

Testimony on HB 1300  
Relating to a Fiduciary's Standard of Care and Performance

Hearing on January 24, 2014  
Committee on Judiciary

To: The Honorable Rep. Karl Rhoads, Chair  
The Honorable Rep. Sharon E. Har, Vice Chair

**RE: Testimony in Strong Support of HB 1300, Relating to a Fiduciary's  
Standard of Care and Performance**

Dear Chair Rep. Karl Rhoads, Vice Chair Rep. Sharon E. Har and Members of the  
Judiciary Committee;

My name is Bonnie Fong and I am a Senior Vice President and the Personal Trust  
Manager at Bank of Hawaii.

Bank of Hawaii is in support of this bill for it provides options for the consumer and  
eliminates the need for our Hawaii residents to leave the state for trust administration  
services. The statute, as amended, will allow the consumer the ability to bifurcate duties  
within a Trust. Our statute, as written, is unclear and, as such, Trustees are performing  
additional oversight which invariably is unwanted and incurs additional expense to the  
Trust.

We urge you to pass HB 1300. Thank you for your favorable consideration of this bill.

Sincerely,



Bonnie Fong,  
Senior Vice President & Personal Trust Department Manager



**CENTRAL PACIFIC BANK**

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**RE: Testimony in Strong Support of HB 1300, Relating to a Fiduciary's Standard of Care and Performance**

Dear Chair Rep. Karl Rhoads, Vice Chair Rep. Sharon E. Har and Members of the Judiciary Committee;

My name is Catherine M. Fujisaki, Esq. and I am Central Pacific Bank's Vice President and Personal Trust Department Manager. Central Pacific Bank (CPB) is a Hawaii-based financial institution with \$4.7 million in assets and 35 branches statewide. It was founded in 1954.

We recommend that the language of HB 1300 be replaced completely with the language of HB 1853 (which matches the companion bill SB2364). The revised language within HB1853 has a simplified introduction and includes necessary changes to complementary code sections (554C-3 and 554G-4.5).

CPB strongly supports this bill because it will allow the settlor of a trust to direct that the responsibility for the investment function shall be entirely with the investment advisor and the responsibility for the administrative functions shall be entirely with the administrator, or corporate trustee, such as our bank.

One of the more important sections in this Bill is that:

“Whenever a trust provides that a fiduciary is to follow the direction of an advisor with respect to investment decisions, distribution decisions, or other decisions of the fiduciary, ... the fiduciary shall have no duty to

- (A) Monitor the conduct of the advisor;
- (B) Provide advice to the advisor or consult with the advisor; or
- (C) Communicate with or warn or apprise any beneficiary [about decisions where the fiduciary would have acted in a manner different from] ... the advisor.”

Some customers have investment advisors that have helped their family for generations. If these customers want to continue to use the investment advisor after death, but also use a local trust company for the administration of their trust, they have to

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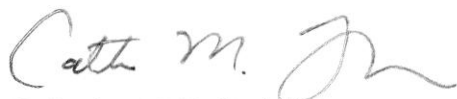
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pay the trust company to watch over the advisor because it is not clear that the responsibilities can be separated. Oftentimes this is too expensive for the customer and they must use a trust company in one of the 34 states that allow the services to be unbundled.

We also support the recommendation from the DCCA Commissioner of Securities to remove the last portion of the proposed 560:7-302(a)(6) which reads, “and an advisor with authority with respect to such decisions is an investment advisor.” This recommendation is based on advice received from the DCCA to the effect that this language may conflict with other chapters that govern investment professionals.

We urge you to pass HB 1300. Thank you for your favorable consideration of this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cath M. Fujisaki".

Catherine M. Fujisaki, Esq.

Vice President & Personal Trust Department Manager