

Presentation Before the Senate Judiciary Committee

April 9, 2008

Jonathan L. Ortiz (GM Number 615)

Nomination to the Hawaii Civil Rights Commission

Chair Taniguchi and Members of the Senate Judiciary Committee, thank you for granting me this opportunity to provide information regarding my background. I am indeed honored by Governor Lingle's confidence in my ability to effectively serve as a member of the Hawaii Civil Rights Commission. I am likewise honored for this opportunity that you have given me in this confirmation process.

By way of introduction, I was born and reared in Hawaii. My grandparents immigrated to Hawaii from Puerto Rico at the turn of the last century. Like most immigrant groups, they relocated to Hawaii to work on the plantations and to find a better life for them and their families. Both of my parents were born in Hawaii and also worked on the plantations. Neither of my parents graduated from high school, yet they instilled in my siblings and I the importance of education.

I graduated from Castle High School in 1970 and after working for a short period in the construction industry, I attended Leeward Community College, and later transferred to the University of Hawaii. I graduated with a bachelor's degree in political science in 1974, and thereafter attended the George Washington University Law School on scholarship. Upon graduation in 1978 I returned to Hawaii.

It was during my time at law school that I came to appreciate the legal profession as one of public service. While in law school, I clerked at the Equal Employment Opportunity Commission. My duties included drafting legal opinions on novel questions of law for the Commission. I learned first hand how pervasive discrimination can be and its real impact on people's lives.

Upon returning to Hawaii, I practiced law for two years as a Deputy Public Defender. I thereafter served two years as General Counsel for the State of Hawaii Organization of Police Officers. In 1982, I became an associate at a law firm, and in 1988 founded the law firm of Ortiz & Yamamura, now Ortiz & Katano.

My primary emphasis of practice is civil trials. The analytical skills necessary to be a successful trial lawyer will be an asset to the Commission.

I am married and have two children; a son who recently graduated from college, and a daughter who is entering her senior year in college.

The Civil Rights Commission has a basic and simple mission, and that is to assure that all of the citizens of Hawaii, regardless of race, gender or sexual orientation are treated fairly. This Commission serves an important function in society as it gives a voice to those who have been

discriminated against, and also provides a forum for developing a clear understanding by all members of the community. If my nomination is approved, I come in to this position with no preconceived bias, or preconceived notion of how a dispute should be resolved. Rather, I firmly believe that all cases should be decided on its own merit in light of the statutory purpose, the existing precedent and the facts of a given situation. It would be my goal that everyone who comes before the Commission leaves knowing that they were given a fair opportunity to present their case and to be heard.

I believe my family background, education and professional experience gives me the tools to serve as an effective Commissioner. An appointment will give me the opportunity to serve the public in a most important way.

I ask you to support my nomination to the Civil Rights Commission.

Finally, I apologize for not being able to attend this confirmation hearing as I will be out of the country on a well-deserved vacation.

Thank you for your time and attention.



**Hawai'i
Women's
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Caucus**

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A State Chapter of the
National Women's
Political Caucus

April 8, 2008

TO: Sen. Brian Taniguchi, Chair
Sen. Clayton Hee, Vice Chair
and Members, Senate Committee on Judiciary and Labor

FROM: Faye Kennedy, President
Hawai'i Women's Political Caucus (HWPC)

RE: GM 615 Relating to Confirmation Hearing on
Jonathan Ortiz's Nomination to the HCRC
(April 9, 2008 at 10 a.m. Room 016)

Good morning Chair Taniguchi, Vice Chair Hee and members of the Senate Judiciary and Labor Committee. I am submitting this testimony in opposition to the GM 615 nomination, as president of the HWPC.

We are concerned that this nominee does not appear to meet the HRS Chapter 368 standard of having a demonstrated commitment to civil rights for service on the Hawai'i Civil Rights Commission. While there are many fine and exemplary citizens who would make admirable members of other boards and commissions, it is essential that those appointed to this small and vital commission meet the highest statutory qualifications.

It is also of deep concern that Commissioner Sara Banks was not reappointed. Apart from lack of gender balance that would be increasingly evident, Ms. Banks has a long and proven record on civil rights issues and fairness to both sides who come before the HCRC. There are other women, and men, whose backgrounds assure that they would be unquestionable assets to the commission.

We are a multi-partisan organization committed to increasing women's participation in the political process and their inclusion in elected and appointed office. We are also committed to the betterment of women and families and marginalized groups and the support of men who share our mission. A fair and balanced HCRC is of deep concern to us.

Thank you for the opportunity to submit this testimony.

April 8, 2008

TO: Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair
And Members of the Senate Committee on Judiciary and Labor

FROM: Allicyn Tasaka
Member, Friends of Civil Rights and Former Commissioner, Hawaii Civil Rights Commission

RE: GM615 Gubernatorial Nominee for Hawaii Civil Rights Commission:
JONATHAN LUIS ORTIZ Term Expires: June 30, 2012
(Wednesday, April 9, 2008 at 10:00 a.m. Room 016)

POSITION: Opposition

Good morning Chair Taniguchi, Vice Chair Hee, and Members of the Senate Committee on Judiciary and Labor. My name is Allicyn Tasaka and I am submitting testimony as a concerned individual in opposition of Jonathan Luis Ortiz's nomination to the Hawaii Civil Rights Commission.

As a former Commissioner who served for eight (8) years on the Hawaii Civil Rights Commission (HCRC) and as a member of the Friends of Civil Rights, I question whether Mr. Ortiz meets the HRS' mandated requirement of demonstrated commitment to civil rights. He is not known to civil rights advocates in our community nor appears to have any background and experience in matters relating to enforcing the State's anti-discrimination statutes.

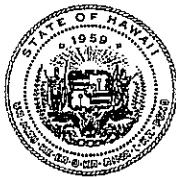
Furthermore, I wish to express my concern that the Governor has not re-appointed Ms. Sara Banks to another term to the HCRC. Ms. Banks served as interim Chair of the HCRC while Chair Coral Pietsch was attending to her military duties. Ms. Banks continues to be a role model for women and has demonstrated a long term commitment to helping those who are in difficult circumstances, such as serving as a volunteer coordinator for the Life Foundation, the AIDS service organization for O'ahu and becoming part owner of Wahine Builders, where she designed and implemented a pre-apprentice construction training program for incarcerated women.

The HCRC enforces state laws prohibiting discrimination in employment, public accommodations, and access to state and state-funded services. On a daily basis, the HCRC staff receives, investigates, conciliates and adjudicates complaints of discrimination.

I urge you and your Committee to thoroughly explore Mr. Ortiz's knowledge and experience in civil rights matters, and his commitment to preserve the civil rights of all individuals. There are other more qualified individuals who truly understand and have vast experience in protecting our civil liberties that should be considered for this position.

Thank you for this opportunity to submit my testimony in opposition to Mr. Ortiz's nomination as Commissioner of the Hawaii Civil Rights Commission.

LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

LATE

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

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April 9, 2007

To: The Honorable Brian T. Taniguchi, Chair
and Members of the Senate Committee on Judiciary and Labor

Date: April 9, 2007

Time: 10:00 a.m.

Place: Conference Room 016, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

RE: GM 615: Hawaii Civil Rights Commission

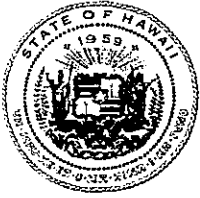
The Department of Labor and Industrial Relations ("Department") strongly supports the confirmation of **Mr. Jonathan Luis Ortiz** to the Hawaii Civil Rights Commission ("HCRC").

Mr. Ortiz is well qualified to serve on the HCRC because of his strong commitment to civil rights. He is an accomplished lawyer, community leader, and a role model for many. Mr. Ortiz is presently a partner in the law corporation of Ortiz and Katano. Mr. Lavoie is also actively engaged in his community, where he served as past president of the United Puerto Rican Association and the Pearl City little league.

Mr. Ortiz is a graduate of the University of Hawaii where he attained a Bachelor of Arts degree in Political Science. Upon graduation, he attended George Washington University Law School, graduation with a Juris Doctorate Degree in 1978. Mr. Ortiz returned to Hawaii where he served as a deputy public defender for the State of Hawaii. He went on to become General Counsel for the State of Hawaii Organization of Police Officers ("SHOPO") from 1981 to 1983. Mr. Ortiz then entered private practice as an associate with Conklin, Schneider & Love before forming his own law firm in 1988.

Mr. Ortiz is a member of the Hawaii State Bar Association, American Bar Association, American Inns of Court, and the International Association of Arsons Investigators.

Mr. Ortiz is well-qualified and deserving of confirmation to the HCRC.



HAWAII CIVIL RIGHTS COMMISSION

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LATE

April 8, 2008

FOR HAND DELIVERY

Hon. Brian Taniguchi
Chair
Senate Committee on Judiciary and Labor
State Capitol, Room 219
Honolulu, Hawai'i 96813

RE: Governor's Message 614, Nominee Frank Albert Lavoie
Governor's Message 615, Nominee Jonathan Luis Ortiz

Dear Chair Taniguchi:

I am writing to explain why the Hawai'i Civil Rights Commission (HCRC) will not be submitting testimony or comment on the nominations of Frank Lavoie or Jonathan Ortiz for the confirmation hearing scheduled for Wednesday, April 9, 2008. The HCRC Commissioners have not had the opportunity to review and discuss the nominees' qualifications, knowledge, experience, and demonstrated commitment to civil rights.

It has not been possible to schedule a Commission meeting after the nominations were transmitted to the Senate, due to the shortness of time and the lack of a quorum. Only two of five Commissioners, Les Ueoka and Sara Banks, would have been available to meet. Chair Coral Pietsch has not yet returned from her deployment to Iraq and Commissioner Mark Valencia is out of town attending a U.S. Department of Housing and Urban Development fair housing policy conference. The fifth Commissioner seat has been vacant for over a year.

When possible, the HCRC Commissioners will continue to offer testimony on nominations, particularly for nominations for reappointment. Thank you for your patience and understanding as you exercise your advice and consent responsibilities.

Yours truly,

William D. Hoshijo
Executive Director

Testimony to the Senate Committee on Judiciary and Labor
State Capitol, Rm 016
April 9, 2008

Testimony against GM 615 JONAATHAN LUIS ORTIZ
nomination to the Hawaii Civil Rights Commission
Testimony submitted by Amy Agbayani, 3432 B-1 Kalihi St. Honolulu, Hawaii 96819

My name is Amy Agbayani. I was appointed as the first chair of the Commission and served for 8 years. I am submitting testimony in opposition to Mr Ortiz. When the legislature established the Commission by statute, the legislature was clear about its purpose and requirements to have a strong civil rights law enforced by commissioners who qualified to enforce these laws.

I am offering testimony against Mr. Jonathan Ortiz to be a member of the Hawaii Civil Rights Commission. I regret having to oppose this nomination because I do not know Mr. Ortiz. Mr. Ortiz may have excellent qualifications for another board. I do not believe he meets the statutory requirements to be a member of the HCRC as he does not meet the requirement to have experience, knowledge and demonstrated commitment to civil rights. The Commission is a very important one for it is charged with implementing civil rights laws and it is not only reasonable but a requirement that Commission members have experience, knowledge and demonstrated commitment to civil rights. There are many community leaders who are well qualified and were not nominated.

I am extremely disappointed that the membership on the Commission is not balanced or diverse (one woman; no African Americans, Filipinos, Hawaiians; no gays and lesbians lawyers and management are in the majority).

I respectfully request that you hold this nomination as there are many deserving qualified community leaders that should be considered. I have been an active member of the civil rights community for over three decades and am confident that there are community members who applied

TESTIMONY IN OPPOSITION TO GM 615

Senate Committee on Judiciary and Labor
Hawai'i State Capitol, Conference Room 016
April 9, 2008 10 a.m.

To: Sen. Brian Taniguchi, Chair
Sen. Clayton Hee, Vice Chair
Sen. Mike Gabbard, Sen. Russell Kokubun
Sen. Clarence K. Nishihara, Sen. Sam Slom

From: Charlene Cuaresma, Private Citizen
728 Nunu St. Kailua, HI 96734

My name is Charlene Cuaresma. I am submitting testimony as a private citizen in opposition to Gubernatorial Nominee, Jonathan Luis Ortiz for confirmation to the Hawai'i Civil Rights Commission, for a term to expire 6-30-2012.

I oppose Mr. Ortiz's nomination because I am concerned about not knowing his qualifications, experiences, extent of his knowledge of Hawai'i's civil rights history, and demonstration of his positions and reasoning on current civil rights issues.

At the same time, I am deeply discouraged in the direction headed by the Commission, away from the civil rights precepts on which it was established. Fundamentally, the composition of the Commission is imbalanced and does not reflect Hawai'i's diverse populations. There is only one woman, and not one commissioner of African American, Native Hawaiian or Filipino heritage; nor is there representation from gay, lesbian, bisexual or transgender individuals. These groups have historically shouldered the greatest burden of civil rights disparities in education, public health, labor, and more. How can the people of Hawai'i be assured that a vital discourse to safeguard the civil rights due to underprivileged minorities takes place when their perspectives are not at the table?

While Mr. Ortiz may be an outstanding citizen, I am dismayed that highly qualified individuals from the underrepresented groups noted above were bypassed in the nomination process. For this reason, I humbly recommend that the Senate Judiciary and Labor Committee not approve this nominee, in order to consider other nominees that would ensure equal representation of disparate groups on the Commission, and equal consideration in the nomination process.

Sincerely,

Charlene Cuaresma, Private Citizen

April 9, 2008

TO: Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair
And Members of the Senate Committee on Judiciary and Labor

FROM: Jeanne Ohta

RE: GM614 Gubernatorial Nominee for Hawaii Civil Rights Commission:
JONATHAN LUIS ORTIZ, Term Expires: June 30, 2012
(Wednesday, April 9, 2008 at 10:00 a.m. Room 016)

POSITION: Opposition

I am writing today in opposition of Jonathan Luis Ortiz's nomination to the Hawaii Civil Rights Commission.

I am concerned whether Mr. Ortiz meets the mandated requirement of demonstrated commitment to civil rights. He is not known to civil rights advocates in our community nor appears to have any background and experience in matters relating to enforcing the State's anti-discrimination statutes.

As a former interim executive director of the Commission on the Status of Women, I want to ensure that Civil Rights Commissioners have not only demonstrated their commitment to civil rights and an understanding of our anti-discrimination statutes, but that they are committed to ending discrimination by the enforcement of state laws prohibiting discrimination in employment, public accommodations, and access to state and state-funded services.

This role is an important one. Discrimination is still prevalent; on a daily basis, the Commission receives complaints of discrimination. I urge the Committee to thoroughly explore Mr. Ortiz's knowledge and experience in civil rights matters, and his commitment to preserve the civil rights of all individuals.

I wish to also express concern that the Governor has not reappointed Sara Banks to another term to the Commission. Ms. Banks served as interim Chair of the HCRC. She has demonstrated a long term commitment to helping those who are in difficult circumstances. During hearings, her questions and statements showed her understanding of the issues, her dedication to enforcing anti-discrimination laws, and her fairness to all appearing before the commission.

There are other more qualified individuals who truly understand and have vast experience in protecting our civil liberties that should be considered for this position. Thank you for allowing me to express my opposition to this nomination.

LATE

April 8, 2008

VIA FACSIMILE 586-6461

To: Senator Brian Tanaguchi, Chairman
Senator Clayton Hee, Vice-Chairman
Senate Judiciary Committee

**TESTIMONY OPPOSING NOMINATIONS OF LESTER UEOKA, JONATHAN ORTIZ
AND FRANK LAVOIE AS CIVIL RIGHTS COMMISSIONERS**

Dear Chairman Tanaguchi, Vice-Chairman Hee, and Members of the Committee:

I oppose the nominations, of Lester Ueoka, Jonathan Ortiz and Frank Lavoie to become Commissioners of the Hawaii Civil Rights Commission. I do not oppose these men as individuals. I oppose them because they do not meet the statutory requirements for Commissioners by HRS § 368-2:

The members appointed to the commission shall be selected on the basis of their knowledge and experience in civil rights matters and on the basis of a demonstrated commitment to the preservation of the civil rights of all individuals

Mr. Ortiz is a respected, competent insurance defense attorney who primarily represents State Farm insureds in automobile accident cases. To the best of my knowledge he has never appeared in a civil rights case.

I have had lunch at the restaurant owned by Mr. Lavoie, Cafe Europa in downtown Honolulu. I do think it is useful for a small business perspective to be on the Commission, but I do think that a Commissioner who represents small business, must also have a background and

expertise in civil rights. I am informed that Mr. Lavoie works on the staff of Senator Sam Slom. He is not known to me, or anyone I know in the civil rights community, to have a "demonstrated commitment to civil rights", which is required by the statute. My concern is that Mr. Lavoie may be dedicated to protecting business interests rather than civil rights.

The final nominee, Lester Ueoka, is a respected and a compassionate man, but he makes his living representing the interest of a big business, Hawaiian Telcom. It will be difficult for Mr. Ueoka to be taking pro-employee positions as a Civil Rights Commissioner, when as an assistant general counsel at Hawaiian Telcom, he is required by the ethics of his profession to advocate for his employer's position zealously.

The other two members of the Civil Rights Commission are already employer advocates. Cora Wong Pietsch represents the Army in labor and employment issues. Mark Valencia is in private practice and defends employers in employee civil rights cases. He is representing an employer currently opposing my female client in a sex harassment case. He also represented an employer in another whistleblower case where I represented the Plaintiff. That case was resolved in January of this year. He is paid to advocate for employer positions.

If the three current nominees are approved, Hawaii will have five Commissioners who represent employer interests. This is completely contrary to the statute, which requires Commissioners to have a demonstrated commitment to civil rights. This could have a devastating effect on civil rights. The primary threat posed to employee civil rights by a Civil Rights Commissioner slanted toward guarding the economic interests of employers rather than the civil rights of employees, is that Civil Rights Commission regulations could, and probably would, be changed to protect employers not employees. Last year the Hawaii Employers Council ("HEC") petitioned to change those regulations to make it more difficult for women to bring successful sexual harassment complaints. The Commission although it modified HEC's request slightly, is moving forward to change that rule. There was one commissioner who opposed making the change, Sara Banks. Ms. Banks, who does have a background of demonstrated commitment to Civil Rights, was not reappointed to the Commission by the Governor. The HEC petition for the rule change will now sail through the Commission, if these nominations are approved. I have been informed by an employee of HEC that this petition to change sexual harassment rules was just the start of the pro-employer changes in the regulation. They also plan to petition to limit the rights of handicapped workers. These regulatory changes are critical. They are given deference by the Courts, and they are not subject to legislative review. The result of approval of these nominations could be a wholesale rewriting of civil rights laws to favor employers without any input from the Legislature.

These nominations have totally disregarded the wording of the statute. The statute states:

The members appointed to the Commission shall be selected on the basis of their knowledge and expertise in civil rights matters and on the basis of a demonstrated commitment to the preservation of civil rights of all individuals.

The commissioner who met the statute requirement, Sara Banks, was not reappointed by Governor Lingle. Ms. Banks did have a demonstrated commitment to the preservation of civil rights. Commissioner Banks was the only commissioner who voted against the changes sought in the rules by the HFC to weaken protection for women who are sexually harassed in the workplace by their supervisors. Commissioner Banks was admired at the Commission for her hard work. I have been told that all of the other commissioners wanted her to be and expected her to be reappointed. The Governor sent a significant message by not reappointing the one Commissioner who stood up to business interests, and then instead appointing people to the Commission with no civil rights background, and who appear to have a pro-business agenda. It is very important that these nominations not be consented to by the Senate.