



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

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TAX DEFENDANT JAILED; NEW INDICTMENTS ANNOUNCED

HONOLULU-Attorney General Mark Bennett announced today that on October 28, 2003, First Circuit Judge Marie N. Milks found Defendant Robin A. Makua, formerly known as Robin A. Nakamura, in contempt for non-compliance with instructions by the court and ordered that she be taken into custody. Ms. Makua, 43, is pending trial on bail jumping, tax evasion, filing false and fraudulent tax returns, and theft charges.

On October 28, 2003, the Oahu grand jury returned separate indictments charging Ewa Beach resident Joseph L. Nuuanu, 55, and Kapolei resident Ernest L. Fain, 42, with multiple counts of tax evasion. Mr. Nuuanu is accused of attempting to evade state income taxes on \$201,632 in gross income earned by him from his employment with Oahu Transit Services, Inc. during tax years 1999, 2000, 2001, and 2002. According to the indictment charging him with four counts of attempt to evade or defeat a tax, Mr. Nuuanu tried to evade state income taxes by filing a false and fraudulent employee's withholding certificate (HW-4) with his employer that claimed that he was entitled to 99 withholding allowances and then failing to file his state individual income tax returns.

Mr. Fain is accused of attempting to evade state income taxes on \$246,616 in gross income earned by him from his employment with Oahu Transit Services, Inc., during tax years 1998, 1999, 2000, 2001 and 2002. According to the indictment charging him with five counts of attempt to evade or defeat a tax, Mr. Fain tried to evade state income taxes by filing a false and fraudulent employee's withholding certificate (HW-4) with his employer that claimed that he was entitled to 99 withholding allowances and then failing to file his state individual income tax returns.

The State Department of Taxation has discovered a number of taxpayers who have claimed far more withholding allowances than they were lawfully entitled to claim. Claiming a large number of withholding allowances to avoid withholding taxes and then failing to file an annual individual income tax return in the hope that the State Department of Taxation or the Internal Revenue Service, or both, will not notice is a common form of criminal tax evasion. Individuals who engage in such conduct will eventually be discovered and, in Hawaii, will have their conduct reviewed by a criminal court judge or jury. The Department of the Attorney General has a zero tolerance policy concerning tax evasion.

The Oahu grand jury also returned a separate indictment charging Waipahu resident Dina G.

Caleda, 40, with four counts of attempting to evade or defeat a tax, four counts of aiding and abetting the filing of false and fraudulent tax returns, and three counts of theft in the second degree. Ms. Caleda, an income tax return preparer, is accused of preparing fraudulent state income tax returns for her clients that fraudulently reported that her clients were entitled to receive refunds of all of their withholding taxes. Fraudulently obtaining tax refunds can also be charged as theft in the second degree if the amount of the refunds exceed \$300.

Attempting to evade or defeat a tax is a class "C" felony punishable by up to five years in prison and by a fine of up to \$100,000 per count.

Aiding and abetting the filing of false and fraudulent tax returns is a class "C" felony punishable by up to three years in prison and by a fine of up to \$100,000 per count.

Theft in the second degree is a class "C" felony punishable by up to five years in prison and by a fine of \$10,000 or twice the pecuniary gain from the crime, whichever is greater.

Employers who suspect that their employees are claiming an excessive number of withholding allowances should try to dissuade their employees from engaging in such conduct.

An indictment is an accusation only. All defendants are presumed innocent until proven guilty in court.

Anyone having information concerning possible tax crimes should call criminal investigators at (808) 587-1795.

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