



DEPARTMENT OF TAXATION

**News Release**

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GOVERNOR

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**COUPLE CHARGED IN TAX CASE**

HONOLULU — Avelino and Anita Gabriel were charged with multiple felony and misdemeanor tax violations and sentenced before the Honorable Judge Karl K. Sakamoto. The couple was charged with two felony counts of false and fraudulent statements, two misdemeanor counts of willful failure to file their annual general excise returns and one count of willful failure to secure a license. Each pled no contest to all counts.

The couple operated a care home, which ceased doing business in the State of Hawai'i in 2003. Subsequent to its closing, the Gabriel's continued to care for a former patient of the care home without a valid license and received compensation for their services. They failed to report the additional income on their income tax returns for 2004 and 2005 and also failed to file general excise tax returns for the same years.

Anita Gabriel had been previously prosecuted by the state Department of Taxation in 2001 and was sentenced by Judge Sakamoto. She pled no contest to five misdemeanor counts of failing to file the general excise returns for the care home she operated. The judge granted her request for a deferred acceptance of no contest plea with a five-year

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deferral and ordered her to pay a fine of \$15,000. Anita Gabriel took more than five years to pay the fine and went before Judge Sakamoto eight times before her case was finally closed in February 2007.

The new tax violations occurred while she was still under the court's supervision and now included two felony charges for filing false tax returns. The penalty for a false and fraudulent statement as described in HRS §231-36 carries a fine up to \$100,000, imprisonment of not more than three years or probation.

Against the state's objections, Judge Sakamoto again granted her request for a no contest plea without a deferral, ordered her to perform 100 hours of community service, pay a fine of \$2,500 and court fees.

Avelino Gabriel was granted his deferred acceptance of no contest plea with a five-year deferral period, and was ordered to pay a fine of \$1,000 and perform 100 hours of community service.

They are both held jointly and severally responsible to pay the restitution of \$5,353.

The state believes the sentence Anita Gabriel received was not appropriate given the seriousness of the crimes. She was a repeat offender who had been through the process before and still chose to ignore the state laws. She committed felony violations, which carry harsher penalties, and was still given a lesser sentence than what she should have received. This clearly sends the wrong message regarding tax compliance.

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