

RENEE M. L. YUEN 1500
Attorney at Law
A Law Corporation
Haseko Center, Suite 702A
820 Mililani Street
Honolulu, Hawai'i 96813
Telephone: (808) 523-0125

CIRCUIT COURT
STATE OF HAWAII
1999 NOV 22 PM 12:19

D. SATO
CLERK

Attorney for Trustee
HENRY HAALILIO PETERS

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAI'I

In the Matter of the Estate
of

BERNICE P. BISHOP,
Deceased.

) EQUITY NO. 2048
)
) NOTICE OF TAKING DEPOSITION UPON
) ORAL EXAMINATION; EXHIBIT "A";
) CERTIFICATE OF SERVICE
)
) (ROBERT K.U. KIHUNE)
)
) Trial Week: December 13, 1999
)
)
)

NOTICE OF TAKING DEPOSITION UPON ORAL EXAMINATION

TO: JAMES KAWASHIMA, ESQ.
J. DOUGLAS ING, ESQ.
999 Bishop Street, 23rd Floor
Honolulu, Hawai'i 96813

and

MELVYN M. MIYAGI, ESQ.
1001 Bishop Street, Suite 1200
Honolulu, Hawai'i 96813

Attorneys for Interim Trustees ROBERT K. U. KIHUNE, CONSTANCE H.
LAU, FRANCIS A. KEALA, DAVID P. COON AND RONALD D.
LIBKUMAN

EXHIBIT

1-Kihune
12-3-99

EARL I. ANZAI, ESQ.
DOROTHY D. SELLERS, ESQ.
Department of the Attorney General
425 Queen Street
Honolulu, Hawai'i 96813

WAYNE M. SAKAI, ESQ.
3100 Mauka Tower, Grosvenor Center
737 Bishop Street
Honolulu, Hawai'i 96813

and

GLENN K. SATO, ESQ.
Suite 770, Pauahi Tower
1001 Bishop Street
Honolulu, Hawai'i 96813

Attorneys for Trustee RICHARD SUNG HUNG WONG

CRYSTAL K. ROSE, ESQ.
BRUCE D. VOSS, ESQ.
Alii Place, 16th Floor
1099 Alakea Street
Honolulu, Hawai'i 96813

Attorneys for Trustee OSWALD KOFOAD STENDER

MICHAEL JAY GREEN, ESQ.
DAVID J. GIERLACH, ESQ.
345 Queen Street, Second Floor
Honolulu, Hawai'i 96813

Attorneys for Trustee MARION MAE LOKELANI LINDSEY

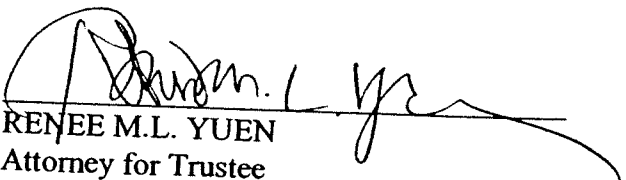
MELVIN Y. AGENA, ESQ.
Suite 850, Davies Pacific Center
841 Bishop Street
Honolulu, Hawai'i 96813

Attorneys for Trustee GERARD AULAMA JERVIS

PLEASE TAKE NOTICE that Trustee Henry Haalilio Peters through his undersigned counsel of record will take the deposition of ROBERT K.U. KIHUNE, Interim Trustee, Kamehameha Schools Bishop Estate, 567 South King Street, Honolulu, Hawaii 96813, on Friday, December 3, 1999 at 9:00 a.m., at the law offices of Harry Yee, Attorney at Law, A Law Corporation, 770 Pauahi Tower, 1001 Bishop Street, Honolulu, Hawaii 96813.

Said deponent will be required to bring with him and have available for production the original and/or true and correct legible copies of the documents as indicated in the Subpoena Duces Tecum attached hereto as Exhibit A. The deposition will be taken upon oral examination pursuant to Rule 30 of the Hawaii Rules of Civil Procedure, before an officer authorized by law to administer oaths and will continue from day to day until completed. You are invited to attend and cross-examine.

DATED: Honolulu, Hawai'i, November 22, 1999.


RENEE M.L. YUEN
Attorney for Trustee
HENRY HAALILIO PETERS

FILE COPY

1ST CIRCUIT COURT
STATE OF HAWAII
ISSUED

1999 NOV 22 AM 9:03

R. HIGA
CLERK

RENEE M. L. YUEN 1500
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Haseko Center, Suite 702A
820 Mililani Street
Honolulu, Hawai'i 96813
Telephone: (808) 523-0125

Attorney for Trustee
HENRY HAALILIO PETERS

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

In the Matter of the Estate)	EQUITY NO. 2048
)	
of)	SUBPOENA DUCES TECUM; EXHIBIT 1
)	
BERNICE P. BISHOP,)	
)	Deponent: ROBERT K.U. KIHUNE
Deceased.)	
)	
)	
)	

SUBPOENA DUCES TECUM

THE STATE OF HAWAII:

TO THE SHERIFF of the State of Hawaii or his Deputy, or any Police Officer in

the State of Hawaii:

YOU ARE COMMANDED TO SUBPOENA:

ROBERT K.U. KIHUNE
Kamehameha Schools Bishop Estate
Kawaiaha'o Plaza
567 South King Street
Honolulu, HI 96813

to appear at the offices of Harry Yee, A Law Corporation, 770 Pauahi Tower, 1001 Bishop
Street, Honolulu, Hawai'i 96813 on December 3, 1999, at 9:00 a.m., to testify as a witness on
behalf of Henry Haalilio Peters, Trustee of the Kamehameha Schools Bernice Pauahi Bishop

Estate, in the above-entitled matter, before a notary public or officer authorized by law to administer oaths and to bring with him/her any and all documents and other things as indicated in Exhibit 1 attached hereto.

DATED: Honolulu, Hawai'i, NOV 22 1999

R. HIGA



Clerk of the above-entitled Court

EXHIBIT 1

1. All correspondence to and from the Department of the Attorney, Attorney General Earl I. Anzai, former Attorney General Margery Bronster, any Deputy Attorneys General, any employees of the Department of the Attorney General, any independent contractors representing the Department of the Attorney General (ie. Investigators, auditors, accountants, paralegals, and attorneys) regarding all matter related to CR. NO. 99-1502 State v. Peters (First Circuit Court), CR. 98-2467 State v. Peters (First Circuit Court), and Equity No. 2048 In the Matter of the Estate of Bernice P. Bishop (First Circuit Court).

2. Produce a list of all written and electronic documents regarding all matters related to CR. NO. 99-1502 State v. Peters (First Circuit Court), CR. 98-2467 State v. Peters (First Circuit Court), and Equity No. 2048 In the Matter of the Estate of Bernice P. Bishop (First Circuit Court) which have been or will be provided to the Department of the Attorney General pursuant to any request or subpoena by the Department of the Attorney General.

3. All notes, minutes, records, or memorandum, in any form, which evidence all meetings, discussions, conversations, interviews, and communications between all employees and independent contractors of the Department of the Attorney General and the Interim Trustees, employees, and/or consultants for the Kamehameha Schools Bishop Estate.

4. All documents which support the allegations contained in the Interim Trustees' Petition for Removal of Trustees Marion Mae Lokelani Lindsey, Henry Haalilio Peters and Richard Sung Hong Wong and for Evidentiary Hearing filed August 24, 1999.
5. All documents which support the allegations contained in the Interim Trustees' Amended Petition for Removal of Trustees Marion Mae Lokelani Lindsey, Henry Haalilio Peters and Richard Sung Hong Wong and for Evidentiary Hearing filed September 23, 1999.
6. All documents, exhibits, reports, and demonstrative aids which the Interim Trustees intend to present at the evidentiary hearing in Equity No. 2048 In the Matter of the Estate of Bernice P. Bishop (First Circuit Court) scheduled for December 13, 1999.
7. All documents, notes, memorandum, correspondence, records, minutes of meetings, and reports; in any form; which evidence any breach of fiduciary duty owed to Kamehameha Schools Bishop Estate by Trustee Henry Haalilio Peters.

8. All documents, notes, memorandum, correspondence, records, minutes of meetings, and reports; in any form; which evidence the Interim Trustees waiver of conflicts of interest on behalf of Kamehameha Schools Bishop Estate which were provided to Arthur Andersen, Mark McConaghy, Price Waterhouse, Emmet B. Lewis, Miller & Chevalier, Nathan Aipa, James Kawashima, and Watanabe, Ing & Kawashima.

9. All documents, notes, memorandum, correspondence, records, minutes of meetings, and reports; in any form; which evidence the Interim Trustees' communication with Federal Insurance Company (Chubb), Robert M. Pozin, Kim S. Orbeck, Eric D. Schall, or Lissa H. Andrews.



KAMEHAMEHA SCHOOLS BERNICE PAUHI BISHOP ESTATE

July 28, 1999

Hon. Earl L. Anzai
Attorney General
State of Hawaii
425 Queen Street
Honolulu, Hawaii 96813

Re: Waiver of the Attorney-Client Privilege

Dear Mr. Anzai:

Your office has requested that the Interim Trustees (Robert Kihune, Ronald Libkuman, Constance Lau, David Coon and Francis Keala) of the Kamehameha Schools Bernice Pauahi Bishop Estate ("KSBE") waive the attorney-client privilege as to three discrete matters. These matters are (i) KSBE's sale of the Kalele Kai condominium project to One Keahole Partners; (ii) alleged violations of the campaign spending laws; and (iii) alleged improper use of KSBE charge cards by former KSBE employee Milton Holt. The Interim Trustees understand your interest in these areas arises from your capacity as the State's chief criminal prosecutor.

By virtue of those certain Orders entered on May 7, 1999, in Estate of Bernice P. Bishop, Deceased, Equity No. 2048, the Interim Trustees are "vested with full and complete discretion, power, and authority to exercise all trust powers with respect to the Trust Estate and its subsidiaries and affiliated organizations."

The Interim Trustees hereby waive the attorney-client privilege that belongs to KSBE with regard to the three areas identified above. However, as you know, there is some dispute as to whether some attorneys were representing the former Trustees in their personal capacity at certain times in the past. The Interim Trustees do not have


EXHIBIT

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12-3-99

Hon. Earl I. Anzai
July 28, 1999
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authority to waive any privilege that belongs personally to the former Trustees in the event there was a personal attorney-client relationship between these Trustees and certain attorneys.

Very truly yours,



Robert K. U. Kihune, Chairman
Board of Trustees

cc: Colleen I. Wong, Esq., Acting General Counsel, KSBE

BENJAMIN J. CAYETANO
GOVERNOR



THOMAS R. KELLER
ACTING ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1500

ORIGINAL

June 2, 1999

Robert Kihune
Chair, Board of Trustees
Kamehameha Schools Bishop Estate
567 South King Street
Honolulu, Hawaii 96813

Dear Chairman Kihune:

Re: Grants of Immunity to Kamehameha Schools Bishop
Estate Employees

We were asked during our meeting on May 27, 1999, to outline what could be done to encourage cooperation by employees of Kamehameha Schools Bishop Estate (KSBE) who may have information that might facilitate our investigation. We understand that some employees may have been reluctant to come forward because of the fear of retaliation by the recently removed Trustees. Some employees may also be reluctant to give statements because of concerns that they may implicate themselves by doing so.

To reemphasize what was said during our meeting, our office, as a general matter, is not interested in prosecuting employees at KSBE. The general topics that we are interested in are misconduct by former trustees which involve the commission of crimes; misconduct by former trustees which involve the violation of their fiduciary duties to KSBE; the misuse by former trustees of KSBE as an institution to benefit themselves or others closely allied to them; and the use of KSBE personnel and resources by former trustees to influence to outcomes of legislation and/or elections. In that regard, the targets of our investigation are former trustees, legislators, and others in position of power at KSBE who used their power to facilitate violations of the law, and/or to coerce others into violating the law.

We are willing to give immunity to any KSBE employees who are willing to cooperate with us in furthering our investigation. However, immunity will be granted for information which is relevant to the general topics of our investigation, as outlined above, is complete, truthful and accurate; and does not involve any crimes listed under Chapter 707, Offenses Against the Person, of the Hawaii Revised Statutes, except for those which fall under §§ 707-764(h) - (j). There will be three methods by which a KSBE employee may be considered for a grant of immunity from our office.

EXHIBIT

3-Kihune
12-3-99

METHOD ONE

If an employee has never been previously subpoenaed and interviewed by this office, the employee must first submit to an interview by Department of the Attorney General personnel. After initially verifying that the information is relevant to the topics that office is investigating and does not involve any of the crimes in Chapter 707 of the Hawaii Revised Statutes, which are listed above; the employee must then disclose the information that he or she has, and must be willing to answer any and all follow up questions that may need to be asked. The employee will receive immunity for all that he or she had disclosed to the Department of the Attorney General personnel, at the conclusion of the interview.

METHOD TWO

If, on the other hand, an employee had previously made a statement to us, and now wishes to correct his or her former testimony, a different procedure will apply. First, the KSBE employee must be willing to submit to the same procedure that was outlined in the preceding paragraph, with the following differences. During the interview with the Department of the Attorney General personnel, (1) the employee must specify what portion of his or her prior testimony is to be corrected, and (2) the employee must also be willing to answer any and all follow up questions that may need to be asked. If any part of the corrected testimony of the employee is deemed by the Department of the Attorney General to need verification, any decision on a grant of immunity will be held in abeyance, until that portion of the employee's statement has been corroborated. Once the Department of the Attorney General is satisfied that the employee's corrected statement has been sufficiently verified and is complete, truthful and accurate, and only then, will immunity be granted to the employee.

METHOD THREE

Finally, we have tried to anticipate the various ways in which immunity might be sought and granted to an employee of KSBE, and tried to cover those varying circumstances by the protocol set forth above. If, however, there is someone who wants to cooperate with us, who believes that he or she is not covered by one of the two methods described in the previous paragraphs, that person may still contact us to discuss the particulars of his or her situation.

The immunity that will be given to qualifying KSBE employees is "transactional immunity", as is described in § 621C-4, Hawaii Revised Statutes. Transactional immunity is designed to encourage reluctant witnesses to testify in that whatever the witness discloses to the Department of the Attorney General is immune from prosecution. Therefore, from the perspective of the witness, it behooves the witness to disclose as much as he or she is able, as whatever is said to the Attorney General cannot be prosecuted. To make the point even more strongly, even if transactional immunity has been granted to a witness, transactional immunity

Robert Kihune
June 2, 1999
Page 3

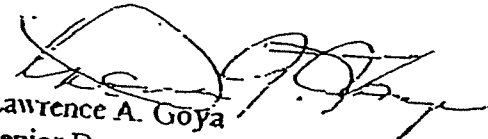
does not prevent a person from being prosecuted for perjury, giving a false statement, or for an offense that was not disclosed, and is later discovered by the Department of the Attorney General.

The person to contact to schedule an interview or to discuss the availability of immunity under any of the three methods described above is Special Investigator John Tsukayama at 587-4111.


We hope we have clarified what we are willing to do for KSBE employees who wish to cooperate with us. If you, the other Board members, or your staff have any further questions about this letter, you may call me at 587-4111.

Thank you for your attention and consideration.

Sincerely,


Lawrence A. Goya
Senior Deputy Attorney General
State of Hawaii

APPROVED:


Thomas R. Keller
Acting Attorney General

cc: Trustee David Coon
Trustee Francis Keala
Trustee Constance Lau
Trustee Ronald Libkuman, Esq.
Carroll Taylor, Esq.