to August 1982  
Attorney-Advisor**

**Office of Information and Privacy Appeals  
U.S. Department of Justice  
Washington, D.C.**

**August 1982 to March 1985  
Assistant Counsel/Counsel  
Navy Office of General Counsel  
Naval Supply Center  
Pearl Harbor, HI**

**April 1985 to Present  
Assistant U.S. Attorney  
U. S. Attorney's Office  
District of Hawaii  
300 Ala Moana Blvd., Room 6-100  
Honolulu, HI 96850**

- iii. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

**No, I have not served as a mediator or arbitrator.**

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

**August 1980 to August 1982  
Attorney-Advisor  
Office of Information and Privacy Appeals  
U.S. Department of Justice  
Washington, D.C.**

**Represented the government in district court in Freedom of Information Act (FOIA) litigation; conducted settlement negotiations; reviewed work of other attorneys and paralegals; advised lawyers in other agencies on the FOIA; analyzed sensitive documents in order to make recommendations on classification; reviewed and evaluated administrative appeals under FOIA for almost every component in the Justice Department.**

**August 1982 to March 1985  
Assistant Counsel/Counsel  
Navy Office of General Counsel  
Naval Supply Center  
Pearl Harbor, HI**

**Advised clients (various naval shore activities and primarily the Naval Supply Center, Pearl Harbor) on all matters pertaining to government procurement and civilian personnel law. Specifically, in the contract law area, reviewed proposed solicitations and awards; researched and made recommendations on legal issues which arose prior to or after bid opening, during negotiations, contract administration and termination; reviewed claims submitted pursuant to the Contract Disputes Act, unauthorized commitments, bid protests, large dollar Commercial Activity, and FOIA requests. In the civilian personnel law area, advised on matters pertaining to the Standards of Conduct, labor-management relations, employee grievances, EEO and Privacy Act issues. Represented the Navy in contract disputes before the Armed Services Board of Contract Appeals (ASBCA). As counsel, supervised other attorneys in Hawaii, Japan and the Philippines, from mid-1984 to March 1985.**

**April 1985 to Present  
U. S. Attorney's Office  
District of Hawaii  
300 Ala Moana Blvd., Room 6-100  
Honolulu, HI 96850**

**April 1985 to 1992**

**Ninth attorney hired by U.S. Attorney Daniel Bent. There were no divisions or sections in the office and attorneys handled criminal and civil cases. Hired based on expertise in civil litigation but tried 5 criminal cases to verdict in the first year and 3 in the second year. From the third year, handled primarily civil litigation including torts, commercial cases and forfeitures. Responsible for all forfeiture cases filed in the District from 1986 to 1988. Tried 6 civil non-jury trials to**

**verdict from 1986 to 1988. Initiated more than 140 civil forfeiture cases from 1986 through mid-1989 resulting in the forfeiture of more than \$4 million in cash and property.**

**1992 to April 1995**

**OCDETF (organized crime and drug enforcement task force) attorney. Advised agencies on all aspects of drug investigations of multi-defendant, multi-district and sometimes international organizations to include grand jury and financial investigations involving money laundering and tax violations. Prepared search warrants, conducted in-take of routine cases, prepared written responses to/and argued pre-trial motions including motions to suppress, dismiss and regarding discovery; prepared cases for jury, selected juries, tried jury cases, handled sentencings, responded to/and argued post-trial motions and appeals, negotiated plea agreements. Trained law enforcement officers regarding procedural and substantive civil forfeiture and money laundering issues.**

**May 1995 to December 2002**

**Strike Force Chief. Served as lead attorney in the strike force which also reports to the Organized Crime and Racketeering Section, Criminal Division, Department of Justice, Washington, D.C. Directed long-term drug and illegal gambling business and money laundering investigations involving wiretaps and undercover officers resulting in the prosecution of over 32 defendants in 4 indictments for gambling and money laundering; and the prosecution of 25 defendants in multiple indictments for various drug conspiracies and other offenses. Tried former UPW leader Gary Rodrigues who was convicted on all 100 counts of embezzlement of union funds, mail fraud, health care fraud, money laundering and accepting kickbacks in connection with an ERISA plan. Prosecuted founder of Pacific Group Medical Association (PGMA), Peter Wong, for insurance fraud and money laundering. Prosecuted Al Hewitt, who handled UPW's investment fund for ERISA violations.**

**January 2003 to present**

**Chief, Drug Section from January 2003 to May 2005.**

**Chief, Drug and Organized Crime Section from June 2005 to present. Supervise 8 Assistant U. S. Attorneys who prosecute drug and organized crime cases including complex, multi-defendant, multi-district wiretap investigations, RICO (racketeering influenced corrupt organizations) and other violent crimes, money laundering, forfeiture and public corruption; from 2004 through mid-2008, supervised a deputy prosecuting attorney assigned to HIDTA (High Intensity Drug Trafficking Area) who primarily handled Weed and Seed cases. Handle in-take and conferral on all drug and organized crime cases referred by federal agencies and local police departments; work with agencies on potential long-term cases to ensure viability before assignment to an AUSA; review all indictments and other charging documents for legal and factual sufficiency and to ensure compliance with Department of Justice policies; review all plea agreements and sentencing recommendations. Handle own caseload which has included Ninth Circuit appeals, 2 felony criminal jury trials to verdict since October 2008 (a Weed & Seed drug case involving distributions within 1,000 feet of schools and a multi-defendant illegal gambling business/public corruption/extortion case and a civil union election case). Have tried more than 30 cases to verdict since 1985. Advise federal agencies (primarily the Drug Enforcement Administration, the Federal Bureau of Investigation, the U.S. Postal Service, IRS and Immigration and Customs Enforcement) and local police departments working with federal agencies on legal issues to include sufficiency of probable cause for search warrants and seizure warrants, sufficiency of evidence for electronic surveillance; propriety of warrantless searches and seizures, custodial and non-custodial interrogations, grand jury procedures and issues relating to grand jury secrecy; sufficiency of evidence for indictments, credibility of witnesses, bail and detention issues, discovery and immunity issues and substantive and sufficiency of proof issues in complex drug and money laundering cases; sentencing issues. Provide institutional knowledge (in collaboration with other senior attorneys) regarding relationships and associations between past and present defendants, witnesses and investigations.**

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

**My typical clients are federal agencies such as the DEA, FBI, IRS, ATF, Postal Inspectors, and ICE, as well as local law enforcement (primarily the county police departments).**

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

**My practice is 100% litigation and I appear in court frequently.**

- i. Indicate the percentage of your practice in:

1. federal courts; **100%**
2. state courts of record; **0**
3. other courts; **0**
4. administrative agencies **0**

- ii. Indicate the percentage of your practice in:

1. civil proceedings; **5%**
2. criminal proceedings. **95%**

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

**Six civil non-jury trials (sole counsel)**

**Three criminal jury trials (associate counsel)**

**Twenty-five criminal jury trials as chief counsel**

- i. What percentage of these trials were:

1. jury; **80%**
2. non-jury. **20%**

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

**I have not practiced before the Supreme Court of the United States.**

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a.. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

(1). **United States v. Gary W. Rodrigues and Robin Haunani Rodrigues Sabatini, Cr. No. 01-00078 DAE (D. Hawaii)**

I was lead counsel and tried this case before then Chief Judge David Alan Ezra in late 2002. Mr. Rodrigues was the politically influential and powerful head of the 12,000 member United Public Workers, AFSCME Local 646, AFL-CIO and Robin Haunani Rodrigues Sabatini was his daughter.

After a two-month jury trial, Rodrigues was found guilty as charged on all 100 counts of mail fraud, healthcare fraud, embezzlement of union funds, money laundering, money laundering conspiracy and accepting kickbacks in relation to an ERISA plan. Sabatini was found guilty as charged of all 95 counts of mail fraud, healthcare fraud, money laundering and money laundering conspiracy. In September 2003, Rodrigues was sentenced to 64 months in prison, fined \$50,000 and ordered to pay restitution of \$377,503.63. In December 2003, Sabatini was sentenced to 46 months in prison and ordered to pay restitution of \$377,503.63. The Ninth Circuit affirmed their convictions in June 2007, in a memorandum opinion. 2007 WL 4466877.

Co-counsel was Lynn Panagakos, 345 Queen Street, Floor 2, Honolulu, HI 96813. (808) 542-9943 (cellular). Ms. Panagakos was at the time, a trial attorney with the Organized Crime and Racketeering Section, Criminal Division, Department of Justice.

Principal counsel for Mr. Rodrigues was Doron Weinberg, Weinberg & Wilder, 523 Octavia Street, San Francisco, CA 94102. (415) 431-3472.

Principal counsel for Ms. Sabatini was Richard Hoke, 1188 Bishop Street, Suite 907, Honolulu, HI 96813. (808) 531-6927.

Judge: Honorable David Alan Ezra.

(2). **United States v. Peter Wong, Cr. No. 03-00368 DAE**  
**(D. Hawaii) (spin-off from the Gary Rodrigues case)**

Peter Wong controlled the affairs of Pacific Group Medical Association (PGMA), Pacific Equity Growth and Management (PEGM), and Pacific Benefit Services (PBS). PGMA was a nonprofit corporation incorporated in the State of Hawaii exclusively for the purposes of: (i) providing medical indemnity benefits to members; and (ii) operating exclusively as a Mutual Benefit Society and medical indemnity association within the meaning of Hawaii State law. PGMA was engaged in the business of insurance in the State of Hawaii. PEGM rendered management and marketing services to PGMA, and PBS was PGMA's third party administrator.

Peter Wong intentionally manipulated PGMA's claims payment process, thereby causing PGMA's outside actuary to rely on false data when certifying PGMA's claims unpaid liability. By manipulating the data provided to the actuary, Peter Wong intentionally caused the actuary to understate PGMA's claims unpaid liability as of December 31, 1995 by approximately \$5,000,000. As a result of Peter Wong's claims payment manipulation, PGMA's claims unpaid liability was materially and falsely understated in PGMA's December 31, 1995 annual financial statement and related documents, as well as financial statements for periods in 1996, all of which were reviewed and approved by Peter Wong and required by and filed with the Insurance Division. By falsifying these financial statements, Peter Wong concealed PGMA's insolvency and delayed its liquidation by at least eight months, during which time Wong diverted substantial sums in PGMA premium monies to his own benefit, and PGMA generated substantial sums in unpaid medical claims.

Hawaii state law requires each mutual benefit society to file an annual financial statement, actuarial certification of its claims unpaid liability, annual audited financial statement, annual management discussion and analysis, and quarterly financial statements with the Insurance Division. The Insurance division reviewed these financial statements to ensure that PGMA was solvent. Wong made and caused to be made, false material statements and materially overvalued and caused to be materially overvalued, property in connection with documents presented to the State of Hawaii Insurance Division.

Wong was indicted on 16 counts of violating 18 U.S.C. § 1033 (insurance fraud). Wong pleaded guilty to one count of violating 18 U.S.C. § 1033 and one money laundering count. Wong was sentenced to 36 months in prison and the Court ordered restitution in the amount of \$7,550,625. I was lead counsel in this case.

Principal counsel for Mr. Wong was Samuel P. King, Jr., 735 Bishop Street, Suite 304, Honolulu, HI 96813. (808) 521-6937.

Judge: Honorable David Alan Ezra.

(3). **United States v. Al Hewitt, Cr. No. 03-00552**  
**(D. Hawaii) (spin-off from the Gary Rodrigues case)**

Albert Hewitt was indicted on six counts of receiving fees, kickbacks, commissions and monies because of his actions, decisions and other duties relating to, and concerning the United Public Worker's Union's Mutual Aid Fund, an ERISA plan, in violation of 18 U.S.C. § 1954. Gary Rodrigues (indicted in Cr. No. 01-00078 DAE) arranged for the Union's Mutual Aid Fund to invest approximately one million dollars with Mr. Hewitt, an "investment advisor." Mr. Hewitt pleaded guilty to 2 of the 6 counts charging him with receiving a fee based on an investment which Hewitt recommended to the United Public Worker's Mutual Aid Fund. Mr. Hewitt was sentenced to 75 days imprisonment. I was lead counsel in this case.

Principal counsel for Mr. Hewitt was Birney B. Bervar, Bervar & Jones, 1003 Bishop Street, Suite 1400, Honolulu, HI 96813. (808) 550-4990.

Judge: Honorable Susan Oki Mollway

(4). **Oliver Kupau v. U.S. Department of Labor,**  
**Civil No. 08-000296 HG (D. Hawaii)**

Oliver Kupau was 1 of 9 defendants charged in an illegal gambling business/money laundering case which I prosecuted, Cr. No. 00-00216 HG. Mr. Kupau pleaded guilty to money laundering and completed his four-month sentence of imprisonment in May 2003, therefore, pursuant to 29 U.S.C. § 504(a), he was barred from certain employment with a union or holding office for thirteen years from the last date of jail-type confinement. In April 2008, the Department of Labor received an election protest which complained that Mr. Kupau should have been disqualified as a candidate for the Local's highest office of business manager because he was convicted of an offense involving bribery. In June 2008, the Department notified Mr. Kupau that he was barred from holding any union office under 29 U.S.C. § 504(a) by virtue of his money laundering conviction which involved the bribery of a police officer. The Department also ordered LIUNA, as trustee of the Local, to immediately terminate Mr. Kupau's employment as business manager. Mr. Kupau was terminated in June 2008. Kupau thereafter filed an "Application for Exemption from Disqualification or In the Alternative, Request for Declaratory Relief." After extensive briefing and an evidentiary hearing involving approximately a dozen witnesses, the district court held, in a case of first impression, that the federal money laundering statute substantially covers the listed conduct of bribery because Mr. Kupau's act of bribery established the critical element of the intention to promote unlawful activity; that Mr. Kupau's conviction is within the meaning of "bribery" as used in 29 U.S.C. § 504(a) thus invoking the employment disqualification of § 504. The Court's order was filed on February 5, 2009. We have requested that the Court publish the decision. On June 12, 2009, the Court entered its Order denying Mr. Kupau's request for relief from § 504's disability. I was lead counsel in this case although I received substantial assistance from the Department of Labor and the Department of Justice Organized Crime and Racketeering Section (OCRS).

Principal counsel for Mr. Kupau is Reginald Minn, 841 Bishop Street, Suite 2116, Honolulu, HI 96813. (808) 525-9343.

Judge: Honorable Helen Gillmor

- (5). **United States v. Damien Kalei Hina et al., Cr. No. 06-00194 DAE (9 defendants)**  
**United States v. Keele Vesnefski, et al., Cr. No. 06-00195 HG (7 defendants)**  
**United States v. Douglas Gilman, Sr., et al., Cr. No. 06-00198 SOM (9 defendants)**  
**United States. v Herbert Naone, et al., Cr. No. 06-00209 HG (2 defendants)**

These cases resulted from the FBI's investigation of one of their clerical employees who they believed was passing on information to drug dealers. The investigation utilized wiretaps which ultimately resulted in the indictment of individuals, including local police officers, who had no relationship to the employee. All defendants in these cases pleaded guilty except for 5 defendants in the Gilman case who were charged with conspiracy to conduct an illegal gambling business (cockfighting), conducting an illegal gambling business, conspiracy to evade the enforcement of local law to facilitate an illegal gambling business, and Hobbs Act extortion. The trial began in late October 2008, and ended with guilty verdicts in mid-December 2008. I began second-chairing the case in late November 2008. I had assisted as necessary during the investigation of the case which included numerous wiretaps. I handled the case and presented it for indictment when the lead AUSA was activated and sent to Iraq. When he returned from Iraq, the Gilman case was re-assigned to him.

Lead counsel: AUSA Thomas Muehleck, 300 Ala Moana Blvd., Room 6-100, Honolulu, HI 96850 (808) 548-0633.

Principal counsel for Douglas Gilman, Sr. is Pamela E. Tamashiro, 745 Fort Street, Suite 1420, Honolulu, HI 96813 (808) 528-3332.

Principal counsel for Douglas Gilman, Jr. is Edwin A. Ebisui, 410 Kilani Ave., Site 211, Wahiawa, HI 96786 (808) 622-3933.

Principal counsel for William Gilman is Hayden Aluli, 707 Alakea St., Suite 213, Honolulu, HI 96813 (808) 533-3388.

Principal counsel for Kevin Brunn is Richard N. Wurdeman, P.O. Box 1800, Honolulu, HI 96806. (808) 536-0633.

Principal counsel for Micha Terragna is Anthony H. Yusi, 735 Bishop St., Suite 322, Honolulu, HI 96813. (808) 531-8121.

Judge: Honorable Susan Oki Mollway

- (6). **United States v. Gabriel Aio, et al., Cr. No. 00-00215 DAE (D. Hawaii).**

Nineteen defendants were charged in this case which was one of 4 indictments resulting from a 2 and ½ year long undercover investigation which targeted Hawaii Organized Crime figures and illegal gambling businesses. This particular case involved wiretaps, hundreds of consensually recorded telephone calls and meetings between targets and an undercover police officer who posed as a corrupt officer willing to take bribes from individuals operating illegal gambling businesses in the Chinatown area of Honolulu, Hawaii. Two buildings in Chinatown and over \$300,000 in cash were forfeited. All defendants pleaded guilty except for defendant (19) Viefu Epenesa, who was convicted by a jury in 2003 of conducting an illegal gambling business. I was lead counsel in this case.

Principal counsel for the lead defendant, Gabriel Aio, was Reginald P. Minn, 841 Bishop Street, Suite 2116, Honolulu, HI 96813. (808) 525-9343.

Principal counsel for Viefu Epenesa was James S. Kawashima, Prestige Learning LLC, 7170 Hawaii Kai Drive, Suite 333, Honolulu, HI 96825. (808) 783-2432.

Judge: Honorable David A. Ezra

(7). **United States v. Alfredo Bunag, et al., Cr. No. 95-01065 ACK (D. Hawaii).**

Six defendants were charged in this case with conspiracy to possess with intent to distribute more than 100 grams of methamphetamine, that is, approximately 50 pounds of methamphetamine. Three defendants pleaded guilty. The trial against the other three - Robbie Sylva, Robin Saya and Frank Burke - ended in a mistrial in Hawaii (before Judge Alan C. Kay); venue was transferred to the Western District of Washington and they were convicted by a jury before Judge Robert Whaley. An FBI agent and a Honolulu Police Department detective posed as corrupt law enforcement officers who agreed to sell Bunag 50 pounds of methamphetamine for one million dollars, which the FBI agent was ostensibly obtaining from the FBI evidence room. Bunag's associates - Robbie Sylva and Robin Saya - agreed to invest in Bunag's scheme to obtain the 50 pounds of methamphetamine. Sylva, Saya and Frank Burke were arrested when they arrived at Bunag's apartment to deliver money to Bunag. Agents seized approximately \$860,000 in cash (\$430,000 from Bunag, \$230,000 from Saya and \$200,000 from Sylva) which was forfeited. I was lead counsel.

Principal counsel for Mr. Bunag was Philip D. Bogetto, who is no longer an active member of the Hawaii Bar and I believe he resides in Colorado.

Principal counsel for Robbie Sylva (deceased) in the W.D. of Washington was Judy Clarke, Federal Defender. Mr. Sylva's Hawaii counsel was Gary A. Modafferri, who was disbarred by the State of Hawaii.

Principal counsel for Robin Saya was William A. Harrison, 841 Bishop Street, Suite 800, Honolulu, HI 96813. (808) 523-7041.

Principal counsel for Frank Burke was David F. Klein, 841 Bishop Street, Suite 2116, Honolulu, HI 96813. (808) 523-7774.

Hawaii Judge: Honorable Alan C. Kay  
Spokane Judge: Honorable Robert Whaley

(8). **United States v. George Pararas-Carayannis, Cr. No. 92-00756 ACK. (D. Hawaii).**

George Pararas-Carayannis was a federal employee who was the head of the International Tsunami Information Center located in the federal building. He was charged pursuant to the money laundering "sting" statute, 18 U.S.C. § 1956(a)(3). This was the first money laundering case to be tried in the District of Hawaii in November-December 1993. Mr. Pararas-Carayannis was charged with money laundering and federal tax violations. Defendant was found guilty after a jury trial. I was lead counsel.

Principal counsel for Mr. Pararas-Carayannis was Ronald Au, who is no longer an active member of the Hawaii Bar. I believe Mr. Au resides in Hawaii.

Judge: Honorable Alan C. Kay

(9). **United States v. Chong In Kim, aka "KK," Cr. No. 92-00063 HMF; Court of Appeals No. 93-10022, reported at 25 F.3d 1426 (9th Cir. 1994).**

Kim was convicted of drug and gun charges. Based on a tip, DEA agents approached Kim who was in a parked car. Kim agreed to talk to the agent who saw an object protruding from Kim's pocket and asked for permission to search it. Kim agreed and the agent discovered several grams of methamphetamine. Kim agreed to cooperate but failed to maintain contact with the agent. Several weeks later agents learned that Kim was in a hotel room. The agents entered the room without a warrant, arrested Kim and recovered 385 grams of methamphetamine. The district court suppressed the 385 grams of methamphetamine but considered it as relevant conduct in determining Kim's offense level under the sentencing guidelines.

In a case of first impression in the circuit, the majority held that the sentencing guidelines permit the consideration of illegally seized evidence as relevant conduct in calculating the offense level. The Ninth Circuit, in large part, accepted the government's argument that 18 U.S.C. § 3661, permitted this consideration because that statute provides that there is no limit to the information concerning the defendant's background and character that a judge may consider. The Court avoided deciding the defendant's claim that he was subjected to an illegal race-based investigatory stop. The Court found that Mr. Kim had not been stopped but only engaged in a consensual encounter. Thus, it found that the agent's motive for approaching Kim was irrelevant. The Court also held that Kim's consent to search the object in his pocket

had been voluntary. I was lead counsel in this case.

Principal counsel for Mr. Kim was Joseph M. Gedan, 345 Queen Street, Suite 702, Honolulu, Hawaii 96813. (808) 536-8227).

Judge: The Late Judge Harold M. Fong

- (10). **Twenty-three "All Monies" civil forfeiture cases, one of which resulted in Judge Alan C. Kay's decision reported at 754 F.Supp. 1467 (D. Hawaii 1991).**

In May and June, 1989, I filed 23 separate civil forfeiture cases against monies in bank accounts in Miami, Florida and New York City pursuant to then newly passed money laundering statutes. These cases, in the aggregate, constituted complex civil litigation based on the number of parties, multiple districts and foreign jurisdictions. Most of the cases were consolidated for discovery purposes. One of these cases resulted in Judge Kay's decision which at the time was considered the leading case regarding the facilitation money laundering theory and bank accounts. Judge Kay agreed with the government that where legitimate monies in a bank account facilitate or provide a "cover" for drug-tainted monies, that the legitimate, along with the illegitimate, money was forfeitable to the government. I was lead counsel but received substantial assistance from attorneys in the Asset Forfeiture and Money Laundering Section, Department of Justice, Washington, D.C., in particular, Stefan Cassella, who is currently a SAUSA in the E .D. Va., (703) 299-3700.

Principal counsel for claimants in the lead case (United States v. All Monies (\$3,258,694.54), Civil No. 89-00382 ACK) was Hendrik Milne of Miami, Florida.

Judge: Honorable Alan C. Kay

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

**In addition to the cases listed in my response to Question 15, above, the most significant legal activities I have pursued include the following: early in my career in the U.S. Attorney's Office in Hawaii, I defended the United States in numerous Federal Tort Claims Act cases and tried 2 medical malpractice cases. I also handled foreclosure and debt collection litigation for the Small Business Administration and the Farmer's Home Administration. During 1986-1988, I was responsible for all forfeiture cases in the District**

which included real property used to grow marijuana, vehicles used to facilitate drug trafficking and U.S. currency which was drug proceeds. I conducted training regarding procedural and substantive forfeiture issues for federal agents and local police departments. As an OCDETF attorney, I successfully tried the first cases in the District charging defendants with “structuring” a financial transaction in order to avoid the currency transaction reporting requirement (U.S. v. Kenrick Chee, et al., Cr. No. 92-00220 HMF) and money laundering (U.S. v. George Pararas-Carayannis, Cr. No. 92-00756 ACK, listed in my response to Question 15, above). I was sole counsel in a case involving the 1992 seizure of approximately 18 kilograms of methamphetamine (“ice”) which, until several years ago, was the largest seizure of methamphetamine in Hawaii (U.S. v. Tae Mun O, et al., Cr. No. 92-01198 ACK). At the time, it was the largest seizure of “ice” in Hawaii and the nation (according to DEA). I also participated, as co-counsel, in a drug-related double murder trial which was the first death penalty eligible case in the District (U.S. v. Francisco Davalos, et al., Cr. No. 97-01117 ACK). The 2 defendants were convicted and sentenced to life imprisonment.

As strike force chief, in addition to the several cases listed in my response to Question 15, I was the lead prosecutor in numerous cases involving members of Hawaii Organized Crime who were charged with various offenses including drug conspiracies, drug trafficking, money laundering, health care fraud, firearms offenses and conducting illegal gambling businesses. Wiretaps were involved in some cases and many cases included forfeitures.

I have written numerous appellate briefs and have argued cases before the Ninth Circuit Court of Appeals. Throughout my years in the U.S. Attorney’s Office, I have volunteered to be a moot court judge at my alma mater, the University of Hawaii (Richardson) School of Law.

One of the most significant activities I have engaged in is supervising 8-9 Assistant U.S. Attorneys over the past 6 and ½ years who handle a large variety of cases to include drug trafficking, conspiracies, money laundering, firearms offenses, violent crimes including RICO murder, fraud, corruption, extortion and illegal gambling cases. I have also spent considerable time in working with federal agencies and local police departments to ensure they understood the application of federal law.

17. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

**I have not taught.**

18. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

**The only future benefits I expect to receive are from a federal government retirement plan and Thrift Savings Plan, which is listed on my Net Worth Statement.**

19. **Outside Commitments During Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

**No.**

20. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

**Financial Disclosure Report is attached.**

21. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

**See attached Net Worth Statement.**

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to

present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

**In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated agency ethics official to identify potential conflicts of interest. Any potential conflict of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the department's designated agency ethics official.**

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

**In the event of a potential conflict of interest, I will consult with the ethics officials for the Executive Office for United States Attorneys, Department of Justice.**

23. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

**During 1994-1995, I was a volunteer for the Aloha United Way and served on one of its allocation panels. The panel reviewed funding requests from organizations serving the economically and socially disadvantaged such as the Legal Aid Society, the John Howard Society, the Kalihi Palama Immigrant Center and the Neighborhood Justice Center. The panel met approximately monthly.**

**As a result of the U.S. Attorney's Office's heavy involvement with the Weed & Seed program during 1995-2000, I participated in several "clean up" projects at schools and public housing projects. After I became a supervisor in 2003, I worked from time-to-time with the Weed and Seed coordinator. My efforts were directed at "weeding" crime from the designated Weed & Seed areas in the District. Also, on occasion during this time, I spoke to community groups in the Weed & Seed areas.**

AFFIDAVIT

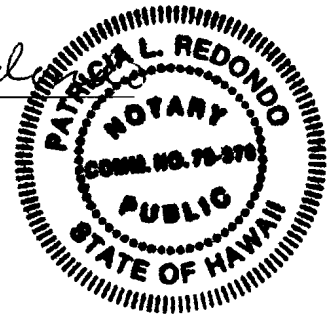
I, Florence T. Nakakuni, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

7/2/09  
(DATE)

Florence T. Nakakuni  
(NAME)

Doc. Date: 7/2/09 # Pages: 27  
Patricia L. Redondo Circuit  
Doc. Description Questionnaire for  
Now Judicial Nominees

Patricia L. Redondo  
(NOTARY)



Patricia L. Redondo 7/2/09  
Notary Signature Date  
NOTARY CERTIFICATION

My commission expires: 6/3/2011