

TAB 1

VERNER, LIIPFERT, BERNHARD, MCPHERSON AND HAND
CHARTERED

901-15TH STREET N.W.
WASHINGTON D.C 20005-2301

8280 GREENSBORO DRIVE
SUITE 601
MCLEAN VIRGINIA 22102
703 749-6000
TELECOPIER 703 749-6027

202 371-6000
TELECOPIER 202 371-6279

2600 TEXAS COMMERCE TOWER
600 TRAVIS
HOUSTON TEXAS 77002
713 237-9034
TELECOPIER 713 237-216

Douglas Ochs Adler
(202) 371-6037

PRIVILEGED AND CONFIDENTIAL
COMMUNICATION OF COUNSEL

March 15, 1995

Nathan T.K. Aipa, Esq.
General Counsel
Kamehameha Schools/Bernice Pauahi Bishop Estate
Legal Division
P.O. Box 3466
Honolulu, HI 96801

Re: Kamehameha Schools/Bishop Estate Trust ("KSBE Trust"):
Change of Place of Administration

Dear Mr. Aipa:

As we discussed previously, we are identifying issues that must be addressed before a decision to petition the court to move the administration of the KSBE Trust out of Hawaii can be made. Under H.R.S. § 560:7-305, the court may approve such a move if it will further the efficient administration of the trust. In addition, the move must not be contrary to the express or implied intent of the trust grantor, nor be to the detriment of the trust beneficiaries.

We believe there are several arguments to be made for a more efficient administration of the KSBE Trust in another jurisdiction. These arguments center on the potential interference with the efficient administration of the KSBE Trust by the Hawaii State Legislature, restrictions on alienation of property by trustees under Hawaiian law, and disadvantageous state tax treatment in Hawaii. In order to further develop these arguments, we need some additional information:

Deposition Exhibit No. 127
Deposition of Winhee
Date 11-26-99

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127

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1. Bernice Pauahi Bishop's will contains a provision in Paragraph 13 requiring the filing of a report with the "Chief Justice of the Supreme Court, or other highest judicial officer in this country." (emphasis added) Paragraph 14 calls for the selection of trustees by a majority of the Justices of the Supreme Court. At the time of the execution of the will, Hawaii was an independent kingdom. The issue is the interpretation of the phrase "in this country" after Hawaii became a territory, then a state. Was there a particular decision by the Supreme Court, the Attorney General, or the KSBE trustees that "in this country" was interpreted to mean Hawaii?

2. H.R.S. § 554-4 provides that trustees are to file annual reports with the supervising court. The court may then refer the report to a master for review, if proper and necessary. We have received a copy of the master's report dated September 8, 1993. Under what authority does the master investigate and prepare his or her report on the KSBE Trust? Is the form of the report mandated by the Hawaiian Supreme Court, and may the form be shortened or simplified? Reference is made in the report we reviewed to the "Amended Order Establishing Minimum Guidelines For Future Masters and Instructing Trustees Concerning Future Annual Reports," dated July 12, 1989, as amended by Order dated June 8, 1992. These are documents of public record, and we would appreciate receiving copies of these as well.

3. Would you provide us with the statutory provision authorizing the Attorney General to act as parens patriae of Hawaiian charitable trusts.

4. We also need a detailed list of current assets held by the KSBE Trust. The list of assets (and particularly their location) may help buttress the argument that administration would be more efficient offshore because of tax considerations, for example. The breakdown should include assets by type such as real estate, marketable securities, and all investments. In particular, we need the location of each asset (in or out of Hawaii), and the percentage of that asset's value to total holdings. Also helpful for this argument would be copies of the most recent balance sheet and income statement.

5. It appears from review of the tax returns included in the 1993 master's report that the KSBE Trust is a 501(c)(3) charitable trust and public charity (not private foundation) for federal tax purposes. Would you please confirm its federal tax status, including whether it is treated as a corporation for federal tax purposes.

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Thank you in advance for your assistance with these requests. Please contact me if you have any questions or concerns.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Douglas Ochs Adler". The signature is fluid and cursive, with a large initial "D" and "A".

Douglas Ochs Adler

cc: Gov. John D. Waihee

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