

Hawaii

\$16K Gift To Pay OHA Trustee's Legal Fees Raises Ethical Questions

UPDATED: Trustee Rowena Akana, who's in a legal battle with other board members, disclosed the money in a recent ethics report.

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By Chad Blair    / July 25, 2017

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A trustee with the [Office of Hawaiian Affairs](#) has accepted nearly \$16,000 from a Native Hawaiian heiress to pay for legal fees in her battle against fellow trustees.

The contribution raises ethical questions about what public officials can receive in terms of gifts, contends OHA's attorney in the case.

Trustee Rowena Akana reported receiving \$15,960 from Abigail Kawanakoa, who [inherited the largest stake](#) from the Campbell Estate when the private land trust terminated in 2006.

Akana identified receiving the money in [a gifts disclosure statement](#) filed with the Hawaii State Ethics Commission on Saturday. The filing period is

from June 1, 2016, to June 1, 2017.

OHA is a semi-autonomous government agency whose mission is the betterment of Native Hawaiians. Kawanakoa is a descendant of Hawaiian royalty who often gets involved in native issues and politics.



OHA then-chairwoman Rowena Akana at a January board meeting. She has accepted legal fees to fight her fellow trustees.

Akana did not respond to a media inquiry. Colette Machado, the OHA Board of Trustees chairwoman, and OHA CEO Kamanaopono Crabbe, had no comment.

An attorney for Kawanakoa, [Jim Bickerton](#), confirmed that his client paid for legal fees for Akana, although he was not certain of the exact amount.

The fees stem from [a 2013 lawsuit](#) by Akana against the eight other OHA trustees alleging breach of fiduciary responsibilities. A countersuit from the trustees against Akana soon followed.

Akana, who has repeatedly questioned how OHA spends its money, complained that the agency spent \$21 million to buy the Gentry Pacific Design Center along Nimitz Highway. The building is now OHA's headquarters.

OHA's attorneys have argued that Akana violated confidentiality agreements by publicly leaking information — something Akana said was inadvertent.

“OHA has spent between a half a million and a million dollars prosecuting its counterclaim against Trustee Akana, for which they still cannot demonstrate one dollar in damage,” said Bickerton. “It's very difficult for an individual to respond to the file pounding from the Alston firm without some help from other people.”

Bickerton said he was not aware of any other payments from Kawananao to Akana. Akana did not file a 2016 gift disclosure.

Update: Bickerton said Akana filed the lawsuit against OHA in her official capacity “and that the counterclaim says it is against her in that capacity. She has no personal interest or liability in the case for which attorneys' fees were paid.”

Paul Alston, director of [Alston Hunt Floyd & Ing](#), represents OHA in the ongoing legal dispute.

“He's wrong on all three accounts,” Alston said of Bickerton's statement. “They have not spent that much money on the counterclaim, and they do have damages. There has not been any quote ‘file pounding.’ We have done what was necessary to find the evidence, which was well hidden, that Trustee Akana is guilty of breaking her fiduciary duties.”

Alston raised a red flag over Akana's gift disclosure.

“It is quite extraordinary that an elected official would take money from someone who has an obvious political agenda, which has led her to bring her own baseless lawsuit against OHA,” he said.

Alston was referring to a lawsuit filed in February by Kawanakoa against Crabbe and former OHA chairman Robert Lindsey. The lawsuit, since dismissed, alleged that Crabbe and Lindsey breached their fiduciary duties and harmed OHA's beneficiaries "by improperly extending Crabbe's contract in November," [Hawaii News Now reported](#).

Bickerton said the time for an appeal had not yet expired but did not say whether an appeal is coming.

Alston said the Akana vs. OHA dispute is scheduled for trial in November.

Asked if it was appropriate for Akana to officially disclose the payment from Kawanakoa, Bickerton said he had not seen the filing.

Source, Value, Purpose

Dan Gluck, the Ethics Commission's executive director, said he could not comment on a specific filing.

In general, he said gifts can be evaluated on three criteria: the source of the gift, the value of the gift and the purpose of the gift to the state.

A guide to the state ethics code [offers this advice](#) to state officials:

- "The gifts law prohibits you from accepting any gift where there is a reasonable inference that the gift is intended to influence you in the performance of your job."
- "The public should trust you to do your job with integrity; this trust may be lost if people see you taking lavish trips, eating fancy meals, or otherwise enjoying expensive things that are paid for by someone else."
- "The Commission looks at what your job is with the state and how your acceptance of this gift may – or may not – fit within the State's mission and your job duties."

Akana was elected chairwoman of the OHA Board of Trustees in December replacing Lindsey. She was then removed by her colleagues two months later and replaced with Machado.

Gifts Disclosure For 2017 From OHA Trustee Rowena Akana:

Jun 20 17 10:19a Rowena Akana 808-373-9842 p.1
 '17 JUN 22 P 1:02
 STATE OF HAWAII
 ETHICS COMMISSION
 AMENDED
 FORM GD1 (Rev. 5/27/13)
 HAWAII STATE ETHICS COMMISSION
 GIFTS DISCLOSURE STATEMENT
 (This report covers the period from June 1 of the preceding calendar year through June 1 of this year and is due by June 30)

FILER
 Akana Rowena M
 Last Name First Name M.I.
 Office of Hawaiian Affairs Trustee
 State Agency State Position

CONTACT INFORMATION
 Rowena M. Akana
 5562 Kalaniana'ole Highway
 Number and Street or P.O. Box
 Honolulu HI 96821
 City State Zip Code
 (808) 594-1860 rowenaa@oha.org
 Telephone Extension Email Address

GIFT INFORMATION (LIST EACH GIFT SEPARATELY)

1. Donor: <u>Abigail Kawena-Kae</u>	Date Received: _____
Gift (Description): <u>Legal Fees</u>	Value/Cost: <u>15,960.43</u>
2. Donor: _____	Date Received: _____
Gift (Description): _____	Value/Cost: _____
3. Donor: _____	Date Received: _____
Gift (Description): _____	Value/Cost: _____
4. Donor: _____	Date Received: _____
Gift (Description): _____	Value/Cost: _____
5. Donor: _____	Date Received: _____
Gift (Description): _____	Value/Cost: _____

Check here if additional sheets are attached

FILER
 Rowena M. Akana 6/20/17
 Print Name of Filer (First M.I. Last) Date (m/d/yyyy)

CERTIFICATION: By checking this box, you signify and affirm that you are the person whose name appears as the "Filer" above and the information contained in the form is true, correct and complete to the best of your knowledge and belief. You further certify that you understand that there are statutory penalties for failing to report the information required by Hawaii law.

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