

FLORENCE T. NAKAKUNI 2286
United States Attorney
District of Hawaii

EDRIC M. CHING 6697
Assistant U.S. Attorney
Room 6-100, PJKK Federal Bldg.
300 Ala Moana Boulevard
Honolulu, HI 96850-6100
Telephone: (808) 541-2850
Fax: (808) 541-2958
E-mail: Edric.Ching@usdoj.gov

Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CIVIL NO. MC 07-00040 DAE LEK
)	
Plaintiff,)	FINDINGS AND RECOMMENDATIONS
)	GRANTING PLAINTIFF'S (1)
vs.)	APPLICATION FOR WRIT OF
)	CONTINUING BANK GARNISHMENT AS
YEONGBU KIM,)	TO BANK OF HAWAII, AND (2)
)	APPLICATION FOR WRIT OF
Defendant.)	CONTINUING BANK GARNISHMENT AS
)	TO FIRST HAWAIIAN BANK
)	
_____)	
)	
BANK OF HAWAII and)	
FIRST HAWAIIAN BANK,)	
)	
Garnishees.)	
)	
_____)	

FINDINGS AND RECOMMENDATIONS GRANTING PLAINTIFF'S
(1) APPLICATION FOR WRIT OF CONTINUING BANK GARNISHMENT AS TO
BANK OF HAWAII, AND (2) APPLICATION FOR WRIT OF CONTINUING BANK
GARNISHMENT AS TO FIRST HAWAIIAN BANK

On June 16, 2009, the Plaintiff UNITED STATES OF
AMERICA filed an (1) Application for Writ of Continuing Bank

Garnishment; (2) Writ of Continuing Bank Garnishment; and (3) Clerk's Notice of Post-Judgment Garnishment and Instructions to Defendant-Judgment Debtor, against Defendant Yeongbu Kim, and Bank of Hawaii and First Hawaiian Bank. The Court held a hearing on the Applications for Writ of Continuing Bank Garnishment on August 31, 2009, and having considered the record and arguments by counsel, the Court hereby makes the following findings and recommendations.

FINDINGS OF FACT

1. This is a civil action brought by Plaintiff UNITED STATES OF AMERICA ("Plaintiff") against Defendant Yeongbu Kim ("Defendant") to collect on two Health Education Assistance Loans ("HEAL") made by private lenders and assigned to the United States.

2. Defendant received two HEAL loans as authorized under 42 U.S.C. § 294f and 42 CFR Subpart 60 in the amounts of \$12,320.00 and \$3,934.00 on August 12, 1992, and September 20, 1994, respectively.

3. On March 10, 2003, a Default Judgment Against Defendant by Clerk, was entered against the Defendant in the Circuit Court of the First Circuit, State of Hawaii, and was registered on February 13, 2007, in the United States District Court, District of Hawaii, in the principal amount of \$33,870.83; and interest thereon at the rate of 5.07 percent until the

judgment is satisfied. The amount due as of November 18, 2009, is \$38,453.22.

4. On June 16, 2009, Plaintiff filed an (1) Application for Writ of Continuing Bank Garnishment; (2) Writ of Continuing Bank Garnishment; and (3) Clerk's Notice of Post-Judgment Garnishment and Instructions to Defendant-Judgment Debtor, against Defendant, and Garnishees Bank of Hawaii ("Garnishee Bank of Hawaii") and First Hawaiian Bank ("Garnishee First Hawaiian Bank").

5. On July 6, 2009, Garnishee Bank of Hawaii filed its Answer of the Garnishee Form, which stated that it had in its custody, control, or possession, Defendant's checking account in the amount of \$432.19.

6. On July 7, 2009, Garnishee First Hawaiian Bank filed its Answer of the Garnishee Form, which stated that it had in its custody, control, or possession, Defendant's checking account in the amount of \$3,181.89.

7. On July 14, 2009, Defendant filed a Request for Hearing Form regarding the Bank of Hawaii Application for Writ of Continuing Bank Garnishment.

8. On August 13, 2009, Defendant filed a Request for Hearing Form regarding the First Hawaiian Bank Application for Writ of Continuing Bank Garnishment.

9. On August 17, 2009, Defendant filed a Statement

requesting that the amounts being withheld by Garnishee Bank of Hawaii and Garnishee First Hawaiian Bank be released to pay for house maintenance.

10. On August 31, 2009, the Court held a hearing on the Applications for Writ of Continuing Bank Garnishments for Bank of Hawaii and First Hawaiian Bank. Defendant objected to both Applications.

RECOMMENDATIONS

Based on the foregoing findings of fact, the Court makes the following recommendations:

1. Pursuant to 28 U.S.C. § 3205, the Application for Writ of Continuing Bank Garnishment as to Bank of Hawaii is granted.

2. Pursuant to 28 U.S.C. § 3205, the Application for Writ of Continuing Bank Garnishment as to First Hawaiian Bank is granted.

3. Garnishee Bank of Hawaii shall pay the amount of \$432.19 to Plaintiff.

4. Garnishee First Hawaiian Bank shall pay the amount of \$3,181.89 to Plaintiff.

5. Garnishee Bank of Hawaii and Garnishee First Hawaiian Bank shall make checks payable to the U.S. DEPARTMENT OF JUSTICE and mail the checks to:

U.S. Attorney's Office
Attn: Financial Litigation Unit
PJKK Federal Building
300 Ala Moana Boulevard, Room 6-100
Honolulu, HI 96850

HONOLULU, HAWAII, November 25, 2009.



/s/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States Magistrate Judge

United States of America v. Yeongbu Kim, Civil No. MC 07-00040
DAE LEK; PROPOSED FINDINGS AND RECOMMENDATIONS GRANTING
PLAINTIFF'S (1) APPLICATION FOR WRIT OF CONTINUING BANK
GARNISHMENT AS TO BANK OF HAWAII, AND (2) APPLICATION FOR WRIT OF
CONTINUING BANK GARNISHMENT AS TO FIRST HAWAIIAN BANK