

REC'D MAR 10 2000

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

2000 MAR -9 PM 4:08

R. HIGA
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

In the Matter of the Estate)	EQUITY NO. 2048
)	
of)	
)	ORDER DIRECTING MEDIATION
BERNICE P. BISHOP,)	
)	
Deceased.)	
_____)	

ORDER DIRECTING MEDIATION

On September 10, 1998, the Attorney General filed a Petition Of The Attorney General On Behalf Of The Trust Beneficiaries To Remove And Surcharge Trustees, For Accounting, And For Other Equitable Relief in Equity No. 2048. Thereafter, the Attorney General filed an Amended Petition on August 24, 1999, and a Supplemental Petition on August 31, 1999.

In pertinent part, the Attorney General seeks to surcharge Henry Haalilio Peters, Oswald Kofoad Stender, Richard Sung Hong Wong, Marion Mae Lokelani Lindsey and Gerard Aulama Jervis, the Former Trustees of Kamehameha Schools, "... for excessive compensation and for other benefits wrongfully obtained from the Trust for their personal purposes and for all other amounts necessary to make whole the Trust and the beneficiaries." Pretrial Statement of Attorney General filed on April 30, 1999, at page 3.

EXHIBIT 2

On November 2, 1999, Robert Kalani Uichi Kihune, David Paul Coon, Francis Ahloy Keala, Constance Hee Lau and Ronald Dale Libkuman, the Interim Trustees of Kamehameha Schools, filed a Petition For Instruction Concerning Estate Liability Insurance And Related Matters in Equity No. 2048 ("Petition for Instruction"). Federal Insurance Company and the Attorney General filed Responses to the Petition For Instructions on December 2, 1999, respectively.

On November 30, 1999, a Second Amended Petition Of The Attorney General On Behalf Of The Trust Beneficiaries To Remove And Surcharge Trustees, For Accounting, And For Other Equitable Relief was filed by the Attorney General in Equity No. 2048 ("Second Amended Petition"). The Second Amended Petition asks the Court to order "[t]he surcharge of [the Former Trustees] for all amounts necessary to make whole the Trust and the Beneficiaries for losses caused by the Trustees' breaches of fiduciary duties, with prejudgment interest from the date of each loss to the date of judgment, and post-judgment interest thereafter." Second Amended Petition of the Attorney General at page 78.

The Court finds that matters presented in the Attorney General's Second Amended Petition and the Interim Trustees' Petition For Instruction involve essentially the same interested parties and involve one or more common questions of law or fact pending before the Court. The Court further finds that it would be in the best interests of the parties, the Trust Estate, and the beneficiaries of the Trust Estate to require the parties to participate and engage in mediation. Costly and lengthy litigation may be avoided.

Therefore, pursuant to Rule 2.1 of the Hawaii Probate Rules, the Court directs that the parties to the Attorney General's Second Amended Petition and the parties to the Interim Trustees' Petition for Instructions, to engage in mediation pursuant to the Mediation Rules for

Probate, Trust and Guardianship of the Property to reach a voluntary resolution of all disputes, actions, claims, counterclaims, or cross-claims between or among them contained in or arising from the Second Amended Petition and/or the Petition for Instructions.

The Court assigns David L. Fairbanks and James E. Duffy, Jr. to serve as mediators.

Each mediator shall be paid \$175 per hour. All fees and expenses of the mediation will be shared equally among the parties unless otherwise agreed to by the parties or ordered by the Court. The mediators shall establish the schedule for the initial and all subsequent mediation sessions.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, MAR - 9 2000

KEVIN S.C. CHANG
Judge of the Above-Entitled Court.

Robert Bruce Graham, Jr., Esq.
Ashford & Wriston
Alii Place, 14th Floor
1099 Alakea Street
Honolulu, Hawaii 96813

Attorney for Trustees

Earl I. Anzai, Esq.
Dorothy D. Sellers, Esq.
Hugh R. Jones, Esq.
Department of Attorney General
425 Queen Street
Honolulu, Hawaii 96813

Attorneys for State of Hawaii

Crystal K. Rose, Esq.
Bruce D. Voss, Esq.
Alii Place, 16th Floor
1099 Alakea Street
Honolulu, Hawaii 96813

Attorneys for Oswald Kofoad Stender

Renee M. L. Yuen, Esq.
Haseko Center, Suite 702A
820 Mililani Street
Honolulu, Hawaii 96813

Attorney for Henry Haalilio Peters

Benjamin M. Matsubara, Esq.
Matsubara Lee & Kotake
888 Mililani Street, 8th Floor
Honolulu, Hawaii 96813

Master

Wayne M. Sakai, Esq.
David Y. Suzuki, Esq.
Glenn K. Sato, Esq.
Burke Sakai McPheeters Bordner
Iwanaga & Estes
Suite 1300, Mauka Tower
Grosvenor Center
737 Bishop Street
Honolulu, Hawaii 96813

Attorneys for Richard Sung Hong Wong

Michael Jay Green, Esq.
David J. Gierlach, Esq.
Joseph A. Wolsztyniak, Esq.
345 Queen Street, Second Floor
Honolulu, Hawaii 96813

Attorneys for Marion Mae Lokelani
Lindsey

Melvin Y. Agena, Esq.
Robert K. Wrede, Esq.
840 Pioneer Plaza
900 Fort Street Mall
Honolulu, Hawaii 96813

Attorneys for Gerard Aulama Jervis

Lissa H. Andrews, Esq.
Tam O'Connor Henderson Taira &
Yamauchi
Central Pacific Plaza
220 S. King Street, Suite 2000
Honolulu, Hawaii 96813

Attorney for Federal Insurance Company

*same for
atty for
my case* →

? - No atty. for
XL or P+C?

Michael N. Tanoue, Esq.
Tanoue & Tanaka
Amfac Tower
700 Bishop Street, Suite 2001
Honolulu, Hawaii 96813

Master