Kaialiʻi Kahele
Chairperson
Board of Trustees

Phone: (808) 594-1855

OFFICE OF HAWAIIAN AFFAIRS
560 N. Nimitz Hwy., Suite 200
Honolulu, HI 96817

November 1, 2026

The Honorable Kaleihikina Akaka
Trustee, Oʻahu
Office of Hawaiian Affairs
560 N. Nimitz Highway, Suite 200
Honolulu, HI 96817

NOTICE OF CENSURE

Dear Trustee Akaka,

At a properly noticed and held meeting on October 26, 2026, the Board of Trustees of the Office of Hawaiian Affairs conducted the hearing on Trustee Keoni Souza's Letter of Complaint, dated June 29, 2026, regarding alleged violations of the Trustee Code of Conduct by Respondent Trustees Carmen Hulu Lindsey, Kalei Akaka, Keliʻi Akina, and Luana Alapa.

After listening to the presentations at the hearing, reviewing the submitted exhibits and applicable statutes, and case law, it has been determined by preponderance of the evidence that you, Trustee Kalei Akaka, have committed multiple Code of Conduct violations as set forth below. Specifically, you:

1) Violated the Duty of Care, Executive Policy Manual § 1.3.b(1), by joining official-capacity admissions of liability against OHA without Board authorization, deliberation, or insurer consent;
2) Violated the Duty of Loyalty, Executive Policy Manual § 1.3.b(2), by using your official capacity to support relief against OHA and to concede claims OHA disputes;
3) Violated the Duty of Obedience, Executive Policy Manual § 1.3.b(3) and Appendix 7, Subpart 1A, § 5, by filing, in your official capacity, on June 26, 2026, the Answer at Docket 162, contrary to the Board's April 2, 2026 action, and by failing to withdraw it as the Board directed;
4) Violated Executive Policy Manual §§ 1.3.c–e and 3.11.c by supporting, without an affirmative vote of the full Board, disclosure of the unredacted September 23, 2025 executive-session minutes and by placing executive-session matters in a public court filing;
5) Violated Executive Policy Manual §§ 1.2.b and 1.3.j by taking official-capacity action in the Ferreira litigation without authorized Board action at a duly called and agendized meeting;
6) Engaged in conduct raising the potential Sunshine Law concerns identified in Allegation F of the complaint, by participating in an official-capacity public court filing that disclosed or referenced executive-session matters, contrary to the confidentiality protections described in Executive Policy Manual § 1.4.l; and
7) Engaged in conduct raising the State Ethics Code concerns identified in Allegation G of the complaint, by participating in an official-capacity public court filing that disclosed or referenced nonpublic executive-

session information, implicating the confidentiality obligations cited in Executive Policy Manual § 1.3.p and Appendix 7.

With respect to violations #6 and #7, these represent findings under OHA governance policies, not a determination of a statutory violation of HRS Chapters 92 or 84, respectively.

By filing "Defendants Carmen Hulu Lindsey, Kalei Akaka, Keli'i Akina, and Luana Alapa, Each in Their Official Capacities, Answer to First Amended Complaint" in *Ferreira v. OHA, et al* (1CCV-25-0001822) without Board authorization, contrary to the Board's April 2, 2026 action, and by failing to withdraw it as the Board directed on July 6, 2026, you violated the trust placed in you as a Trustee of the Office of Hawaiian Affairs.

Board's findings and the censure were adopted in open session and are part of the public record. This letter of censure will be made publicly available and placed in the official record together with the minutes, votes, and exhibits of the hearing, in accordance with the OHA Executive Policy Manual and applicable law.

The Board reaffirms that every Trustee must comply with duly adopted Board decisions. The Board's July 6, 2026 directive remains in effect and no Trustee may make a court filing or take other action in an official capacity on behalf of the Board unless that action has first been agendized, deliberated, and approved by a majority of the Board.

The Board finds censure to be the appropriate sanction. This letter does not determine any question within the jurisdiction of the Hawai'i State Ethics Commission, the Office of Information Practices, or any court. The Board does not censure your views. Trustees may dissent, vote no, speak as individuals, seek personal legal advice, and preserve personal defenses. The Code of Conduct protects continued expression of disagreement after a vote.

Additionally, all nine members of the Board are required to attend and complete mandatory governance and legal training conducted by OHA Board Legal Counsel within 90 days, no later than January 24, 2027. The training shall address the difference between individual and official capacity while outlining the scope and limitations of individual Trustee authority, fiduciary duties, collective Board decision-making, and the legal consequences of acting without proper Board authorization.

This censure serves as a reminder to all Trustees that the Board does not operate as nine individuals. Rather, it is meant to work together for the betterment of conditions of Native Hawaiians, as is our moral and statutory duty. As we state in our Executive Policy Manual – ***E alu like mai kākou i ka hō'oko 'ana i kō kākou mikiona***. We work together, unified to accomplish our mission. No single Trustee is to act contrary to the decided actions of the majority of the Board.

We are better together, and our actions must align with that understanding.

Mahalo,



Kaiali'i Kahele
Chairperson, Board of Trustees
Office of Hawaiian Affairs

Attachment:
Background Information on Notice to Trustees

Kaialiʻi Kahele
Chairperson
Board of Trustees

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Reference: Background Information on Notice to Trustees

The Chair, as Presiding Trustee, received public testimony from William Keliʻi Akina on October 26, 2026, claiming that the Respondent Trustees were not provided sufficient time to respond to the complaint due to changes to the Executive Policy Manual. This testimony ignores the history of the complaint and the particular changes to the Executive Policy Manual.

First, Respondent Trustees have had ample time to prepare a defense of their actions. Trustee Souza's Letter of Complaint was sent to all trustees within five days of June 29, 2026. This was confirmed by Trustee Galuteria's letter of support dated June 30, 2026. Under the Executive Policy Manual language, the Chair was tasked with convening a special meeting as soon as reasonably possible.

The hearing on Trustee Souza's Complaint was held on October 26, 2026. From the date of the Letter of Complaint to the hearing, the Respondent Trustees had almost 4 months to evaluate the allegations in the complaint and formalize a response.

Mr. Akina's testimony does not dispute that the Code of Conduct complaint was sent approximately four months prior to the proposed hearing date. Nor does it dispute that parts of the alleged violations occurred well before the complaint was sent. Rather, Mr. Akina's testimony referenced the inability to read into the record a written response on October 8, 2026 while simultaneously claiming to not be able to provide a proper defense. This defense would allegedly rely upon actions that occurred in September of 2025, more than a year before the Code of Conduct hearing.

Respondent Trustees attended the Board meeting on October 26, 2026. However, Respondent Trustees elected not to participate in the hearing, did not challenge any evidence presented, and did not submit any written evidence. At the Code of Conduct hearing the participating Board members received evidence that:

1. On April 2, 2026, at a duly noticed meeting, the full Board set OHA's litigation strategy in the *Ferreira* action: to compel arbitration under the written employment agreement. The Board authorized Dentons US LLP as OHA's counsel of record, ratified Dentons' filings, and affirmed that positions taken by Trustees in their official capacities were to align with duly adopted Board positions.
2. On April 21, 2026, Plaintiff Ferreira filed the First Amended Complaint naming Respondent Trustees in their official capacity only.

3. On June 26, 2026, as Dkt. 162, Counsel from Goodsill Anderson Quinn & Stifel LLP filed "Defendants Carmen Hulu Lindsey, Kalei Akaka, Keli‘i Akina, and Luana Alapa, Each in Their Official Capacities, Answer to First Amended Complaint" (the "Answer"). The Board did not vote to authorize, approve or ratify the Answer, did not authorize any Trustee to admit liability or concede claims for OHA, and did not authorize any waiver of OHA's defenses, privileges or arbitration rights. The Board, OHA's counsel, and OHA’s insurer received no advance notice. Among other things, the Answer: admitted retaliation and resulting reputational harm; admitted liability under the Hawai‘i Whistleblowers' Protection Act; admitted that the September 23, 2025 executive session did not conform to HRS Chapter 92; supported disclosure of the unredacted September 23, 2025 executive-session minutes and privileged information; and supported "full" or maximum remedies against OHA.

4. On June 26, 2026, OHA's counsel requested in writing that the Answer be withdrawn by the close of business on June 27, 2026. It was not withdrawn.

5. On July 6, 2026, by vote of 5–1–1, the Board directed Respondent Trustees to immediately withdraw Docket No. 162; directed there be no official-capacity court filings unless first agendized, deliberated and approved by a majority of the Board; and declared that no further Board action was required to carry out that directive.

6. On August 6, 2026, OHA's liability carrier, Illinois Union Insurance Company, notified Respondent Trustees in writing that the Answer's admissions were *intentionally* made without the prior written consent required by Section II.A of the Policy, and reserved the right to withdraw the defense and deny indemnity.

7. On August 6, 2026, the Court dismissed all nine Trustees, in their official capacities, holding that the true party in interest is OHA recognizing that a suit against a public officer in that capacity is a suit against the entity itself. The Court also denied disqualification of OHA's counsel, noting that the Board met, voted and chose that counsel. The Court further observed that *Midkiff* does not authorize OHA Trustees to make filings in their official capacity that the Board did not authorize and struck the Answer from the official record.

Documents submitted by Trustee Souza in support of his complaint existed as of August 6, 2026, with the exception of the Court transcripts which documented the hearing on August 6th. All information was available to Respondent Trustees by that time, a full two and a half months prior to the Code of Conduct hearing.

Respondent Trustees were provided the opportunity to present, reply, answer questions, make final comments, submit any countervailing evidence or justification, and deliberate on the decision of the Board. Instead, Respondent Trustees chose to leave the meeting.

Second, the changes to the Executive Policy Manual did not alter the ability of either the complainant or respondents to present their cases. In the process of setting the hearing on Trustee Souza’s complaint, it became clear that the complaint could not be heard *in camera* as contemplated by the prior Executive Policy Manual. This was explained to trustees via memorandum provided to all Trustees on October 7, 2026. Therein, all Trustees were provided with the memorandum discussing the limitations of executive session and listing the eight permitted reasons to enter executive session. The Trustees were informed that the complaint raised by Trustee Souza did not trigger any of those eight permitted reasons and therefore could not proceed in executive session. Therefore, the Executive Policy Manual was in direct conflict with Sunshine Law and the EPM could not be used as a basis to overrule Sunshine Law.

At the October 8, 2026 meeting the Board was presented proposed changes to the Executive Policy Manual which bring the Executive Policy Manual into alignment with the State's Sunshine Law. The rationale for the changes to the EPM was explained at the meeting which identified the need for transparency, openness, and guidelines for any future hearings. The changes also lessened the potential sanctions for violations, bringing them in line with the Board's authority and ensuring that sanctions should be commensurate with the level of violation.

A special meeting of the Board was set immediately following the October 8, 2026 Board meeting. At the special meeting Respondent Trustees voted against going into executive session, thereby choosing to not avail themselves of legal counsel regarding the anticipated process for the Code of Conduct hearing. This amounted to a self-imposed limitation on the Respondent Trustees to obtain clear guidance from OHA counsel on the Code of Conduct hearing. Counsel remained available to answer questions and provide support to all Trustees to navigate the process.

On October 19, 2026, all Trustees received a step-by-step outline from the presiding official of the anticipated procedure for the Code of Conduct hearing. The outline provided the background for the burden of proof, the order of proceeding, and an explanation of the various stages. Additionally, it explicitly made OHA counsel available to all Trustees for "clarification of the hearing procedures, applicable provisions of the Executive Policy Manual, submission and organization of exhibits, identification of witnesses, applicable time limits, clarification of terms, and other procedural matters necessary to facilitate a fair, orderly, and efficient hearing." Additionally, nothing prevented any Trustee from independently retaining counsel at their own expense.

Changes to the EPM did not change or negatively impact the ability to prepare for the prosecution or defense, it merely made the process compliant with the State's Sunshine Law. No Trustee received any specific benefit, and the standards of conduct were not changed for any of the violations. The Code of Conduct violation process is designed to provide a resolution and to avoid this exact situation where trustees are trading letters instead of having an open hearing and reaching a resolution. With the vote on the matter and the censure determination, this matter is considered closed.