

**Report to the
Attorney General
Of
The State of Hawaii**

**Preliminary Findings
Relating To
Political Activities of
The Kamehameha Schools Bishop
Estate**

Presented By Goodenow Associates, Inc.
Honolulu, Hawaii
January 24, 2000

TABLE OF CONTENTS

TABLE OF CONTENTS

FOREWORD

EXECUTIVE SUMMARY

INTRODUCTION

ENGAGEMENT

PRE-WALL INVESTIGATION

CRIMINAL ASSIGNMENT REGARDING REFERRAL FROM CSC

Areas of Recommended Investigation

Cost Reductions Provided to the DAG

CHARGING OF MARSHALL IGE

REFERRAL OF POTENTIAL DEFENDANT IN TAX MATTER

INVESTIGATION OF KSBE GOVERNMENT RELATIONS DEPARTMENT

Namlyn Snow

Snow Safe Documents

Snow Safe Documents

Waiver of Privilege

DIRECTION TO HALT ACTIVE INVESTIGATION

DIRECTION TO PROVIDE REPORT FOR CAMPAIGN SPENDING

COMMISSION

PRELIMINARY FINDINGS REGARDING KSBE INVOLVEMENT IN GOVERNMENT

INDICATIONS OF KSBE DELIBERATELY OBTAINING INFLUENCE IN GOVERNMENT

Introduction

Trustees Views

“Only Government Could Hurt Us, Period.”

“In Hawaii, Only The Government Has More Power,”

Government Relations Department

Namlyn Snow

Alika Thompson

Dawn Farm-Ramsey

GRD ACTIVITIES TO INFLUENCE COMMUNITY GROUPS

Influencing Community Group Decisions Regarding KSBE

Trustees Notified Of Legislative Support Networks

GRD INTELLIGENCE COLLECTION ACTIVITIES

Milton Holt

Robert Lindsey

Intelligence Gathering Relating to Opponents of KSBE Positions

Release Of Gathered Intelligence
 MONITORING ELECTIONS
 ELECTION ACTIVITIES
 Political Activity Prohibitions Known By KSBE
 Lobbying Briefing Material
 Employee Handbook
 Fund-raise Tickets & Other Political Process
 The KSBE Fund-raising Ticket Handling Process
 Logging the Tickets at GRD
 Paul Cathcart/Neil Hannahs Ticket Experience
 “Eh, Is This Legislator, This Councilman, Friendly to Us?”
 Volumes of Tickets Received
 “... Inevitably That Committee Chair Puts You On Their
 Campaign Mailing List...”
 Selling Political Fund-raising Tickets
 Donald Clegg
 “Whether They Like The Mayor Or Not... Was Not Necessary”
 Mandatory Staff Attendance at Fund-Raisers
 Lindsey Punalu’u House Permit
 “Nam Are We Doing Him?”
 Specific Candidate Support
 Henry Peters
 Milton Holt
 Consultant Payments Made To Holt’s Benefit
 Sign Holding
 “My Wife Is Not Holding Signs During Hurricane Iniki”
 Marshall Ige
 Political Polling
 Electoral Districts Polled and Amounts Spent by KSBE
 Barbara Ankersmit, Pollster
 Peters Comments Regarding Polling
 MAINTAINING CLOSE RELATIONS WITH GOVERNMENT
 KSBE Visa Credit Card Use
 Snow Office Records Relating To Holt VISA
 Alika Thompson VISA Use With Legislators
 Park Criteria
 *Representative Herkes/OHA Trustee Hee/ Speaker Souki/Senator
 Tanaka/Senator Tom
 Senator Milton Holt
 Supreme Court Justice Robert Klein
 Governor John Waihee
 The Supreme Court of the State of Hawaii*
 1994 Trustee Selection Process
 Myron “Pinky” Thompson Term End Approaches
 Speculation In Press Regarding Political Figures
 Trustee Vacancy Review Committee Created by Justices

Activities of the Committee

Commitment To Select From Finalists

No Guidelines From Justices

Waihee's Nomination Championed by Rodrigues

Letter Delivered to Justices by Brandt: "Where's His Name?"

Actions Taken by Supreme Court

Unsigned Letter to Henry Walker

December 1994 Lindsey Notes: "Only mechanism to allow the delay to occur:

Indications of KSBE Scripting Justices' Reaction to Committee Recommendations

Snow Was Providing A Blueprint for Execution

The Memorandum Indicates Some Ability for Peters

To Influence the Justices' Strategy

Snow Presumed Chief Justice Moon Participation

Snow Offered Justification for Justices to Duplicate Committee's Work

Snow Offered Justification for a Politician to Be Selected

Snow Strategy Compared to Justice Actions

Justices Repeat Committee Work

Noting Lack of Interviews By Committee

Justices Conduct Own Interviews

Justices Note Lack of Guidelines Given to Committees

Gerard Jervis Contacts with Court

General Indications of Close Relationship with Levinson

Contact with Justices Indicated at Start Of Controversy

INDICATIONS OF KSBE ATTEMPTS TO MONITOR & INFLUENCE GOVERNMENT OF ACTION

The Question of Lobbying

"We Must Address the Issue of Lobbying and Registering

Trustees' Decision Regarding Lobbying

Still a Question

We Do Not Lobby

"We Were Resource People"

"Lobbying Is When You Talk To Legislators

To Try To Affect Their Vote"

Evidence Contrary to Lobbying Denials

Contact Initiated by Estate

Soliciting Others to Communicate

Drafting Legislation, Securing Introducers,

Suggesting Introducers

"The Fact That It Was 'KSBE' Bill Not Widely Known"

Specific Situations

Opposing Land Reform

1991 Manuia Letter

Counter Rallies
Relating To Trustees Commissions
Testimony By Estate Executives
Attorney General 1991 Recommendations
Democratic Convention
Monitoring Of Trustee Compensation Legislation
Terrance Tom Fax
1998 Session Expert Witness Planned Mizuguchi Meeting
Relating To the Attorney General's Investigation of Trustees of KSBE
Holt VISA Evidence Re Calvin Say and Terrance Tom
Draft Legislation Found in Snow Office
Note Relating to Attorney General Budget
Snow Message Relating To AG Investigation
Wong/Mehau/Chun/Hanabusa/Buen/Matsuura
Attorney General Bronster Confirmation Vote Fails
WHEN LOBBYING IS NOT LOBBYING
"If you're my friend,, ... you gonna ... do it, I don't have to ask you."

Foreword

This report, prepared at the specific direction of Attorney General Earl Anzai, is written as an interim report of an investigation that is not complete. All of the information contained herein could be viewed entirely differently if further investigation is undertaken by the Attorney General, the Campaign Spending Commission, or some other body or agency. The contents of this report are based on the totality of all interviews conducted, all documents reviewed, all meetings held. Therefore, the bases for findings exceeds those specific items referenced or exhibited.

As such, this report is intended to provide some of the information gathered by Goodenow Associates, Inc. (GAI) under contract to the Department of the Attorney General (DAG) which may be useful to the Hawaii State Campaign Spending Commission (or other users) in determining whether further investigation should be undertaken, legislation should be recommended, or some other action should be taken.

Inasmuch as the investigation by GAI has been suspended at the direction of the Attorney General, other witnesses, records, and evidence which may bring more information to light and further clarify the events described have not been examined at this time.

Also, because the Kamehameha Schools Bishop Estate (KSBE) can only act through people, and the shifting roles of employee, trustee, and private individual have not been conclusively defined as to each and every event recounted herein, for the purposes of this report, we have adopted the terms, "the Estate," "KSBE," and "Kamehameha Schools Bishop Estate" as abbreviated usage of "the Estate, or its trustees, officers, or employees," "KSBE, or its trustees, officers, or employees," and "Kamehameha Schools Bishop Estate, or its trustees, officers, or employees," respectively.

All users of this report are asked to provide GAI with any information they may possess which may tend to make this report more accurate. Submitted information will be evaluated and appropriate and necessary amendments will be issued.

Not all referenced sources are supplied herewith as exhibits. Users are directed to the DAG for access to same as may be authorized. The sources referenced in the 284 explanatory notes represent approximately 20,000 pages of materials and numerous audio tapes. In some cases, only a small number of actual documents are individually quoted as simple examples and are intended primarily to lead users to the source documents. The contents of the Snow Office and Safe, are especially worthy of closer examination by users who wish to obtain a more complete view of the activities of the KSBE Government Relations Department.

It is our recommendation that additional investigation is both necessary, and, for agencies possessing the authority and means, feasible. Therefore, all findings presented herein should be viewed as strictly preliminary in nature, requiring further examination and confirmation.

Regarding explanatory notes: Page numbers beginning with the letter “K” were received from KSBE, generally under subpoena. Page numbers beginning with the letters “AG” or which contain no letters were generally used on documents received from sources other than KSBE, or documents which were taken from KSBE either without subpoena or using a separate numbering scheme (most notably, the Snow Safe material). Certain references are cited which have no serial numbers and generally represent publications, documents generated by the investigative team, or documents received by the DAG from non-KSBE sources in the “pre-wall” investigative period.

Executive Summary

- From December 3, 1997 Goodenow Associates, Inc. has conducted investigation of the Kamehameha Schools Bishop Estate (KSBE) and its trustees.
- Preliminary Findings May Indicate That:
 - KSBE established and Maintained a Government Relations Department (GRD) staffed with persons possessing heavy experience in government and legislative lobbying.
 - KSBE used extensive means to achieve its goals with respect to securing desired government actions, including:
 - Influencing Hawaiian Community Groups into supporting KSBE initiatives;

- Creating organizations which could be organizationally distant from KSBE while still under the control of GRD personnel;
- Recruiting, transporting, and feeding persons whose testimony was favorable to KSBE;
- Writing testimony for recruited testifiers;
- Having employees become involved in political activities in support of individual political candidates;
- Operating an ongoing intelligence gathering apparatus to discover the plans of the state legislature as well as to obtain information against proponents of land reform;
- Releasing intelligence on land reform opponents to media, legislators, and other parties;
- Spending extensive amounts of money to influence public opinion, legislative action, and Democratic Party Politics to oppose land reform;
- Spending extensive amounts of money and effort to monitor elections within the state of Hawaii;
- Paying more than \$200,000 over two election years for polls of selected House, Senate and council districts which included specific questions about candidates engaged in election from those same districts;
- Adopting a non-lobbying policy below the federal legislative levels while initiating contact with government officials relating to legislation, drafting legislation for introduction, seeking friendly legislators to introduce legislation, hiding the fact of certain measure being “KSBE bills;”
- Entertaining legislators and other government officials using Estate funds on hundreds of occasions;
- Actively opposing measures to reduce trustee commissions through staff testimony and paying more than \$20,000 for a mainland compensation expert to provide legislative testimony;
- Taking advantage of pre-existing relationships with Justices of the Supreme Court of the State of Hawaii during the selection of former

Trustee Gerard Jervis as well as early-May 1997 when reports of unrest at KSBE were being aired in the media;

- Intervening in the student admissions process because of a Justice's recommendation of a particular student;
- Being a party to the manipulation of the process of appointing trustees to the KSBE Board.

Introduction

Engagement

In September 1997 preliminary discussions were held between The Hawaii State Department of the Attorney General (DAG) and Goodenow Associates, Inc. (GAI) to gauge interest, capabilities, availability and costs associated with possible engagement of GAI to assist the DAG in its investigation of the trustees of KSBE. It was understood that engaging GAI would be only one of several options to be considered by DAG as it proceeded with its investigation. Further discussion ensued and on November 21, 1997 Attorney General Margery Bronster signed a contract engaging GAI to provide services to DAG in the investigation of the trustees of KSBE.

Pre-Wall Investigation

On December 3, 1997 Attorney General Bronster signed letters appointing a number of GAI personnel as Special Investigators.

It was initially agreed that GAI personnel would undertake to investigate certain areas not then under full development by the DAG civil service Special Investigators. At a later date it was agreed that more efficiency would be achieved if the DAG and the GAI investigative personnel assigned to the investigation were joined into a unified task force. Patrick Cullen, who was then the DAG Assistant Chief Investigator and John Tsukayama, the GAI project manager, worked jointly in the coordination of personnel and assignments within the investigative team. The team included four investigators and one investigative assistant assigned full-time by GAI, the part-time services of Cullen and DAG Special Investigators Joy Aipolani and Paul Sakaida, and the full-time assistance of State Tax Department Field Auditors Edwin Nakagawa and Craig Nakama, as well as the ad hoc use of a clerk from the Tax Department.

On a nearly daily basis the investigative team reported its findings and received its general tasking from DAG Senior Deputy Attorney General Lawrence Goya. Goya in turn reported directly to the Attorney General. Investigative team briefings were provided to the Attorney General and other DAG Deputy Attorneys General as requested.

In lieu of extensive note-taking in interviews by investigators and the expense of writing individual interview memoranda, it was agreed that other methods of documentation would be employed. The original investigative protocols developed between GAI and DAG called for all witness interviews to be documented by the use of Certified Shorthand Reporters, commonly referred to as “court reporters.” This did not occur in the majority of instances. GAI was later informed that due to budget constraints audiotape recorded interview was the prescribed method of documentation for most interviews. Initial transcripts were prepared as a rapid means of providing ready access to information and findings to investigators and DAG attorneys. The transcripts, being intended to be substitutes for notes, were not expected to be perfectly exact and verbatim records of the interviews.

While the transcripts give reasonably accurate renditions of the information provided by witnesses, they may incorporate certain transcription and typographic errors. Quotes from those transcripts are provided in this report and are considered to reliably characterize the information provided by the witnesses. Decision-makers should, however, refer to the original audiotapes in the custody of DAG for confirmation of crucial points, as they are the best records.

During the period from December 1997 through August 1998 approximately 280 witness interviews were conducted.¹ Most involved testimony taken under oath pursuant to Attorney General subpoenas. In addition, the investigative team reviewed more than 235,000 pages of documents received from KSBE and other sources.² The investigative team supported the DAG litigators in the preparation of the Attorney General’s Petition for Removal and Surcharges by providing factual background for a number of the included allegations.

The investigation eventually identified possible criminal misconduct in the areas of possible kickbacks, campaign spending and lobbying. As part of a splitting of the investigative efforts into separated criminal and civil teams, these politically-related subjects were assigned to the KSBE Criminal Team for further investigation.

On September 15, 1998, at the direction of the Attorney General, a so-called “Chinese Wall” of internal procedures was established which effectively split the civil and criminal investigative and litigation efforts of the DAG. Direct contact between members of the separate teams was not allowed and the Attorney General and the First Deputy Attorney General monitored all requests for information from the pre-wall investigative records.

Criminal Assignment Regarding Referral From CSC

On October 30, 1998 the State of Hawaii Campaign Spending Commission transmitted criminal referrals to the DAG naming, among others, a number of public officials and

¹ Exhibit 1, Keller memorandum, 12/2/99.

² Ibid.

KSBE managers.³ These included Milton Holt, Marshall Ige, Namlyn Snow, and Yukio Takemoto. Also mentioned were a number of firms and individual consultant engineers and architects that provided professional services to KSBE.⁴

The DAG requested GAI to provide a proposal for a wide-scope investigation of campaign spending practices. Given the possibility that the conduct referred by the CSC might represent only a small number of politicians and contributors who may have engaged in similar activities, GAI advised the Attorney General that in order to undertake a major pro-active investigation, a level of resource commitment similar to the pre-wall KSBE investigation would be necessary.⁵

As a result of instructions from DAG, a modified investigative plan was adopted and limited resources were allocated to the investigation. The primary personnel assigned to the criminal investigative team included two full-time GAI investigators. For the purposes of the political activity investigation, GAI was also provided with the ad hoc use of a number of DAG Special Investigators, and the partial services of State Tax Department Field Auditor Evan Omoto. For the purpose of the political activity investigation, the investigative team reported to Deputy Attorney General Kurt Spohn.

In addition to the services provided in the political activities investigation, the same GAI personnel were also engaged from September 1998 through May 1999 in conducting the ongoing investigation of the KSBE project known as Kalele Kai.

GAI conducted more than 90 witness and suspect interviews, document review and analysis, and provided witness management support and testimony at the First Circuit Court.

Areas of Recommended Investigation

In December 1998, GAI advised the DAG of the following areas for possible investigation:⁶

1. Direct theft of campaign committee funds;
2. Direct violation of campaign spending laws relating to contributions and required reports;
3. Penal Code and RICO violations resulting from the commission of the campaign spending law violations;

³ Exhibit 2, Watada letter, Referral for Criminal Prosecution, 10/30/98.

⁴ Ibid.

⁵ Tsukayama memorandum, 12/9/98.

⁶ Ibid.

4. Tax violations relating to the mis-reporting of illegal contributions as legitimate business deductions on business tax returns;
5. Tax violations relating to the failure to report the theft proceeds by the candidates as taxable income;
6. Theft of KSBE assets to fund the illegal contributions;
7. Other possible offenses committed by the candidates unrelated to the campaign spending violations.

In July 1999 as a result of the information obtained at that point, GAI recommended to the DAG that evidence sufficient to answer the following questions should be sought:⁷

Did officials of the City and County of Honolulu, Hawaii Senate, Hawaii House of Representatives, and US House of Representatives accept bribes engineered by Henry Peters, Namlyn Snow, Richard Wong, Lokelani Lindsey, other members of the Democratic Party and Oswald Stender?

Did bribes take the following forms?

- Legal campaign contributions funneled through the KSBE; Government Relations Department acting as an illegally unregistered PAC;
- Providing KSBE personnel for campaign work to selected politicians in violation of federal laws;
- Wages or fees for work not actually done for KSBE and its subsidiary operations;
- Illegal campaign contributions solicited from KSBE vendors funneled through third party providers of campaign goods and services;
- Unusually favorable lease agreements on KSBE property to state and county officials;
- Gifts and entertainment as part of an organized unregistered lobbying effort;
- Direct financial benefit.

Did the possible bribes result in action taken by those government officials in the following areas?

- Official floor votes cast in the legislature on the matter of trustee compensation in the 1998 legislature.
- Official floor votes cast in the Hawaii Senate on the matter of executive appointments in the 1999 legislature relating to Margery Bronster and Earl Anzai.
- The killing of numerous bills in committee in both houses of the legislature.

⁷ Tsukayama memorandum, 7/17/99.

- ❑ Unsuccessful attempts at obtaining intervention by the governor on behalf of criminal suspects Richard S.H. Wong, Mari Stone Wong and Jeffrey Stone.
- ❑ Other areas not yet identified.

In September 1999 GAI advised the Attorney General that there appeared to be reasonable potential to continue the investigation into possible bribery and theft charges relating to possibly illegal campaign contributions and possible quid pro quo official government action. At that time the Attorney General was advised that GAI intended to proceed with seeking cooperative interviews of former political candidates and officeholders.⁸

Cost Reductions Provided to the DAG

During the course of the investigation, the DAG consistently directed GAI to provide investigative plans and budgets that took into account the fiscal situation of the State. In keeping with those instructions, state assets were substituted for recommended experienced private- sector experts. State clerical, paralegal, investigative, and audit staffing was used at the direction of the DAG.

In acknowledgment of the State's financial condition and the crucial nature of the evidence then coming to light, GAI made a number of accommodations to the DAG. Starting in May 1999, GAI made available a full-time investigator to support the ongoing Kalele Kai prosecution, hearing, re-indictment, and further investigation. This investigator's services were provided free of charge until August 1, 1999. Since that time, that investigator's services have continued at a discount to the DAG. Only the first one hundred hours each month of this investigator's time has been charged to the DAG, regardless of the number of additional hours actually worked. Similarly, since September 1999 two investigators have been provided to the political activity investigation at a monthly fee cap of 100 hours per investigator. Estimated savings extended to the DAG through November 1999 has exceeded \$40,000.

Charging of Marshall Ige

As a result of investigation conducted in 1998 and 1999, on July 13, 1999 GAI investigator John Tsukayama filed an affidavit⁹ with the Honolulu District Court in conjunction with an Attorney General Application for Warrant of Arrest.¹⁰ On the same date District Judge Collette Garibaldi of the Honolulu District Court signed a Warrant of Arrest for Marshall K. Ige.

⁸ GAI letter, 9/17/99.

⁹ Exhibit 3, Tsukayama Affidavit and Exhibits, 7/13/99.

¹⁰ Exhibit 4, Complaint, Application for Warrant of Arrest, Order, 7/13/99.

Ige was charged with a number of violations of state campaign spending laws and also with False Swearing in Official Matters, Failure to Report Campaign Expenditure, Failure To Report Campaign Deficit, Failure To Report Campaign Contribution, Accepting Campaign Loan In Excess of \$10,000, and Unsworn Falsification to Authorities.

Ige is set to stand trial after the 2000 Session of The Hawaii Legislature adjourns.

Referral Of Potential Defendant In Tax Matter

During the course of the investigation the conduct of an individual and an associated corporation were referred to the State Department of Taxation for review as a possible criminal matter.

Investigation of KSBE Government Relations Department

Namlyn Snow

The pre-Wall investigation revealed the possible involvement of Namlyn Snow, the KSBE Government Relations Department (GRD) director, in a number of the transactions referred to the Attorney General by the CSC. Attorney General subpoena number 98-320 was signed by the Acting Attorney General on June 10, 1998, requiring testimony to be provided by Snow on June 22, 1998.¹¹ Snow did not appear. It was subsequently learned that Snow began a medical leave of absence on May 22, 1998 from which she did not return prior to her death on May 14, 1999. Attempts were made by Deputy Attorney General Spohn to secure Snow's testimony in negotiations with Snow's attorney David Klein. Snow never provided testimony to the DAG.

It appears clear that Snow operated with the knowledge of at least some of the trustees. During the investigation it was learned from the Director of the KSBE Administration Group that while GRD organizationally fell under Administration Group, Snow herself had direct liaison with one or more trustees, including Henry Peters.¹² Telephone records indicate that Snow had frequent telephone contact with Peters.¹³ Trustee telephone

¹¹ pp. AG000017127-29.

¹² Park interview, 6/23/99, p. 10. JT: (Referring to Park's review of subordinates' KSBE VISA charge records) What about Nam Snow? Park: That was kind of on the borderline. 'Cause she worked really under the auspices of Henry Peters as well.

¹³ Exhibit 6, Tsukayama memorandum, 12/2/99: From 1/6/97 to 5/5/99 there were approximately 2,104 telephone calls between Peters' cellular phone and Snow's office, residence, and place of convalescence.

message records indicate that Snow contacted Richard Wong with information regarding her activities.¹⁴

Snow Safe Documents

On May 21, 1999 the DAG received a box of documents from KSBE pursuant to Attorney General subpoena 99-58. The documents had been brought to the attention of the DAG at the voluntary instigation of the Interim Trustees.¹⁵ The documents included records relating to political fund-raisers from as early as 1992 to as late as 1996 and consisted of approximately more than 950 pages of material plus a number of fund-raising event tickets.¹⁶

Snow Office Documents

On June 26, 1999 a search was conducted for the KSBE GRD office previously occupied by Namlyn Snow. During the search personnel from DAG, GAI, and the Honolulu Police Department White Collar Crime Unit seized a number of pieces of evidence including computer hardware, software, electronic data storage devices, and numerous documents. Analysis of the seized material provided useful information in the continuing investigation.

Waiver of Privilege

During the course of the investigation GAI suggested to the DAG that a waiver of privilege be sought from the Interim Trustees for a number of areas then under investigation. Two of the areas which the Interim Trustees agreed to provide such a waiver included possible violations of campaign spending laws and the handling of Milton Holt's VISA credit card charges.

Direction To Halt Active Investigation

On September 21, 1999 GAI recommended that the investigation of possible bribery and/or campaign spending violations relating to KSBE political polling should proceed with interview of likely witnesses. Attorney General Anzai stated his opinion that questioning of candidates would not result in admissions, that the violations were de minimis, that the expense of such an investigation was too great, and that it was too far beyond what the public wanted from the Bishop Estate investigation. He also said that such third-party provided polls were given, in his experience, frequently by unions to campaigns, and that their accuracy and value to a campaign was frequently questionable.

¹⁴ Exhibit 15, Tsukayama memorandum, 12/6/99: From 1/5/95 to 4/21/98 Snow left at least 42 message for Trustee Wong.

¹⁵ Aipa interview, 5/25/99, p. 9.

¹⁶ pp. AG010300-011264.

Anzai directed that GAI would conclude its active investigation with the review of documents already under subpoena and the completion of previously scheduled interviews. GAI was directed by Anzai to halt all other active investigation in the area of KSBE's political activity.¹⁷

Direction to Provide Report for Campaign Spending Commission

On September 21, 1999 Attorney General Earl Anzai directed GAI to prepare a report of findings relating to KSBE and its Government Relations Department for forwarding to the State of Hawaii Campaign Spending Commission (CSC). The report was to include all information that would assist the CSC in determining whether CSC would take further investigation at its own level or administrative enforcement action. This document and its included and referenced exhibits together constitute that report.

Preliminary Findings Regarding KSBE Involvement in Government

Indications of KSBE Deliberately Obtaining Influence in Government

The investigation to date has found indications that KSBE, especially through its Government Relations Department, may have deliberately attempted to obtain influence over official government actions by members of the State Legislature and the Supreme Court. In some instances, there is evidence that suggests that KSBE sought to keep secret its attempts at influencing government. It is possible that unregistered lobbying activities and political activity (expressly prohibited of a charitable organization with KSBE's tax status) were both, in fact, undertaken in order to forward KSBE goals with respect to exercising influence over government and non-government actions.

Part of any such deliberate attempt at obtaining influence may have been the breaking of campaign spending laws relating to contributions to candidates for public office and the operation of an unregistered de facto Political Action Committee. Further investigation is likely necessary to establish whether this was, in fact, the case.

The information that follows is provided to allow the users of this report to place the specific possible violations within an overall context that may:

1. indicate areas worthy of further investigation, or may act as items of proof with respect to specific elements of prohibited conduct, or
2. tend to establish motive for why some prohibited acts may have been committed,
or
3. tend to establish a pattern of similar conduct.

¹⁷ Tsukayama memorandum, 9/22/99.

Introduction

Trustees Views

“Only Government Could Hurt Us, Period.”

It is known that Henry Peters, while serving as a KSBE trustee, held the view that government was a large threat to KSBE. It is reported that Peters was concerned by the ability of government to affect KSBE. Neil Hannahs, KSBE Regional Land Manager reported that Peters, “... would frequently say only government could hurt us, period.”¹⁸

Long time KSBE Government Relations Office Alexander Alika Thompson recalled that Peters expressed similar sentiments with regard to GRD personnel screening of legislative bills.¹⁹

Dr. Michael Chun, Kamehameha Schools president, told the DAG that he had heard Peters express the sentiment that the only thing that can bring down the institution was the government and so it was important to pay attention to who is in government and to support friends in government.²⁰ This was also apparently discussed in meetings held in the Boardroom. According to Chun, “... in the board room there had been discussions of all the fact that the only people who can hurt us are the people in the legislature and, um, and so you know we really, as an institution, we need to help those friends that we have in the legislature.”²¹

Peters was also apparently quite concerned with the investigation by the DAG. According to Hannahs, “Well at various points of the investigation when things were being brought from the institutions or allegations were being made, he would talk about his feelings about it and inaccuracies or unfairness, usually punctuated with this thought, you know, government can hurt us.”²²

¹⁸ Hannahs interview, 5/26/99, p. 21.

¹⁹ A. Thompson interview, 6/21/99, p. 21. JT: Do you ever remember being in a meeting where, or meetings, where Mr. Peters said words to the effect that the only people who can hurt KSBE are government? Thompson: Yeah.

Ibid., p. 22: Thompson: “... Henry Peters mentioned that we have to watch, you know these bills and stuff like that, which we do anyway, because government is the only one who can hurt us and we have to be aware that’s what we’re doing there everyday and everything we feel affects Bishop Estate we refer to our team, team leaders, and I think that was when he brought out that fact that the only one that can hurt us is government.”

²⁰ Tsukayama memorandum, 1/7/98, p. 4.

²¹ Chun interview, 3/26/99, p. 12.

²² Hannahs interview, 5/26/99, p. 21.

“In Hawaii, Only the Government Has More Power.”

Papers found among the items left behind when Henry Peters vacated his office in May 1999 provide other information.²³ Copies of two articles on KSBE dating from 1976 and 1983 were among papers provided under subpoena by KSBE.

The relationship between KSBE and Hawaii government was described in a 1983 issue of Honolulu Magazine. The article about Bishop Estate quoted the New York Times:

‘Nothing quite like the Bishop Estate exists in any other state. Its influence is pervasive, akin to that of the Du Pont family in Delaware. Its connection to partisan politics appears to be without parallel among large charitable trusts. In Hawaii, only the government has more power.’
(emphasis added).²⁴

In that same article appears the passage:

To the charge that his three colleagues and Hung Wo Ching are all Burns-Ariyoshi political cronies, trustee Richard Lyman replies: “Sure they appointed Democrats. To the victor go the spoils. But remember that before the Democrats got in, Republican governors got their choices in
...”²⁵

In notes apparently taken during another trustee retreat (which were provided from the records left in Trustee Wong’s office) is another possible indicator of the level of importance trustees may have placed on government as it related to KSBE.²⁶ The notes are on a sheet which is headed “KS/BE Threats.” There is a question printed beneath the heading that asks “With what threats is KS/BE confronted as it plans for its future?” There are only three answers written in the twelve spaces allotted:

- ✓ Economic Health
- ✓ Political: Leg City Council
- ✓ Rapid Change²⁷

²³ Exhibit 26, Tsukayama memorandum, 12/7/99.

²⁴ p. K155230.

²⁵ Ibid.

²⁶ Exhibit 19, Tsukayama memorandum, 12/8/99.

²⁷ p. K158626.

Government Relations Department

Namlyn Snow

Namlyn Snow joined the Estate as a Government Relations Specialist on November 19, 1987.²⁸ She later became the manager of the KSBE Government Relations Department. Her background included the following experience in government, research and communications:

1. Legislative Assistant/Researcher, Office of the Majority Leader, House of Representatives;
2. Consultant, SMS Research;
3. Administrative Assistant, Department of Hawaiian Home Lands;
4. Executive Secretary (Staff Director), Honolulu Neighborhood Commission;
5. Communications Director/Administrative Assistant, Waianae Model Cities Program;
6. Evaluator/Research Specialist; Office of Human Resources, City & County of Honolulu;
7. Promotion and Advertising Manager, KITV & KHVH Radio.²⁹

Alika Thompson

Alexander “Alika” Thompson spent much of his career, before becoming employed by KSBE, as a professional lobbyist. During the 1965 through 1967 legislative sessions, Thompson was loaned full-time by his employer (Ewa Plantation Company) as a legislative aide to the Hawaii Sugar Planters Association (HSPA). From 1968 through 1977 he was a full time legislative aide employed by HSPA. From 1978 until joining the Estate in 1984, Thompson was the Director of Government Affairs for Hawaiian Electric Company (HECO).³⁰

Thompson’s connection to politics seem to be documented in his resume wherein he listed his political affiliations:

Registered Democratic
Precinct chairman, 5th precinct, 18th Representative District
Chairman, Precinct Voting Station
Delegate to last three Hawaii Democratic Conventions³¹

²⁸ p. AG000018345.

²⁹ pp. AG00001853-62.

³⁰ p. AG000017596-99.

³¹ Ibid.

His Kamehameha Schools Application For Employment, dated August 31, 1984 indicates Thompson's additional political connections. In a section of the application he lists two personal references known for at least five years. They were then-Governor George Ariyoshi and then-Mayor of Honolulu Eileen Anderson.³²

While spending time at the legislature, Thompson observed various KSBE trustees visit in a seemingly uncoordinated fashion. He approached then-Trustee Pinky Thompson and urged him to establish a position for someone to represent KSBE at the legislature. He was later told by Trustee Thompson that the trustees had agreed to this, but they had decided to assign the duty to an existing employee.³³

Some time later, Thompson was offered a position. He believes that Henry Peters decided that KSBE needed a full-time person for the position. Thompson spoke with Peters about the role Peters felt Thompson could fill.³⁴

Thompson has testified that since starting to work at KSBE he has never actually lobbied. He said that he always felt KSBE should register lobbyists but he was constantly told that KSBE does not lobby. He gave the reasons he felt that KSBE should register lobbyists:

Because I always believed that, 'cause when I was with Hawaiian Electric we were registered. When, when I was with, HSPA we were registered. And I felt that I wanted to be able to sit down with these guys and discuss the pros and cons of bills and urge them to pass or fail bills that I was interested in. I wanted to do that up front.³⁵

Thompson's political background also includes personally assisting in a number of campaigns. When asked whether he could estimate the number of campaigns he had assisted in the last five years, Thompson said:

Not really. Again some of it was just writing what you would call a friend to friend letter, you know, I never went house to house, I don't like to do that for anybody but to hold sign things like that, see, Whitney Anderson, Bobby Bunda, Brian Kanno, Cal Kawamoto, Norman Mizuguchi, Bob Nakata, Norman Sakamoto, Rod Tam, Joe Tanaka, Brian Taniguchi. In the House Philip Abinsay, Lei Ahu Isa, Romy Cachola, Jerry Chang, Ken Ito, Tom Okamura, Calvin Say, I guess that's about it.³⁶

³² pp. AG000017616-17.

³³ A. Thompson interview, 10/19/99.

³⁴ Ibid.

³⁵ A. Thompson interview, 10/19/99.

³⁶ A. Thompson interview, 6/21/99, p. 34.

Dawn Farm-Ramsey

Dawn Farm-Ramsey has been an employee of KSBE for twenty years. She began as a volunteer working under Hannahs. She eventually became a Communications Assistant to the office of then-Kamehameha Schools President Jack Darvill. She eventually went to work in the newly formed Public Affairs Department. She remained there until the formation of the Government Relations Department ten years ago. The GRD was formed with Farm-Ramsey and Alika Thompson working for Namlyn Snow. At that time Farm-Ramsey was classified as a Government Relations Analyst. She was eventually promoted to the position of Government Relations Officer.³⁷

GRD Activities To Influence Community Groups

Influencing Community Group Decisions Regarding KSBE

Farm-Ramsey's position with GRD was specifically that of Government Relations Officer: Community Organizations.³⁸ There is evidence that Farm-Ramsey used her positions and influence with various Hawaiian community groups to obtain results favorable to KSBE and its trustees.

In documents written by Farm-Ramsey to Snow, she stated:

... my participation in various Hawaiian organizations has enabled me to enlist the support of the organizations as well as the members when such support has been needed for rallies, demonstrations, legislative hearings, media advertisements, press conferences, letters to editors, resolution introduction and support, etc.³⁹

Included ... is my work with the Kokua network: lining up testifiers, drafting testimony, even picking people up, dropping them off, and taking supporters to meals before and after hearing, paying for the "Protect Hawaiian Land Rights" buttons; participating in a variety of organizations and serving on just as many board of directors and taking advantage of those networking opportunities to line up Hawaiian organizational support for KS/BE (Lunalilo Home, Native Hawaiian Legal Corporation, Hawaiian Business/Professional Association, Hawaiian Civic Political Action Committee, Hawaiian Civic Club of Honolulu, Association of Hawaiian Civic Clubs all responded to individual presentations I made --

³⁷ Farm-Ramsey interview, 8/5/99, pp. 3-5.

³⁸ p. AG000017958.

³⁹ p. AG000019481.

on behalf of HACPAC -- for support); initiating and organizing support for and interest in the trustees' receptions for Hawaiian organizations; initiating and gathering support for and participation in alumni rallies; initiating plans for events honoring the accomplishments and contributions of the Trustees.⁴⁰

Developed a core of supporters who can be counted on to do whatever is necessary to enable them to attend hearings, present testimony and otherwise demonstrate support for KS/BE's legislative agenda(.)⁴¹

In a 10/25/92 appraisal memorandum to Snow, Farm-Ramsey also pointed out that she had:

Developed and introduced an Association of Hawaiian Civic Clubs resolution urging protection of Hawaiian Trust lands against acquisition for a national park (Ka Iwi Shoreline), and the successful pursuit of this resolution's passage (this took considerable effort at the last convention because of a strategic tactic employed by some clubs on the convention floor to get rejected resolutions tacked on to others like Ka Iwi); Successfully pursued and implemented alumni legislative rallies resulting in good press coverage and, I believe, some reflection on the part of the legislators of the Hawaiian perspective;

- ❖ Recommended the selection of KS/BE Trustees' to receive honors awarded by Hawaiian community (Lei Hulu Mamo award honoring Mr. Peters; Hawaiian Civic Club of Honolulu Holoku Ball honoring the five KS/BE Trustees).
- ❖ Successfully pursued a by-laws amendment for Hui Na'auao which accomplished two things: 1) deleted language in a proposed amendment which would have included Hawaiian trust lands in a sovereign nation land inventory; and 2) added language which stated the Hui's support of the protection of private Hawaiian trusts from governmental condemnation of land.⁴²

Trustees Notified Of Legislative Support Networks

There is evidence that the community-based work completed by Farm-Ramsey was supported by Snow and reported to the KSBE trustees, at least in general terms. There is also evidence that such work was undertaken to circumvent negative views held in segments of the community by keeping KSBE involvement sub rosa. There are

⁴⁰ p. AG000017676-77.

⁴¹ p. AG000017682.

⁴² p. AG17678-79.

indications that KSBE actually created groups that would forward KSBE interests without overt association with KSBE. In a lengthy 1994 briefing document on the general topic of lobbying, the trustees were advised:

A special note should be made that the strong anti-KSBE sentiments held in certain legislative/political quarters and among some special interest groups coupled with the no-lobbying policy of KSBE has encouraged the development of legislative support networks which are very effective in their own right and which are not saddled with any negative KSBE baggage.

One organization which was created by GRD as a hybrid group of property rights advocates (its membership includes a KSBE trustee and staff and small landowners) has some degree of success in terms of educating the general public as well as the media and elected officials on leasehold issues. With major assistance from KSBE's Communication Division and the Legal Group, the HUI PONO AINA produced and aired TV and radio commercials and newspaper ads. Special editorial board meetings with the two major Honolulu dailies as well as a number of press conferences have been held over time. HUI PONO AINA does not lobby, in part because it is a 501(c)(3) organization and because KSBE has been its major contributor. However, surveys conducted on the mandatory lease-to-fee conversion issues during the time that the HUI was most active indicated a shift in public attitudes on the issues with public opinion becoming more supportive of private property rights. With a change in the political make-up of the council and the passage by the City and County of Honolulu Ordinance 91-95 (mandatory conversion) and 91-96 (lease rent cap) and the subsequent court battles, the HUI became dormant. An effort is now underway to revive the activities of the HUI. Other non-lobbying assistance on specific activities is also received from the KS Alumni Association which is also a 501(c)(3) organization.

A support network which does actively lobby includes members of the KOKUA NETWORK which was developed by GRD staff on a strictly volunteer basis. The network of volunteers (composed of family and friends of KSBE) have held demonstrations, called and written to legislators and actively lobbied as an independent effort.⁴³ (emphasis added)

GRD Intelligence Collection Activities

Evidence was obtained in the investigation that may indicate that KSBE collected intelligence on individual politicians, as well as the plans and intentions of government organizations in order to forward its interests.

⁴³ pp. K142433-34.

Milton Holt

Information originating from Gilbert Tam, the former Director of the KSBE Administration Group, was received regarding the true role of Milton Holt at KSBE.

In a 8/4/98 memorandum from Tam to Estate General Counsel Nathan Aipa, Tam explained:

He (Holt) made himself available to provide legislative strategy consultation and intelligence that assisted the Governmental Relations Department, a unit of the Administration Group.⁴⁴

Tam, a graduate of the United States Military Academy at West Point, provided specific testimony in this area:

JT: Um, in one of our earlier interviews you said that, I believe you described Holt's value to the Government Affairs section in part as in providing of information or intelligence on what was going on in the legislature, and I believe you used the term "G-2 Level Intelligence?"

Tam: Yeah.

JT: Can you tell us more about that?

Tam: G-2 is a term that is used by the military and is an office, they have G-1, G-2, and G-3. G-1 is Personnel, and G-3 is Operations, and G-4 is Supply. So G-2 is a terminology associated with intelligence. So its like where the lay of the land, what's happening at the Legislature, who's doing what, strategies to consider, etc.⁴⁵

Personnel documents also contain some indication that Holt's intelligence gathering work was part of his formal employment expectations. In a Position Description Questionnaire relating to Holt's position as a Special Projects & Community Relations Officer, there are four Essential Responsibilities listed. They are listed below with the amount of time expected for each function as allocated on the document:

1. Serves as a liaison for KSBE with various community and business entities. (30%)
2. Involved in a variety of public and community relations activities and promotes KSBE in a positive view. (20%)

⁴⁴ p. K-126781.

⁴⁵ Tam interview, 6/25/98, pp. 12-13.

3. Performs special projects as assigned by supervisor or Board of Trustees. (20%)
4. Conducts community reconnaissance to facilitate KSBE strategic planning. (20%) (emphasis added)⁴⁶

The approval spaces of the document are signed by both Holt and the Administration Group Director, Rodney Park, with dates from October 1995.

Robert Lindsey

In the search of Snow's former office was found a set of papers apparently concerning or authored by Robert Lindsey dating from 1989.⁴⁷ At the time Lindsey was a Community Relations Specialist assigned to Kona. The documents included detailed assessments of a number of political figures from the Island of Hawaii. The profiles include information regarding the individuals' position, political service, education, and focus/platform. Included in the profiles are Lindsey's personal assessments of the politicians. From the profiles, titled "Who's Who In Hawaii County Government" and "Who's Who in Hawaii State Government":

"She loves to play the crowd at hearings and meetings. Constantly at war with Goliath. A true friend of the huddled masses."⁴⁸

"The most pompous of Hawaii Island politicians. She knows it all. She'll go to the grave saying she is right even though the evidence shows she's wrong. Some say she suffers from a severe case of 'stuck brain.'"⁴⁹

"Too candid. Too feisty. Too demanding ... is in a constant state of war ... likes to keep the pot stirred up ... will take on anyone and any issue at anytime ... thus far we're still in the Senator's words 'the best of allies.' Enough said."⁵⁰

Intelligence Gathering Relating to Opponents of KSBE Positions

Targeting of intelligence gathering efforts may not have been confined to politicians. In Snow's office was found a July 1993 confidential draft of the "Government Relations

⁴⁶ pp. K126914-K126917.

⁴⁷ pp. AG000018442-81.

⁴⁸ Ibid., p. AG000018448.

⁴⁹ Ibid., p. AG000018451.

⁵⁰ Ibid., p. AG000018465.

Department Strategic Direction and Initiatives,”⁵¹ marked “submitted by Namlyn Snow.” At one point, the document contains the following description of one way in which GRD advocated a KSBE position:

Researched and compiled data on lessees involved in lease to fee conversion activities.⁵²

Opponents of KSBE’s position on mandatory lease conversion were apparently targeted in GRD’s research compilation:

... a research director of a major real estate company who has been featured at HOBO gatherings and has published articles against BE’s “high” voluntary conversion prices after buying the fee from BE on two properties -- one single family and one condominium both in the Hawaii Kai area

... the leader of the HOBO group bought the fee under threat of mandatory conversion of a KS/BE single family property on the same street and within a year’s time of purchasing a leasehold townhouse in Hawaii Kai and is currently offering the single family at a price representing approximately a 150% increase over his purchase price in less than a 5-year period

... the leader of a group supporting mandatory conversion and rent cap at the State legislature and city council who purchased the fee from BE under the voluntary sales program and continues to push for mandatory conversion, rent cap and legislation requiring “good faith negotiations” on voluntary fee conversions⁵³

One example given of the results of that research compilation did involve a politician:

... a council member who has been a major supporter of mandatory conversion and land rent cap acquired the fee from BE for a single family home under the threat of mandatory conversion and made over \$1 million on the re-sale, then purchased a BE leasehold condominium and introduced legislation for mandatory conversion of leasehold condominiums ...⁵⁴

⁵¹ pp. AG000018662-668.

⁵² p. AG000018673.

⁵³ Ibid.

⁵⁴ Ibid., pp. AG000018672-773.

Release of Gathered Intelligence

The same document indicates how KSBE used the gathered information:

This information, which is a matter of public record, has been shared with select audiences including legislators and city council members, media representatives and support groups.⁵⁵

Monitoring Elections

There is evidence that suggests that KSBE's GRD expended considerable effort to monitor elections within the estate.

A 4/29/96 document titled "Notes from Donna" which was found in Snow's office appears to have provided some transition information for the returning department secretary from the clerk who had been filling the position. In part, the memorandum laid out information regarding GRD's 1996 Elections efforts:

Election 1996

This binder has been started and the candidate file can be found on my disk "misc. legislature 1996." File name is "election."

Each Friday a list of candidates is published by the L.G.'s office, and is available at approximately 2:00 p.m. This will enable you to update our computer file each week with new candidates who have pulled papers, and confirmed candidates who have filed papers.

Newspaper articles and background information are filed behind the page where the particular candidate is listed in **our** candidate file (as opposed to the list generated by the L.G.'s office). [emphasis original]

During 1994, each member of internal GRD campaign committee held a duplicate binder which was updated weekly, prior to the weekly meeting of the committee.⁵⁶

There are extensive records (nearly 4,500 pages) which appear to date from the 1994 election period which appear to demonstrate the level of commitment to elections monitoring by KSBE. The records contain clippings of news articles, candidate advertisements, and what appear to be internally produced candidate guides.⁵⁷

⁵⁵ Ibid., p. AG000018674.

⁵⁶ Ibid., p. AG000018186.

⁵⁷ pp. K130004-K134503.

Election Activities

Political Activity Prohibitions Known By KSBE

Lobbying Briefing Material

There is evidence which indicates that KSBE was aware of the restrictions placed upon IRC 501(c)3 organizations becoming involved in elections. A number of documents tend to support this view.

Included in the trustees' retreat briefing materials on lobbying is a memorandum dated June 10, 1991 from attorney Edwin T.C. Ing to KSBE attorneys Nathan Aipa and Stacy Rezendes regarding "Tax exempt organizations' Lobbying and Political Activities Rules." At one point in the memorandum Ing stated, "In brief the Estate: ... cannot undertake any campaign activities."⁵⁸ At another point he wrote:

If an organization engages in lobbying to a substantial degree or if it engages in any political campaign activities, it will lose its tax exemption. The organization's income then becomes fully taxable and only certain lobbying expenses may be deducted from income under regulation section 1.162-20(c); expenditures for political campaigning or to influence the public on legislative matters are not deductible.⁵⁹ (emphases original)

Also included in the same briefing material is another letter from Ing to Aipa dated 7/29/94 and is referenced "Organizational and Individual Political Activities." In it Ing states a general rule regarding organizational activities:

Federal tax law and the Treasury Department's regulations forbid the Kamehameha Schools Bishop Estate from participating in any political activities either supporting or opposing a candidate to an elected office. Two courts have interpreted this prohibition to be an absolute ban against any political activity.⁶⁰

In the same letter, Ing described a general rule relating to individual political activity:

While a charity's political involvement is forbidden, its trustees, officers, employees, and consultants, have the right as individuals to participate in political campaigns However, they must exercise some caution that

⁵⁸ p. K142549.

⁵⁹ p. K142561.

⁶⁰ p. K142569.

their political activities will be attributed to the charity, endangering the organization's tax exemption.⁶¹

While the Ing material appears in the voluminous exhibits to the briefing material, the following is stated by Snow (the presumed author) at the conclusion of the Background section of the material, which was part of the main body of the material:

This final note is added for emphasis and clarification. While this report is on lobbying, there is a need to distinguish lobbying, which is defined as the attempt to influence particular legislation, from political activities. If a decision is made that KSBE will lobby, specific guidelines and procedures will need to be established. However, any activity that has even remote political implications also needs to be clearly and unequivocally tackled head on the KSBE policy statements. KSBE policy and procedure manuals should let staff know what is expected and permitted and should clearly state that the organization will not endorse any candidate and that organization participation in a political campaign and/or political action committee (PAC) is prohibited. There should be a procedure for top management review of any activity that seems even remotely connected with political activities. A clear distinction must be made that lobbying is not the same as political activity. Participating in the political process on an individual basis is in the best American tradition and should be encouraged. However, it just cannot be done in the context of a 501(c)(3) organization.⁶² (Emphasis added.)

Employee Handbook

There is some indication that KSBE informed employees of restrictions on political activities. Page 69 of a KSBE handbook contains the following:

8. Getting Involved in Political Activities
 - a. Staff members are encouraged to support political parties and candidates of their choice on their own time and with their own money. KSBE's equipment, supplies, vehicles and facilities will not be used for promotion of specific candidates.⁶³ (emphasis added)

Fund-raiser Tickets & Other Political Activities

The KSBE Fund-raising Ticket Handling Process

⁶¹ p. K142572.

⁶² p. K142435.

⁶³ Exhibit 18, Tsukayama memorandum, 12/8/99.

Records and testimony received indicate that KSBE'S GRD may have been heavily involved in the monitoring of elections and the raising of funds for some politicians.

One such document appears to indicate at least one trustee's interest in the subject. A memorandum from O.K. Stender to Gil Tam, Director of Administration Group and Nam Snow, Manager, Government Relations, was found in Snow's office. It read in part:

We should have a systematic program for making political contributions with a defined budget for trustees and management participation. Also in this connection, we should have some policy guidelines for attending fund-raisers and staff participation in political activities.⁶⁴

Another document found in Snow's office was titled, "FUND-RAISE" and "Policy/Procedure." This was written by then-Government Relations Officer Lurline Naone Salvador based on discussions with, and instructions received from, Snow.⁶⁵ It reads:

In an effort to organize the distribution process of fund-raiser tickets to staff the following is proposed:

- All tickets received by staff or trustees, should be turned in to the Government Relations Manager.
- Once the tickets are submitted to the Government Relations Manager, she will apprise Trustees of the event, cost and date.
- Trustees will determine the amount of tickets to purchase.
- GRD Manager will distribute tickets according to staff's responsibilities, district affiliations, interests, etc.

It is important to note that distribution of tickets will be at the discretion of the Trustees and GRD manager. Requests from staff to attend a specific fund-raiser should be made directly to the GRD manager.⁶⁶

Logging the Tickets At GRD

Once tickets were received in GRD, it appears that there was a perceived necessity to keep track of the tickets, the related fund-raisers, and the moneys used to purchase tickets. The majority of the documents taken from the Snow Safe appear to be the records created from these efforts.

⁶⁴ pp. AG000017461-62.

⁶⁵ Salvador interview, 7/16/99, pp. 13-14.

⁶⁶ p. AG000019493.

We found no direct evidence that KSBE funds were used to directly purchaser fund-raiser tickets.

Donna Ho, a former GRD clerk described the receipt of tickets and logs that were kept:

JT: Were you aware of a process by which candidates would -- that tickets would be purchased for the candidate fund-raisers?

Ho: I was aware that fund-raising tickets came into the office via mail because I did open some of the mail. Normally, I did not open mail, but there was a period of time when the secretary for the department was out ill and so I took over secretarial duties while she was out. So I was aware that tickets came in through the mail from various candidates. I couldn't tell you off the top of my head who, and I was aware that sometimes tickets were given to people to attend the fund-raisers, but as far as beyond that, I know that -- I recognize that over there -- the fund-raiser book.

JT: Uh huh,

Ho: I know that -- I was -- one of my jobs was to keep a calendar of when the fund-raisers were --

JT: Uh huh,

Ho: -- and their locations and time and that type of thing.

JT: Did you also maintain on occasion a log of tickets received?

Ho: I can't remember if was tickets received or tickets that went out. I remember keeping a log that showed -- I'm trying to picture in my mind -- Nam would periodically come to me with checks and ask me to run copies of the checks and just to log the information that these checks were for so-and-so's fund-raiser tickets, the date and the numbers and that type of thing. And that's what I would do, I would log that and put it into the binder and that would be given back to Namlyn and put away.

JT: When you say put away --

Ho: Uh hum.

JT: Where were they kept?

Ho: In her safe.

JT: Okay, did you have the combination to the safe at any time?

Ho: At that time, yes, I did. I was able to go in and make adjustments to it or to put things into the safe.

TP (JT?): To the log (inaudible)?

Ho: Uh hum.

JT: What would you do with the checks?

Ho: Give them to Nam or she would keep them in an envelope -- beyond that point I don't know what happened to them. I'm assuming they were delivered to whoever's fund-raising committee that they were supposed to be for.

JT: Now would anyone other than Nam Snow give you checks to log?

Ho: No, I've never -- I never received anything other than from Nam.

JT: And the log you maintain --

Ho: Uh hum.

JT: How did you know what information should go into the log?

Ho: She just told me to put down the name -- I think, this is a couple of years ago -- I think it was the name of the person whose check it was, the check number, maybe the bank that the check was drawn on, the ticket numbers and whatever the fund-raiser was.⁶⁷

Paul Cathcart/Neil Hannahs Ticket Experience

Paul Cathcart is the KSBE Director of Urban Oahu Region of KSBE's Asset Management Division. He has been with the Estate for twenty-two years. Cathcart provided information regarding his experiences relating to the receipt and disposition of political fund-raising tickets while with KSBE.

Cathcart confirmed that he had received solicitations for tickets:

Cathcart ... usually it was solicited in the mail or it was a call from somebody like a Clegg or campaign manager or city council member saying well, hey, you know I'm running for re-election, you mind if we send you over some tickets? Do you think you could get the trustees to buy X number? And my standard answer was, look you can send them

⁶⁷ D. Ho interview, pp. 9-11.

over, we can pass um to the people who are responsible for it but we can't promise anything, so they say, we'll send ya 50, 100 or whatever so.

Cathcart explained what he would do with the tickets once he received them:

JT: Okay now after sending them to, you said earlier, Government Relations Department, did you direct them to a particular individual there?

Carthcart: Yeah, we were always told to send um directly to Nam.

JT? Okay.

Cathcart: Nam Snow.⁶⁸

Neil Hannahs, another Estate land management executive, provided his understanding of what he was to do with tickets:

Hannahs: And our practice was to figure out how to support the candidates that of the institution's choice I guess or the individuals of the institution's choice and we would refer them down to government relations office.⁶⁹

Hannahs: Okay, it probably best ... clarifies my procedure, having worked it out with Nam Snow as head of Government Relations. Nam was, had, that responsibility. As I said I found myself testifying on a variety of issues over the years at the Estate and inevitably at some point during the year, at various points during the year I would receive unsolicited requests to attend a fund-raiser or support people at a fund-raiser, purchase tickets and so forth. Those would be sent to me at the office. I would ask, I asked Nam at some point what to do with these. She said just send them to me. So I would ... in the course of doing my mail, open the envelope and see its fund-raising campaign stuff, I would put it back in the envelope and just kind of slash my name and redirect it and put Nam Snow and have it send down to government relations.⁷⁰

“... Eh, Is This Legislator, This Councilman, Friendly to Us?”

Cathcart also explained the kind of interest his superiors had when they would ask them about tickets he had received.

⁶⁸ Cathcart interview, 7/8/99, pp. 26-27.

⁶⁹ Hannahs interview, 5/26/99, p. 3.

⁷⁰ Ibid., p. 4.

Cathcart: ... the question is always, of eh, is this legislator, is this councilman, friendly to us? Have they been supportive of Bishop Estate positions and things?⁷¹

Cathcart:... Henry Peters was the Acting General Manager before that was Tony Sereno, he's my boss, General Manager, before that was Guido Giacometti, before that was Gilbert Allen and in each one of the cases, they would say, well how is this guy, you know, just in our weekly managers meetings, you know, what's happening, what is there for vote, somebody just got some tickets , send um to Government Relations, by the way how is that guy, is he supportive of us or what?⁷²

Volume of Tickets Received

Laurita Hookano, GRD secretary, while describing how tickets were logged in at GRD, gave an example of a large set of ticket received:

Hookano: Like we received like, for example, Mayor Harris sent twelve hundred tickets and each ticket was \$25.00 I would have \$25.00, twelve hundred tickets and then what the total amount was the he would have wanted us to purchase.

JT: I see, and was that what you just mentioned an actual event?

Hookano: That is correct.⁷³

Cathcart provided some information regarding the amounts of tickets received from individual campaigns:

JT: Okay, are you able to estimate for us the largest number of tickets sent to you by Don Clegg?

Cathcart: No.

JT: Okay are you able to determine whether it was fewer than 500 tickets?

Cathcart: No.

JT: So its possible that it was more than 500 tickets?

⁷¹ Cathcart interview, 7/8/99, p. 27.

⁷² Ibid., p. 28.

⁷³ Hookano interview, 5/24/99, p. 20.

Cathcart: Anything's possible.

JT: Well --

Cathcart: I just don't, I've seen so many tickets over the years and from various parties that were --

JT: Well --

Cathcart: -- big bundles, so I cannot attribute um to any one source.⁷⁴

Cathcart was shown a manila envelope of with dimensions of approximately 8.5 x 10 inches. He confirmed that when discussing "big bundles" of tickets, they came in that size of envelope, completely filled to capacity.⁷⁵

"... Inevitably That Committee Chair Puts You On Their Campaign Mailing List ..."

Cathcart indicated that he believed that legislative committee chairs send tickets to people who sign up to testify at the legislature.⁷⁶

Neil Hannahs shared a similar view:

Hannahs: ... I mean my experience is every time you testify before a committee inevitably that committee chair puts you in their campaign mailing list and you as an interested party and when they have a campaign fund-raiser they, they send you a couple of tickets of some will send you a couple, some will send you a book, some may get aggressive and send you a whole bunch.⁷⁷

Selling Political Fund-raising Tickets

Aipa was asked whether he had received tickets from candidates for political office at work. He testified:

Aipa: Tickets have crossed my desk, yes.

JT: Okay, and what did you do with those tickets, when they would arrive?

⁷⁴ Cathcart interview, 7/8/99, pp. 23-24.

⁷⁵ Ibid., pp. 34-35.

⁷⁶ Ibid., p. 35.

⁷⁷ Hannahs interview, 5/26/99, p. 3.

Aipa: Well, it depends on how I receive them, sometimes I would just hold them until the date passed and then toss um. Sometimes I was asked to see if firms may be interested in buying tickets, I asked.

JT: And specifically, let me follow up on that. Who has asked you to see if firms would be willing to buy tickets?

Aipa: Primarily Nam would ask.

JT: And can you recall a specific instance?

Aipa: No, I really can't. It would be primarily Nam would ask from time to time.⁷⁸

Aipa recalled being asked less than five times since being employed at KSBE to ask law firms to purchase tickets. All of the individuals he contacted share a common characteristic:

JT: And were they only individuals at law firms that did business with the Estate?

Aipa: Yes.

JT: Okay, and was there some reason that you didn't approach other attorneys that were not doing business with the Estate?

Aipa: No.⁷⁹

Aipa remembered contacting attorneys C. Michael Hare, Ben Kudo, and Bill Yuen and asking them to buy tickets.⁸⁰ Aipa provided testimony regarding the level of knowledge by a trustee about the practice:

JT: ... other than Nam Snow did any other employees or Trustees of Bishop Estate ask you whether you would be willing to see if other people would be willing to buy tickets?

Aipa: I can only recall Nam Snow being the one to ask.

⁷⁸ Aipa interview, 5/25/99, pp. 11-12.

⁷⁹ Ibid., p. 13.

⁸⁰ Ibid.

JT: Did you ever have any conversations with any Trustees in which it became apparent to you that they were aware of that you have been asked by Nam to do this sort of thing?

Aipa: I know, I know Peters was aware of some of this activity, but I'm not sure if, how to address your question specifically.

JT: Oh, well maybe we can start there.

Aipa: Yeah.

JT: How do you know that Mr. Peters was aware of this activity?

Aipa: You know, my only hesitation is only be accurate in terms of how I can recall some of this stuff, it's been kind of a long while. I guess, you know, there may have been times when I was called in to see Peters, maybe Nam might have been there, I'm really speculating now, I guess it's dangerous to speculate something like this but, and they would ask if I could ask one of my lawyers to see if they're interested in buying campaign tickets.⁸¹

Sam Hata

Sam Hata is the Senior Director of Facilities/Support Services at Kamehameha Schools. He also spent seven years in senior management positions in the Fasi administration of the City and County of Honolulu as Budget Director, Finance Director, and the Deputy Managing Director.⁸² Part of his duties with KSBE formerly included the pre-selection of bidders for construction contracts for projects on the school campus.⁸³ He recalled being asked by Snow once to try to sell fund-raising tickets and testified that he approached individuals who were personal acquaintances as well as those who did business with the Estate.⁸⁴

Hata was asked about whom he approached, whom he did not approach, and the distinctions in his mind:

JT: Okay. And do you remember talking to any of these contractors asking them to make contributions?

⁸¹ Ibid., p. 16.

⁸² Hata interview, 5/26/99, pp. 3-4.

⁸³ Ibid., pp. 4-5.

⁸⁴ Ibid., p. 5.

Hata: I asked them if they want to buy fund-raising tickets.

JT: Okay. How did you receive the tickets?

Hata: Through the mail. Through the -- let's see, how did I receive the tickets? She may have given it to me personally, she may have given it to me personally.

JT: Nam Snow?

Hata: Yeah, Nam Snow.

JT: Did Nam explain why it was that she was asking you to help out Marshall Ige over anybody else out there?

Hata: No. I understand he is a friend of Mr. Peters at that time, that's all I know.

JT: Okay. And did you talk to any of the people in your department?

Hata: No.

JT: Why not?

Hata: I don't think -- I don't feel comfortable selling it to them because of the employee/employee relationship. I'm the manager, I don't feel -- I don't want them to feel the pressure to give.

JT: What about the client/contractor relationship?

Hata: This done all over the -- Hawaii I know that. When I was working for the City, we used to do that so I don't feel uncomfortable with that -- they in business.⁸⁵

Donald Clegg

"Whether They Like The Mayor Or Not ... Was Not Necessary"

During the course of the investigation, an opportunity arose to obtain insight into how a long-time political campaign organization chose to whom to send tickets generally, and how it related to KSBE, specifically.

Donald Clegg was associated with the Honolulu mayoral administrations of Frank Fasi and Jeremy Harris. During the period from 1985 through 1995, Clegg served for five

⁸⁵ Ibid., pp. 13-14.

years as the city's chief planning officer and five years as Director of the Department of Land Utilization.⁸⁶

Clegg described his roles in the political campaigns of Frank Fasi:

Clegg: I guess my major role would have been public opinion polling and I did that for him in every election and between elections. And in that sense also as part of the strategy team that worked with the PR people, the advertising people, with the Mayor, in determining campaign strategy. All of us held signs, that was standard. We got signatures on petitions whenever asked and went to fund-raisers, went to meetings, and rallies and whatever was being served -- it's just the normal campaign duty stuff. And I'm sorry, fund-raising was another aspect of that.⁸⁷

He also provided information regarding fund-raising:

JT: With respect to the fund-raising that you mentioned, can you describe for us what you were called upon to do with respect to fund-raising?

Clegg: In the Fasi administration it was primarily asking people to help us sell tickets and that was -- and to buy within their legal abilities to do so, but also to help us sell.⁸⁸

JT: Could you describe that for us?

Clegg: Well there are various channels or means for doing this, but one of the standard means of doing it was to go over lists of possible contributors in various fields including attorneys, architects, engineers, doctors, and try to make some estimate as to how much this person could help sell and then to call that person up and ask them to take this much to sell for us. There's also, in several of the campaigns, a meeting or an invited -- can't really call it a party, but it was where people were asked to come to meet the mayor, have pupus, have drinks and as they walked out, we handed them a little brown bag with their tickets they thought they should sell for us.⁸⁹

⁸⁶ Clegg interview, 8/16/99, pp. 3-4.

⁸⁷ Ibid., p. 4.

⁸⁸ Ibid., p. 5.

⁸⁹ Ibid., p. 5.

JT: When people arrive at -- based on your years of experience in this sort of thing, did they have an understanding about what they'd be leaving with?

Clegg: Any of them who were invited previously had an understanding. I can't tell you what the new guys thought. I don't think we went in and said, "Hey, we'd like to come -- have you come to this cocktail party and meet the Mayor and get your tickets. I don't think we said that"⁹⁰

Clegg was asked whether the people sent tickets were predisposed to supporting the mayor. He replied:

Clegg: No ... they were people who we thought could sell tickets whether they like the Mayor or not was not your main, was not necessary.⁹¹

Clegg described how persons given tickets sometimes handled them:

Clegg: ... we would give these tickets to one person, they would then try to sell to people who were either subs, (inaudible) architects, engineers, construction companies -- are some of the big contributors. They would give them to their subs, the subs would give them to their subs and pretty soon the trail got a little too loose.⁹²

Mandatory Staff Attendance at Fund-Raisers

While a number of persons interviewed indicated that their attendance at fund-raising events was completely voluntary and done solely in their individual capacities, there is evidence to suggest that GRD personnel were in fact expected to attend political fund-raisers.

A 1985 position description for government relations officer obtained in the search of Snow's office shows that the incumbent was expected to, "Represent KS/BE at political functions in such a manner that KS/BE will be best served."⁹³

Naone-Salvador provided this testimony:

JT: And did you have the impression that she would want you to attend or was it just a matter of if you felt like going she had tickets?

⁹⁰ Ibid., pp. 6-7.

⁹¹ Ibid., p. 5.

⁹² Ibid., p. 8.

⁹³ pp. AG000017639-41.

Naone-Salvador: No, I had to attend. I'm gonna be honest. I had to. She told me it was part of my job.

JT: When did she tell you that?

Naone-Salvador: When I told her I didn't like going to fund-raisers and I didn't like socializing.

JT: And a--

Naone-Salvador: She told me it was part of my job.

JT: Now what was it about these things that you didn't personally like doing?

Naone-Salvador: First of all I don't drink. Secondly a lot of these fund-raisers were like after work and I had a son in high school who played sports. And to me I was, I wanted to be there. And a lot of times these notices were given like two hours before the event and I had to make changes in my family's and I don't know I'm just not one to socialize and say "hi," and so, and so and I just felt uncomfortable doing those things.⁹⁴

JT: Did Nam ever criticize or question your commitment when you would raise a desire not to have to go?

Naone-Salvador: That's when she told me it was part of my job. It was part of my responsibilities.⁹⁵

Lindsey Punalu'u House Permit

Testimony was received which involved Cathcart being told by Lokelani Lindsey to take a check for fund-raising tickets directly to Clegg:

Cathcart: Mrs. Lindsey bought some tickets that were sent and Clegg's weekly check up, told him, hey something will be coming over on ... the tickets he sent over.

JT: And how, were you at all involved in getting that something over to him?

⁹⁴ Naone-Salvador interview, 7/16/99, p. 17.

⁹⁵ Ibid., p. 19.

Cathcart: Yes.

JT: Can you describe that to us?

Cathcart: Mrs. Lindsey, this was the time she was getting, having staff or requiring staff to assist her in the processing of her permits involving her Punalu'u beach house and she was always bugging me to find out what the status of Clegg's review of it, and I would always call him up and see how he was doing, how his staff was doing so there was an opportunity, she saw an opportunity to get, have another excuse for me to go and ask him. By saying, didn't you have give some tickets to Nam for the Mayor's? Yeah, we always do. Well, look, I'll get some, I'll buy some tickets, oh here's a, I'll write a check, why don't you go on over there and deliver it to Don personally, the same time ask him how my permits were.⁹⁶

Cathcart testified that Lindsey wrote a check, placed it into an envelope, and gave it to him. He then called Clegg's secretary to ensure that Clegg was present, took the check to Clegg, handed him the check, and put the question to Clegg. Clegg made a non-committal reply.⁹⁷

"Nam Are We Doing Him?"

There is some evidence that suggests that trustees dialogued with Snow about whether to contribute to individual candidates. In the Snow Safe documents were numerous tickets solicitation letters, some of which bear handwritten notes:

- A March 25, 1996 solicitation on behalf of Jim Shon bears a handwritten notation:
Nam
Good guy -- bad guy for KSBE?
OS⁹⁸
- A March 30, 1996 letter from Gene Ward to Oswald Stender is marked across the top:
Nam
Good guy bad guy.
OS⁹⁹

⁹⁶ Cathcart Interview, 76/8/99, p. 29.

⁹⁷ Ibid., pp. 30-31.

⁹⁸ p. 010732.

⁹⁹ p. 010727.

- An August 15, 1994 letter from Keola Childs' campaign to Oz Stender bears the notation:
Nam:
Has he been supportive of KSBE?
OS¹⁰⁰
- A June 11, 1994 letter from the Ben Cayetano campaign bears the notation:
Nam
Are we doing him?
OS¹⁰¹

One item found in the safe appears to raise the possibility that Snow controlled funds which were spent on fund-raising tickets:

- A February 11, 1994 John Henry Felix solicitation letter indicates that two books of tickets were sent to Oswald Stender. It was written near the top what appears to be a forwarding note to Snow:
Nam
You may want to buy these.
OS¹⁰²

Specific Candidate Support

Henry Peters

Evidence was received during the investigation that KSBE staff photographer Bruce Lum was directed by Namlyn Snow, over a span of several Henry Peters House of Representatives re-election campaigns, to provide professional photographic services to the Peters campaign. Lum did this work on normal work hours and used KSBE equipment and film. KSBE paid for the development of the pictures. Lum believed that he was being ordered to do the work. He was accompanied on the photo shoots by Snow.¹⁰³

Lum described Snow's involvement:

Lum: She picked me up in her car and she took me to the places and said that I was to photograph head shots of these people and get the

¹⁰⁰ p. 011021.

¹⁰¹ p. 011008.

¹⁰² p. 011057.

¹⁰³ B. Lum interview, 6/19/98, pp. 7-13.

photographs back to her at a particular time or deliver them to a certain place.

JT: Where were they delivered:

Lum: Sometimes I would give it to her and she -- either by company mail or other -- one other time I delivered them to a printer.

JT: Do you know the name of the printer?

Lum: I believe it was Ryan's Graphics when they were located near where the Dole Cannery is.¹⁰⁴

Lum eventually protested to his supervisors, Neil Hannahs and Marsha Bolson. He described his verbal protests:

JT: How did you make this protest known?

Lum: All the way up. I questioned -- first I just questioned whether this was something we should be doing.

JT: And who did you tell that to?

Lum: Both my supervisors and in the company of the rest of the -- usually in staff meetings.

JT: And by both your supervisors you're referring to Neil Hannahs and --

Lum: Marsha Bolson.

JT: -- Marshal Bolson. And what were you told -- by them when you would make your --

Lum: I can't remember specifically, but the outcome was pretty much we had no choice.¹⁰⁵

Lum indicated that senior School officials were reluctant to address the situation:

JT: Did you go above your immediate supervisors?

Lum: My last discussion on the subject was to Marsha Bolson -- I mean the event started with Marsha Bolson and at that time I had a -- an

¹⁰⁴ Ibid., p. 12.

¹⁰⁵ B. Lum interview, 6/19/98, p. 13.

assistant and his name was Sandy Putt (phonetic) and I said to her, you know, this isn't right, we shouldn't be doing this, I don't want to do this any more and she said I think you're right, I think that you should make that point and she advised me to take it to Rowena Blaisdell on campus who was her boss, which I did and Rowena heard my complaint and I explained to her why and she said okay, I'll take this to Mike, so she took it to Mike Chun and Mike Chun said -- well his reply to her to me was you're on your own kid.

JT: What did you take that to mean?

Lum: They didn't want to be the one's to bring it up, they didn't want to be the messenger of bad news.¹⁰⁶

He also placed on record what he was asked to do and the conflict with KSBE policy. In a 1990 memorandum he wrote to Rowena Blaisdell:

I have been contacted by Nam Snow to take pictures during the day on Wednesday, October 10, 1990 and at Mr. Peters' Campaign Headquarters in Waianae at 7 p.m. that same evening.

The employee handbook is clear about my not being able to use any KS/BE resources for political campaign purposes, but since I don't own any camera equipment I'm requesting permission to use our department's equipment.

I will also be asking Marsha for permission to leave work during work hours on that Wednesday. Please call if you need further clarification.

Sincerely --
Bruce Lum¹⁰⁷

The upper right corner of the first page of the memorandum has an added handwritten notation:

Bruce talked to Row 10-9-90¹⁰⁸

Even after pointing out to his superiors his discomfiture, the school administration did not halt the conduct, his testimony indicates that they instead attempted to facilitate compliance with the requests:

¹⁰⁶ Ibid.

¹⁰⁷ pp. K140910-11.

¹⁰⁸ p. K140910.

JT: After that what happened?

Lum: And that -- after that -- then one of my major points was that they said why don't you do it and I said no I can't do this anymore and they said why not -- went through that, so when they got the criteria for my why nots, they soon came back from Mike and I think they were sincerely trying to find a way to get out of the awkward situation in authority lines and said, well I'll tell you what -- they didn't say this but the bottom line is -- the problems were that I was doing it with School equipment. The second problem was I was doing it on working time -- so I said I tell you what, we have this special accommodation where you can take leave and I took it to being that if I wasn't on leave -- if I wasn't working, then I wouldn't be in conflict. Then it went to -- I can't do that 'cause the situation still remains -- I own no camera equipment and I never have, so everything I do is with what's owned by the institution and that sort of ended it, so they moved on to the next thing, they had Sandy Putt do it.

Copies of some of the photographs taken by Lum, and the subsequent campaign pieces in which they appeared, as well as his calendar pages for some of the dates he worked on Peters' campaign photography were obtained.¹⁰⁹

Milton Holt

Consultant Payments Made To Holt's Benefit

Evidence was received that indicated KSBE executives and consultants sought donations to defray Milton Holt's political campaign expenses from persons doing work for KSBE. This is primarily laid out in the Attorney General's Petition for Removal.¹¹⁰ Evidence indicates that those payments were made for printing and other public relations costs but were paid to Ryan's Graphics Corporations rather than directly to Holt's campaign committee. Testimony was taken from a number of persons whose firms made or received the requested payments:

Robert Akinaka, Engineer¹¹¹
Ronald Ho, Electrical Engineer¹¹²
Allen Kajioka, Architect¹¹³

¹⁰⁹ p. K1409895-912.

¹¹⁰ Exhibit 20, pp. 35-39.

¹¹¹ Akinaka interviews, 7/24/98, 8/14/98.

¹¹² Ho interviews, 7/24/98, 7/29/98.

¹¹³ Kajioka interview, 7/27/98, 7/28/98.

Ronald Kunimitsu, Architect¹¹⁴
Neal Kunimura, Printing Company Operator¹¹⁵
John Okita, Architect¹¹⁶
Richard Sato, Engineer¹¹⁷
Roy Yamachi, Architect¹¹⁸

There is testimony that indicated that the payments were made to Ryan's Graphics after Nam Snow directed Ryan's Graphics to send invoices to estate consultants to pay for work done for Milton Holt's campaigns.¹¹⁹

Copies of the Ryan's Graphics invoices and checks paying them were obtained via subpoena.¹²⁰

Sign Holding

A less sophisticated form of support provided to Holt by KSBE personnel was also suggested by testimony obtained. Evidence indicated that Rodney Park, Nathan Aipa, Colleen Wong, Dawn Farm-Ramsey, Laurita Hookano, Wallace Chin, Phillip Chang, and Alika Thompson may have assisted in one or more campaigns for Milton Holt by canvassing or sign holding.¹²¹

"My Wife Is Not Holding Signs During Hurricane Iniki"

In some cases, Estate personnel were asked to participate in this political activity by superiors. There is testimony that may indicate that this activity was not the individual political choice of the participants:

Colleen Wong, an Estate attorney described her view of complying with a request from Estate General Counsel Nathan Aipa to hold signs for Holt's campaign:

¹¹⁴ Kunimitsu interviews, 7/28/98.

¹¹⁵ Kunimura interview, 8/27/98.

¹¹⁶ Okita interview, 7/28/98.

¹¹⁷ Sato interview, 8/13/98.

¹¹⁸ Yamachi interview, 7/28/98.

¹¹⁹ N. Kunimura interview, 8/27/98.

¹²⁰ Exhibit 21, Tsukayama memorandum, 12/10/99.

¹²¹ Farm-Ramsey interview, 8/5/99, p. 8; Aipa interview, 8/25/99, p. 39; Chin interview, 8/31/99, pp. 29-30.

JT: Okay. Now to any extent did you believe that you were somehow expected or required to participate?

Wong: You know, in retrospect I think if I had voiced my opposition and told Nathan hey, you know I really don't want to do this, I don't think he would have pushed me, but I, but I didn't.

JT: Did you feel constrained from voiding it?

Wong: I know Nathan wouldn't have asked me to do something like that unless he felt he really needed me to do it, and so I didn't voice my. Quite frankly, I mean if I had my way I wouldn't have done it.¹²² (emphasis added)

Wallace Chin also did sign waving for Holt. He was asked how he felt about being asked to do this:

Chin: How do I feel about it, I think it was something the um, you were asked to do and it was somehow tied to your employment or your successful employment.¹²³ (emphasis added)

Some testimony indicated that employees might have felt extremely strong compulsion to assist in political activity. Lurline Salvador described an incident, which was extremely upsetting to her husband. Referring to Snow, Salvador said:

Naone-Salvador: Not right when its Hurricane Iniki and she calls my house to go hold signs and my husband slams the phone on her and says my wife is not holding signs during Hurricane Iniki.

JT: Who was that for:

Naone-Salvador: I can't remember. He said there's a hurricane and I said -- and then we got into an argument because I said I'm gonna lose my job. Sorry, I said too much. Anyway, whatever was going on, I couldn't take it any more. I had to move out of that division.¹²⁴

Marshall Ige

There is evidence which suggests that KSBE GRD coordinated the raising of over \$5,000 from firms or employees of firms which did business with the Estate during 1994. In the

¹²² C. Wong interview, 8/25/98, p. 32.

¹²³ Chin interview, 8/31/99, p. 22.

¹²⁴ Naone-Salvador interview, 7/16/99, p. 22.

safe kept in Nam Snow's office were a number of documents which, in conjunction with testimony received, tend to support this probability.

One document is titled "Marshall Ige Fund-raising Monies Received."¹²⁵ Another document from the Snow safe is titled, "CONTRIBUTION FOR MARSHALL IGE,"¹²⁶ and is part of a note addressed to "NAM." The note reads, "STILL AWAITING ANOTHER \$400.00 WILL DELIVER AS SOON AS WE RECEIVE THE CHECKS," and is signed "SAM." A third note, which was part of a photocopy including two checks, reads, "Nam, Balance of money for Marshall Ige. This will bring total to \$2,000," and is signed "Sam."¹²⁷ Together the three notes list two trustees and a number of individuals and firms that have done work for KSBE in the areas of law, accounting, and construction:

Ching, Yuen & Morikawa	(attorneys)	\$250
Ashford & Wriston	(attorneys)	\$250
Cheryl A. Nakamura	(attorney)	\$250
C. Michael Hare	(attorney)	\$250
Dwyer, Imanaka, Schraff	(attorneys)	\$250
J. Edd New	(accountant)	\$100
Roy Morihara	(accountant)	\$250
G.E. Kitagawa Painting, Inc.		\$200
Wallace Endo (Sey Consulting Engineer)		\$100
Park Associates, Inc.	(architects)	\$100
Arthur Siu, AIA	(architect)	\$100
Leonard, Leong, Royal contracting		\$200
Ron Ho & Associates, electrical eng.		\$200
Goto Construction		\$200
Akinaka & Associates		\$200
C.C. Engineering & Construction, Inc.		\$200
Thomas Terayama		\$200
Ron's Construction		\$200
Myron B. Thompson	(trustee)	\$500
O.K. Stender	(trustee)	\$500

The disposition of these funds may be indicated in another document also found in the safe.¹²⁸ The document appears to be part of a larger log of political fund-raiser tickets. One entry on the sheet reads:

¹²⁵ p. 010405.

¹²⁶ p. 010407.

¹²⁷ p. 010412.

¹²⁸ p. 010364.

As of 7/21/94:

*Friends for Marshall Ige (to date): \$4,800 checks/\$600 cash = \$5,400
(including above) delivered
(Money given to Trustee Peters for delivery)
[emphasis added]

Copies of checks to the Ige campaign were provided by KSBE among the items taken from the Snow safe. They included checks from O.K. Stender; Myron B. Thompson; Roy Morihara; J. Edd New; Thomas Terayama; Ron's Construction; Ching, Yuen & Morikawa; Ashford & Wriston; Cheryl Nakamura; C. Michael Hare; and Dwyer, Imanaka, Schraff, Kudo, Meyer & Fujimoto.¹²⁹

Mike Lum

Michael Lum is a facilities engineer employed with KSBE. He was previously assigned to the Office of Support Services. He confirmed that he was asked by Sam Hata to contact a number of construction contractors and consultants to KSBE to solicit contributions to the campaign of Marshall Ige.¹³⁰ He was given a note from Hata suggesting the firms to contact and the amounts to solicit and retained copies of the checks that he received in response to his solicitations, which were provided to the DAG.¹³¹ Some of the names appear to be the same firms or persons listed on a note from Hata to Snow found in Snow's safe.¹³²

Follow up interviews were conducted with a number of the apparent individuals or firms that made contributions to the Ige campaign during 1994 which appear to have been solicited by KSBE personnel.¹³³

Political Polling

Testimony and documents received indicate that KSBE paid for numerous polls that were organized around state House and Senate districts and elections. Some of the reports or billings are overtly marked "Political Polls."

¹²⁹ pp. 010406, 010409-14.

¹³⁰ M. Lum interview, 6/25/99, pp. 3-4.

¹³¹ Ibid., pp. 4.

¹³² p. 010407.

¹³³ Hare interview, 6/16/99; Nakamura interview, 6/23/99; Morihara interview, 6/18/99; Shimizu interview, 6/1/99; Sunada interview, 6/1/99; Cheung interview, 5/27/99.

In search of Snow's office what appeared to be a report of telephone polling was discovered.¹³⁴ The document provided analysis of an election between a number of candidates in the 8th State House district, including Joseph Souki. The document did not bear any markings which identified the firm or analyst that produced it.

Electoral Districts Polled and Amounts Spent By KSBE

Through subpoena, 32 polling reports were obtained which appeared to have been formatted to sample electoral district opinion.¹³⁵ The reports contained approximately 2,900 pages of material, which were polls related to election years 1994 and 1996. The district polls, and candidate names researched, appear herein in figures 1 and 2 for the respective election years. It appears that KSBE may have spent approximately \$200,00 for the district polls in those two years. (See figures 3 and 4)¹³⁶

A review of the polls indicated that when asked to list the desired traits of elected officials, every poll showed that the respondents mentioned honesty and integrity most frequently (41% to 66% of respondents mentioning the trait). The polls also indicate that this particular trait is mentioned significantly more frequently than the next most frequently mentioned trait (in each report, no other trait is mentioned by more than 15%).

Barbara Ankersmit, Pollster

On September 2, 1999 Barbara Ann Ankersmit, president of Qmark Research and Polling was interviewed and a number of documents were reviewed with her. She provided significant information regarding the creation of the relevant polls.¹³⁷

- Ankersmit first met Namlyn Snow upon joining SMS Research in 1974. Snow did some consulting for that firm and worked with Ankersmit at that time. They maintained their acquaintance over the years as each moved to different employment.
- Ankersmit had done political polling for Henry Peters in three or four campaigns.
- Ankersmit has done work for every successful gubernatorial candidate since her first political polling done for George Ariyoshi.
- Snow engaged Ankersmit to do work for the following:
 - Political campaigns of Henry Peters
 - Gubernatorial campaign of Billie Beamer
 - Waiahole/Waikane Ditch

¹³⁴ pp. AG000018575-623.

¹³⁵ pp. AG000024871-25766; K127815-8713, K129063-856, K134504-738, K143036-122.

¹³⁶ K140994-96, K140999-1007, K141023-28, K-153206-09, K153215.

¹³⁷ Ankersmit interview, 9/2/99, pp. 1-38.

- Ankersmit has worked at QMARK since August 1995. Prior to that she was employed as an officer and director of Omnitrak Group, Inc.
- As early as 1992 Ankersmit began conducting polls during the periods immediately preceding primary and general elections for KSBE at Snow's request which were broken down by electoral districts specified by Snow.
- The 1996 pre-election polling included questions on land, water, shopping center usage and fee simple versus leasehold issues, as well as questions which appeared to be related to specific elections.
 - Information on the non-election issues was presented only in table form.

KSBE Purchased
Electoral District
1994 Polls

District	Hse.	Sen.	Cncl.	Election	Candidates	Dates
45	x			Primary	Santiago, Alex	8/27-8/30
45	x			Primary	Lunasco, Ollie	8/27-8/30
46	x			Primary	Bellinger, Reb	8/11-8/15
46	x			Primary	Beirne, D. Ululani	8/11-8/15
46	x			Primary	Hoe, Herbert K.	8/11-8/15
46	x			Primary	Meyer, Colleen	8/11-8/15
46	x			Primary	Palakiko, James	8/11-8/15
46	x			Primary	Tanouye, Charles	8/11-8/15
47	x			Primary	Tom, Terrance	7/27-7/28
47	x			Primary	Achibald, Karen	7/27-7/28
47	x			Primary	Fukumoto, Russell	7/27-7/28
50	x			Primary	Nekoba, Devon	8/29-9/1
50	x			Primary	Conboy, Andy	8/29-9/1
50				Primary	Carlson, Ken	8/29-9/1
50				Primary	MacPherson, Bruce	8/29-9/1
21		x		Primary	Aki, James	8/3-8/7
21		x		Primary	Apo, Peter	8/3-8/7
21		x		Primary	Kanahele, Kamaki	8/3-8/7
21		x		Primary	Kaleiwahea, Linda	8/3-8/7
21		x		Primary	Iokua, Moses	8/3-8/7
22		x		Primary	Bunda, Robert	7/22-7/23

22		x		Primary	Hagino, Gerald	7/22-7/23
22		x		Primary	Magann, Jack	7/22-7/23
22		x		Primary	Bunda, Robert	9/2-9/5
22		x		Primary	Hagino, Gerald	9/2-9/5
22		x		Primary	Magann, Jack	9/2-9/5
24		x		Primary	Ige, Marshall	7/24-7/26
24		x		Primary	Murphy, Elaine	7/24-7/26
24		x		Primary	Liu, Mike	7/24-7/26
24		x		Primary	Ige, Marshall	9/1-9/4
24		x		Primary	Murphy, Elaine	9/1-9/4
24		x		Primary	Liu, Mike	9/1-9/4
24		x		General	Ige, Marshall	10/14-10/16
24		x		General	Liu, Mike	10/14-10/16
24		x		General	Kaleikini, Lovell	10/14-10/16
6			Oahu	Primary	Yoshimura, Jon	8/24-8/27
6			Oahu	Primary	Narvaes, Tony	8/24-8/27
6			Oahu	Primary	Chang, Tony	8/24-8/27
6			Oahu	Primary	Isa, Leina'ala	8/24-8/27
6			Oahu	Primary	Ornellas, Richard	8/24-8/27
6			Oahu	Primary	Rothstein, Andrew	8/24-8/27
6			Oahu	Primary	Lyman, Carl	8/24-8/27
6			Oahu	Primary	Chung, Charlene	8/24-8/27
9			Oahu	Primary	DeSoto, John	8/25-8/29
9			Oahu	Primary	Nagai, Bert	8/25-8/29
9			Oahu	Primary	Domingo-Ojerio-Molina, M.	8/25-8/29
9			Oahu	Primary	Elliot, Glen	8/25-8/29
9			Oahu	Primary	Manaku, James Sr.	8/25-8/29
4		x		Primary	Baker, Roz	8/31-9/2
4		x		Primary	Dittman, Zane	8/31-9/2

Figure 1

- Reports which included analysis were those that looked at important characteristics for elected officials and some “horse race” questions dealing with the upcoming elections.
- Snow specifically directed in the pre-primary polls whether both parties’ races would be examined or only one party.
- Snow wanted the reports hand-delivered to her within days of placing orders.
- Snow approved of the number of persons to be used in each sample (300 House, 350 Senate).

Ankersmit provided information regarding a specific request by Snow relating to the formatting of the reports:

JT: Was there some specification from Nam that QMARK’s name should not appear?

Ankersmit: Yes.

JT: What did she say?

Ankersmit: She said please send these blank. Do not have the QMARK name on the tables or in the narrative. Please put them in plain covers.

JT: Had she ever asked you to do that before?

Ankersmit: Yes.

KSBE Purchased
Electoral District
1994 Polls

District	Hse.	Sen.	Cncl.	Election	Candidates	Dates
26	x			Primary	Kawananakoa, Quentin	7/29-8/3
26	x			Primary	Alcantara, Donna	7/29-8/3
26	x			Primary	Young, Susan Lai	7/29-8/3
26	x			Primary	Lau, Terry	7/29-8/3
26	x			Primary	Lee, Kenneth	7/29-8/3
29	x			Primary	Alcon, Emilio	8/16-8/19
29	x			Primary	Hernando, Mariano	8/16-8/19
29	x			Primary	Santiago, Rob	8/16-8/19
29	x			Primary	Butungbacal, Michael	8/16-8/19
30	x			Primary	Cachola, Romy	8/20-8/23
30	x			Primary	Gudoy, Ben	8/20-8/23

30	x		Primary	McDermott, Bob	8/20-8/23
41	x		Primary	Oshiro, Paul	8/21-8/23
41	x		Primary	Alexander, Jeff	8/21-8/23
41	x		Primary	Miyashiro, Mary Ann	8/21-8/23
41	x		Primary	Holt, Kathleen	8/21-8/23
42	x		Primary	Amaral, Annelle	8/25-8/25
42	x		Primary	Humphries, Arthur	8/24-8/25
42	x		Primary	Casey, Pollyana	8/25-8/25
42	x		Primary	Rabacal, Lance	8/25-8/25
22		x	General	Bunda, Robert	10/19-10/21
22		x	General	Magann, Jack	10/19-10/21
4		B. Isle	General	Rosehill, Robert	10/17-10/19
4		B. Isle	General	Osorio, Elroy	10/17-10/19
4		B. Isle	General	McCullough, Mayapple	10/17-10/19

Figure 1

KSBE Purchased
Electoral District
1996 Polls

District	Hse.	Sen.	Cncl.	Election	Candidates	Dates
46	x			Primary	Meyer, Colleen	NA
46	x			Primary	Bellinger, Reb	NA
46	x			Primary	Mattoon, Creighton	NA
46	x			Primary	Tanouye, Charles	NA
12	x			Primary	Swain, Billy	NA
12	x			Primary	Morita, Hermina	NA
47	x			Primary	Tom, Terrance	NA
47	x			Primary	Catalani, Iris	NA
47	x			Primary	Archibald, Karen	NA
47	x			Primary	Loftus, Mike	NA
4	x			Primary	Herkes, Robert	NA
4	x			Primary	Reed, Robert	NA
4	x			Primary	Aste, Virginia	NA
4	x			Primary	Last, Michael	NA
20		x		Primary	Kanno, Brian	NA
20		x		Primary	Fasi, Frank Jr.	NA
20		x		Primary	Dudley, Kioni	NA
24	x			General	Shon, Jim	10/26- 10/27
24	x			General	Aiona, Samson	10/26- 10/27
8		x		General	Slom, Sam	10/29- 10/21
8		x		General	Ikeda, Donna	10/20- 10/21

4	x		General	Herkes, Roberts	10/26- 10/27
4	x		General	Reed, Robert	10/26- 10/27
4	x		General	Last, Michael	10/26- 10/27
25		x	General	Anderson, Whitney	10/17- 10/21
25		x	General	Young, Jackie	10/17- 10/21
46	x		General	Meyer, Colleen	10/24- 10/26
46	x		General	Bellinger, Reb	10/24- 10/26
8	x		General	Souki, Joseph	10/21- 10/23
8	x		General	Agsolog, Donny	10/21- 10/23
24		x	General	Ige, Marshall	10/17- 10/19
24		x	General	Liu, Michael	10/17- 10/19
24		x	General	Naluai, Solomon	10/17- 10/19
47	x		General	Tom, Terrance	10/26- 10/27
47	x		General	Archibald, Karen	10/26- 10/27
47	x		General	Loftus, Mike	10/26- 10/27

Figure 2

1994 Omnitrak Invoices

Inv. Date/No.	No. of Areas	Invoice	Total
7-Jul 2620A	3	\$	19,531.31
17-Aug 2620B	12	\$	48,552.24
26-Aug 2620C	7	\$	41,760.47
8-Dec 2678AF	4	\$	21,622.47
1994 District Polls Total Paid	26	\$	131,466.57

Figure 3

Goodenow Associates, Inc.
 Estimated Total Qmark
 Charges To KSBE
 1996 District Polls

KSBE Check No. 256972		
1996 Q Mark Invoices		
6- Sept land & water issues	\$24,269.28	
2- Oct land & water issues	\$ 5,103.84	
31-Oct land & water issues	<u>\$39,268.32</u>	
sub-total land & water		<u>\$ 68,641.44</u>
	28-Jun Water issues trkg	<u>\$ 13,332.48</u>
Check Total		<u>\$ 81,973.92</u>

Figure 4

JT: In what instances?

Ankersmit: In polls in 1992 and 1994.¹³⁸

Ankersmit did not ask Snow for an explanation for the source-sanitized reporting. Ankersmit provided the reason offered by other clients in the past who requested similar reporting:

JT: What sort of explanations were you given?

Ankersmit: The work was going to be passed on to someone else and they didn't want them to be able to come back to the originating company.¹³⁹

There is documentary evidence which provides more information regarding the work conducted by Ankersmit for Snow in 1994. In a letter to Snow dated June 17, 1994, while at Omnitrak, Ankersmit gave the fee schedule for various survey sample sizes. Some samples are set up explicitly along electoral district lines:

<u>SAMPLE SIZE</u>	<u>FEE</u>
700 (Statewide (400 Oahu, 100 @ neighbor island)	\$15,900

¹³⁸ Ibid., pp. 22-23.

¹³⁹ Ibid., pp. 25-26.

400 (Islandwide, Oahu only)	\$ 7,500
400 (Islandwide, other county)	\$ 9,375
350 (Senate or City Council District, any area)	\$ 6,250
300 (Representative District, any area) (Emphases added)	\$ 5,475¹⁴⁰

In a memorandum to Ankersmit from Omnitrak President Patricia Louie dated 6/17/94, Louie acknowledged the level of secrecy which appears to have been expected by Snow on the Omnitrak work. Louie wrote:

This is to reinforce our recent discussion regarding Nam Snow's concern that her projects be handled with the strictest confidence.

.....

Please inform Nam of my agreement not to get involved and that results will be in strictest confidence between you. But it is also important that you raise my concerns to her.¹⁴¹

In the same memorandum, Louie pointed out what some of those concerns were that she wished discussed with Snow:

At the same time, I have your assurance that these projects meet our obligations as a member of the MRA and its ethics standards as well as your fiduciary responsibility to the company. In other words, this is not telemarketing of a negative campaign, or damaging to our reputation.¹⁴²

Peters Comments Regarding Polling

The Friday, November 12, 1999 Honolulu Star-Bulletin contained comments attributed to Henry Peters relating to reports of KSBE polling:

¹⁴⁰ Exhibit 28, Tsukayama memorandum, 12/16/99.

¹⁴¹ Ibid.

¹⁴² Ibid.

Ousted trustee Henry Peters said there was nothing wrong with the polls, noting that they were conducted to gauge community opinions on issues that affect the Bishop Estate.

Peters conceded that the polls included questions about particular lawmakers but said the studies can't be considered political contributions since none of the lawmakers were given the poll results.

Both Peters and an attorney for former trustee Richard "Dickie" Wong noted that staffers in the trust's government affairs department, and not the trustees, were in charge of developing the polls.

"It's good business to know the community's attitudes with respect to issues that have an impact on our operations," said Peters, a former house Speaker. Wong is a former state Senate president.

"I don't think we're any different from any institution in this town."¹⁴³

Maintaining Close Relations With Government

KSBE Visa Credit Card Use

During the course of the investigation, the use of KSBE VISA credit cards was examined on several occasions. Copies of credit card statements, receipts, KSBE travel vouchers, and KSBE Internal Audit records were reviewed. Testimony was taken from a number of Estate employees relating to the business and non-business use of the cards.¹⁴⁴

Relevant to the contents of this report are the following:

From the period of June 1992 through November 1997 Namlyn Snow, Milton Holt, and Alika Thompson together used their KSBE VISA cards at least 780 times. Based on the records available it was determined "that the majority of persons who either met or had contact with the three employees were government officials such as state legislators, councilmen or officials who held department positions."¹⁴⁵

Other findings:¹⁴⁶

¹⁴³ Exhibit 22, Honolulu Star-Bulletin, pp. A-1, A-8.

¹⁴⁴ Interviews: Wallace Chin, Dennis Fern, Elizabeth Kilbey, Andrea Oshiro, Rodney Park, Gilbert Tam, various dates.

¹⁴⁵ Exhibit 23, Omoto memorandum and attachments, 7/2/99.

¹⁴⁶ Ibid.

The top 7 state legislators who were entertained during the period reviewed were:

Joe Souki	65 meals/meetings
Calvin Say	38 meals/meetings
Merwyn Jones	28 meals/meetings
Tony Chang	24 meals/meetings
Terrance Chang	17 meals/meetings
Bobby Bunda	16 meals/meetings

The top 3 city officials entertained during the period reviewed were:

Rene Mansho	23 meals/meetings
Arnold Morgado	9 meals/meetings
Bob Fishman	4 meals/meetings

Expenditures relating to legislative staff:

Senate Clerk	18 meals/occasions
House Sgt. At Arms	18 meals/occasions

Snow Office Records Relating To Holt VISA

During the search of the Snow office, certain records were discovered relating to Milton Holt's KSBE VISA credit card. The records differed significantly from other records previously received by the DAG from KSBE, especially in the area of the stated business purpose of the credit card use.¹⁴⁷ Further examination revealed entries indicative of the purposes of the meetings as apparently recorded by Holt. Some of the listed reasons appear to be:

<u>Listed Reason</u>	<u>Persons Entertained</u>
Senate organization and BE bills	Ann Kobayashi, Richard Matsuura, Sen. McCartney, Fernandez-Salling, Norman Mizuguchi, Sen. Ihara, Randy Iwase
Parole Board & BE issues	Malama Solomon
Executive Appointments	Malama Solomon
Hi/3 Legis.	Donna Ikeda, Randy Iwase
Senate business and BE bills	Terrance Tom, Calvin Say
Campaign & BE involvement	Eddie Hayashi
Judiciary & BE Bills	Terrance Tom
Political Plans	Arnold Morgado
Mayor's Race	Peter Yanagawa, Ann Kobayashi
Ways/Means & BE bills	Donna Ikeda, Kevin Kuroda
Campaign spend	Frank Kudo ¹⁴⁸

¹⁴⁷ Exhibit 24, Omoto memorandum and attachments, 9/10/99.

¹⁴⁸ Ibid.

Alika Thompson VISA Use With Legislators

Alika Thompson, Government Relations Officer was questioned about his use of the KSBE VISA card with legislators:

JT: Okay, so this year, in this session the contacts that you have had with legislators this session have been about what?

Thompson: What do you mean?

JT: Well.

Thompson: You mean subject matter? Not Bishop Estate subject matter, just social?

JT: Okay so in this legislative session have you charged any of your meals with any legislators?

Thompson: Uh huh.

JR: And even they were, none of them were business, they were just social?

Thompson: Yeah.

JT: Okay and as far as your understanding, an allowable use of your KSBE credit card?

Thompson: As far as I understand, yeah.¹⁴⁹

Thompson was adamant that his use of the KSBE credit card was purely social in nature and that no KSBE business was discussed with legislators:

JT: Thank you. So have let's say going back to a year to the 1998 calendar year, did you charge any meal expenses on the KSBE credit card relating to contacts with legislators?

Thompson: Socially, yeah.

JT: So nothing related to business last year either? No?

Thompson: No.

¹⁴⁹ Thompson interview, 6/21/99, p. 19.

JT: And as long as you've had a BE credit card have you charged meals to BE related to business contacts with legislators?

Thompson: You mean legislative matters, will relate? No.

JT: Okay, has it always been, if it's a legislator that it's a social contact?

Thompson: Yes.

JT: And with respect to like golf outings, things like that, did you ever host legislators?

Thompson: I think a couple of times at a conference, when we went out I did.

JT: And again was that charged to KSBE?

Thompson: Yeah.

JT: And were those reported on your expense report?

Thompson: Yeah.

JT: And on those situations did you discuss business or all social?

AT: No, social.¹⁵⁰

Park Criteria

Rodney Park was questioned about the Estate guidelines relating to business entertaining. He provided the following:

I haven't read the policy in a while but what I remember of the policy guidelines, was that this should be with persons who are in decision-making positions that can positively impact KSBE interests. It should not be repetitive, and frequent in the sense of, abuse, bordering abuse after a while ...¹⁵¹

Park provided his views of use of the card by employees to establish relationships beneficial to KSBE:

¹⁵⁰ Ibid., p. 20.

¹⁵¹ Park interview, 6/23/99, p. 4.

JT: Now, Rodney, if an employee were to use the company charge card to meet with decision makers from businesses or organizations that affect KSBE, and that person were to tell you that on a particular outing or lunch that they at no time did they discuss any KSBE business, would as far you're concerned that be an appropriate or inappropriate use of the card?

Park: I would ask, you know, what did you discuss? And if it was not KSBE business, why did you, why are you expecting KSBE to pay for it?

JT: And what if he said it was purely social?

Park: John, you know, if it was a true KSBE, if it was a true person in a position, a decision making position that could influence or assist KSBE or somehow be informed of KSBE's interest, sometimes, I, coming from my previous background, and even KSBE, there's value to establishing relationships, that working, begin to know the person, the relationships and you could do that with the goal of, of developing further relationships and networks without talking a single issue of about KSBE business. So I mean, in that whole context of things, I would say, okay, so you met with this guy who is in a position of decision making authority.

JT: Say a state senator.

Park: Say that's okay, and you did not talk any KSBE business, on this particular event, a luncheon or whatever it might have been, but you got to know this guy? Yeah. What did you hope to accomplish, did you accomplish it? Did you hope to accomplish a relationship where you can pick up a phone and, you know it's a name recognition and, and the idea is to further help KSBE down the road? And the answer is, yes, I'd say well to me, while you did not specifically talk about an issue, you've set the stage and the ground work for that relationship, for that networking.¹⁵²

Park went on to provide information regarding the documentation to be expected of KSBE employees as well as his view of repeated use without business discussion:

JT: So based on that sort of disclosure by the employee to you, what sort of notation would you expect that he would put on the slip?

Park: I would say, as an example, that I met with Senator so and so, introduced myself, got to, you know, made sure that the Senator knew who I was and basically established a relationship and a network, with the expectation of future benefits to KSBE, in terms of the ability to communicate with this guy on a first name basis, or at least on a face and name recognition basis.

¹⁵² Ibid., p. 16.

JT: Okay.

Park: But then, you know, the next meeting, hopefully if this, if there is going to be and I talked about repetitive and abusive, yeah, if it continued on then I would say, wait a minute, what's happening here?¹⁵³

Park was questioned further:

JT: Now if you were to ask the employee, what did you talk about, and the person tells you, absolutely nothing to do with KSBE business and purely social?

Park: Then I would disallow it down the road. I would, yeah.¹⁵⁴

Representative Herkes/ OHA Trustee Hee/ Speaker Souki/ Senator Tanaka/ Senator Tom

In her petition to Remove and Surcharge Trustees filed 9/10/98, the Attorney General cited a number of benefits conferred by trustees to a number of Hawaii politicians:

The trustees have expended considerable Trust assets to benefit various Hawaii politicians. The benefits conferred directly or indirectly on politicians include: (1) employment by the Trust (Milton Holt, Robert Herkes, Clayton Hee); (2) preferential admissions to the Kamehameha Schools; (3) bonus real estate commissions (Joseph Souki and Joe Tanaka); (4) monthly legal retainer without providing meaningful legal services (Terrance Tom) ...

In return for the expenditures of considerable Trust assets to confer benefits on politicians, the Trustees have obtained benefits solely for themselves, including support for their efforts to preserve their own excessive compensation at the expense of the Beneficiaries.

During the 1998 legislative session, Tom, Herkes, and Souki opposed legislation establishing a reasonable compensation standard for Trustee compensation.¹⁵⁵

Interviews relating to those matters were conducted during the investigation with most of the named persons.¹⁵⁶

¹⁵³ Ibid., pp. 16-17.

¹⁵⁴ Ibid., p. 17.

¹⁵⁵ Exhibit 20, pp. 34-35.

Senator Milton Holt

Information obtained during the course of the investigation indicated that then-Senator Milton Holt may have received special treatment with respect to his VISA credit card. It has become known that the law firm of McCorrison, Miho, Miller & Mukai as a result of its investigation, recommended to KSBE on May 20, 1998 that job action up to and including the termination of Holt was justified under the circumstances as a matter of fact and law.¹⁵⁷ The McCorrison report, coupled with GAI's investigation, indicates the following:

During the course of his employment, Holt was issued a VISA charge card by KSBE, Holt appears to have violated Estate policies by obtaining cash advances in Nevada casinos and making personal use of the card in Honolulu hostess bars. This abuse of his credit card privileges appears to have occurred between December 14, 1990 and January 23, 1998, entailing some \$28,344.65 in personal charges.¹⁵⁸

There is evidence that a number of Estate executives who were familiar with the Holt credit card abuse may have attempted to restrict or fully curtail his access to the card.¹⁵⁹ It appears that Henry Peters may have been apprised of the ongoing nature of Holt's improper credit card use.¹⁶⁰

¹⁵⁶ Interviews: Clayton Hee, 5/27/98; Everett Dowling, 6/2/98; Everett Dowling, 7/30/98; Joseph Souki, 6/2/98; Joseph Souki, 7/17/98; Joe Tanaka, 7/16/98, Gilbert Tam, 6/25/98, pp. 25; Terrance Tom, 6/22/99.

¹⁵⁷ Exhibit 25, Tsukayama memorandum w/attachments, 12/12/99.

¹⁵⁸ K125763.

¹⁵⁹ Chin, 3/13/98 interview, p. 68. JT: At any time did you discuss with anyone or did anyone discuss with you the possibility of just rescinding his (Holt's) use of the card? Chin: I brought it up several times. JT: To whom? Chin: My supervisor, Rodney (Park). JT: Did you ever talk to Gil Tam about it? Chin: Likewise yes. JT: And what did Gil say when you brought that up? Chin: Can't recall, I believe there was nothing said. It was more out of dumbfoundness, shrugging your shoulders.. JT: Was there some reason you could discern why it wasn't getting pulled? Chin: Why it wasn't pulled, we ... we meaning the general office gossip, the general understanding is we knew where the relationship was to Trustee Peters and Milton Holt and whether anyone was going to so call 'stand in front of a truck' to face that type of ... to pull the card, I don't think anyone wanted to ... we wanted to find another way to work it out. Also Park, 4/22/98 interview, p. 171: ... and if there was once or twice, at least one occasion that I suggested to Trustee Peters that we should consider pulling his card.

Peters may have prevented the suspension of Holt's credit card privileges¹⁶¹ and may have caused the KSBE Internal Auditor, Dennis Fern, to drop his special review of the Holt credit card abuse.¹⁶²

By early 1998 it became publicly known that Holt had used his credit card at various hostess bars to entertain local politicians. Namlyn Snow eventually took his charge card from him in consultation with Henry Peters in early 1998.¹⁶³ According to testimony, Peters may have stymied attempts to discipline or fire Holt for his credit card use because of Holt's activities on behalf of KSBE.¹⁶⁴

¹⁶⁰ Park, 4/22/98 interview, p. 171. Park: On every charge that I considered to be questionable, I brought them to Trustee Peters' attention, personally. Also in other various interviews of Park and Tam, as well as Grand Jury testimony.

¹⁶¹ Park, 4/22/98 interview, p. 171. JT: And on the first time that you mentioned that (pulling the Holt credit) to Trustee Peters, what did he say? Park: He explained that Milton Holt, um, had a responsibility that required him to have a KSBE charge card. There were charges of legitimate, for KSBE approved expenditures.

¹⁶² Fern, 2/5/98 interview, referring to an April 1995 instance when Henry Peters called Internal Auditor Dennis Fern in and questioned him about his intentions relating to his special review of Holt's VISA use. JT: If you had not had the conversation with Mr. Peters, would you have pursued the matter further to investigate whether repayment occurred. Fern: I would have gone to look at receipts for reimbursements to the VISA charges, probably would have requested the files, the file of Rodney, yes. JT: Okay. So it's a fair characterization to say that as a result of your conversation with Mr. Peters you did not do the other things you were otherwise going to? You just said that if you didn't have it (the conversation) you would have done it. Fern: That's a fair conclusion yes.

¹⁶³ Park, 4/22/98 interview, p. 185. JT: Now, at some point, um, was there a decision made to take the card from Mr. Holt? Park: Yes. JT: By whom was that decision made? Park: It was made by Nam Snow (phonetic), made by Nam Snow. JT: How do you know that? Park: Because I was called into Trustee Peters office one afternoon and in that room was Peters, Nam Snow, Milton Holt. JT: And then what happened? Park: Mr. Peters said to me that, um, Nam is Milton's supervisor and that, uh, as his supervisor, Nam's responsible for this and Nam is gonna be, um, be getting Milton's card and from now on it was an administrative matter and its no longer a Trustee issue.

¹⁶⁴ Park 6/23/99 interview. JT: Now during your association or during Mr. Holt's association with KSBE, did there ever come a time where you came to the conclusion that Milton Holt's employment status here was somehow protected from the normal management prerogatives? Park: Yes. JT: And what led you to that conclusion? Park: There was a meeting that I had with Henry Peters, one of many meetings, but I remember distinctly this meeting, he looked at me and told me, and he told me, you couldn't fire him if you wanted to JT: What was, how did that comment arise? Park: I think it came out of his credit card issue.

Supreme Court Justice Robert Klein

It was learned during the course of the investigation that Supreme Court Justice Robert Klein may have placed a telephone call to Lokelani Lindsey in order to recommend the admission of an applicant to Kamehameha Schools. It was also learned in the investigation that Lindsey inquired about how the application was moving forward.

A witness, whose identify is not herein disclosed in order as much as possible to preserve the privacy of the minor child involved, provided testimony regarding intervention subsequent to contacts from Gerard Jervis and Lokelani Lindsey.

JT: Ok. Now you testified to us earlier that [student name redacted] would not have been selected by the Committee but for the intervention by your office is that correct?

WITNESS: Yes, and that's the second phase now.

JT: The final selection of this student occurred --

WITNESS: Because he made this phase upon his own.

JT: Right, but the final selection for admission occurred due to intervention by your office is that correct?

'Cause I told him, "Speaker, I think we need to terminate him." He looked at me like, pull your head out of your, your couldn't fire him even if you wanted to

TP: ... (E)arlier you were describing situation where you had talked with Trustee Peters about Milton Holt's situation and, use or misuse of the credit card and had in fact recommended terminating his employment, did Mr. Peters at that time or any other time give you any rationale or any reasoning on his part as to why he didn't want to do that: Park: Yes he did. TP: Could you tell us what that is, what that was? Park: I think it's centered more on an issue and the days that the House and Senate had personally taken action for or against resolutions or bills proposed legislation that were in the best interest of KSBE and he felt that Milton's prior actions in support of KSBE deserved this type of treatment, currently.

Aipa interview, 8/25/99, p. 26. Aipa: I think generally the Speaker's conclusion was that Milton had done a lot of good for the Estate and that the Estate should not abandon Milton Holt at this time, and that there may be other ways like addressing the purported violations, of VISA card violations and so forth.

WITNESS: Correct. And that was done as a result of a specific directive from Mrs. Lindsey and I also wanted to say that initially Jerry Jervis called about [student name redacted] but he stopped calling and Mrs. Lindsey continued.

JT: Did Mrs. Lindsey ever tell you what the connection was between this child and Justice Klein?

WITNESS: She never did but she did mention to me Justice Klein had called her.

The witness was asked what Lindsey said when told that the applicant's prospects for admission was not very good:

WITNESS: We need to bring him in.

JT: Did she anything further?

WITNESS: Yes, she did.

JT: What was said?

WITNESS: I normally don't ask, but I asked this time -- "What is the special reason for this?" -- and her response was "It was a request from Judge Klein."

JT: And by Judge Klein did you know who she was talking about?

WITNESS: Oh, yeah. Supreme Court Justice Klein.

JT: And then what was said?

WITNESS: Um, it's hard to recall there was a lot of objections I raised in terms of our process, in terms of what it means to do something like this even though the child is qualified, but not in the section that would be really considered for admission for that, and I was still given pretty much the wording "we need to bring him in."

JT: That's what she said?

As a result of Lindsey's intervention, the applicant was admitted.

Governor John Waihee

It is possible, of course, that KSBE can directly benefit from acceding to requests made of it by government officials. A possible example is documented in a March 1, 1991 letter from attorney Stanford Manuia in a letter to Nathan Aipa, then-Estate General Counsel. The letter reported in part on a “planning group” meeting held on February 25, 1991, at which were present a number of Estate personnel (Oswald Stender, Henry Peters, Neil Hannahs, Gilbert Ishikawa, Dawn Farm- Ramsey, Marlene Sai, Namlyn Snow, and Elisa Yadao). The meeting began with a recap of a trustees’ lunch meeting with then-Governor John Waihee.

Manuia’s letter stated the following to Aipa:

- (a) Governor Waihee, who had requested the meeting, asked for support to salvage the administration’s lease conversion bill, and offered to exclude BPBE (Bernice Pauahi Bishop Estate) from the coverage of the bill.
- (b) The Trustees relayed their concerns at (i) rent cap, (ii) formula for determining valuation, and capital gains consequences of voluntary conversion.
- (c) Governor Waihee asked Trustee Stender (and Gil Ishikawa) to accompany him to Washington, D.C., on March 18, 1991, to meet with the Internal Revenue Service to resolve the capital gains consequences for BPBE and the small landowners if conversion is achieved voluntarily, rather than by condemnation under Chapter 516 Residential Leaseholds. (Note: Gil Ishikawa said that a meeting at IRS/Regional level, Los Angeles may suffice.)¹⁶⁵

The Supreme Court of the State of Hawaii

During the course of the investigation of the trustees of KSBE, there arose information which suggests that KSBE’s relations with government included close links between justices of the Hawaii Supreme Court and trustees of KSBE.

1994 Trustee Selection Process

During the course of the Pre-wall investigation, GAI was asked to investigate the method by which KSBE trustees had been appointed. The investigative effort centered on the most recent appointment, that of Trustee Gerard Jervis in 1994.

Myron “Pinky” Thompson Term End Approaches

Myron Bennet “Pinky” Thompson served as a KSBE trustee from 1974 until December 1994. His term was originally set to expire at the end of February 1994 upon his

¹⁶⁵ pp. K145042-45.

seventieth birthday. He agreed to remain on the board until his successor could be appointed.¹⁶⁶ Gerard Aulama Jervis replaced him on the board.

Speculation In Press Regarding Political Figures

In late 1993 it was widely known that Thompson would be retiring in the near future. The press speculated in November 1993 that incumbent governor John Waihee and U.S. Senator Daniel Akaka might each be strong candidates for the position.¹⁶⁷

Trustee Vacancy Review Committee Created by Justices

In January 1994, it was announced that the justices had decided to utilize a vacancy review committee made up of eleven prominent members of the community.¹⁶⁸

Gladys Brandt	Former University of Hawaii Regent and retired Kamehameha Schools administrator
Herbert Cornuelle	Prior James Campbell Estate trustee
Charles Kekumano	Queen Liliuokalani Children's Centers trustee
Melody MacKenzie	Attorney, Hawaiian Home Lands Trust
Kenneth Mortimer	University of Hawaii President
Robert Pfeiffer	Chair, Alexander & Baldwin
William Richardson	Retired Hawaii Chief Justice, retired KSBE trustee
Gary Rodrigues	State Director, UPW
Alvin Shim	Attorney
Matsuo Takabuki	Attorney, retired KSBE trustee
Henry Walker, Jr.	Former Chair & CEO, Amfac

Three members of the committee were interviewed primarily about their work on the committee. They were Gladys Brandt, Gary Rodrigues, and Henry Walker. Matsuo Takabuki, a fourth committee member, was interviewed primarily on other matters and was asked to confirm only one area of testimony provided by the others.

Activities of the Committee

Commitment To Select From Finalists

The interviews conducted indicate that the members of the committee were invited to an initial meeting with Chief Justice Ronald Moon and one or more of the other justices. At that meeting, according to Takabuki, Walker and Brandt, one of the committee members specifically asked whether the justices would definitely pick the next appointee from

¹⁶⁶ M. Thompson interview, 6/23/98, pp. 4-5.

¹⁶⁷ Exhibit 7, Hon. Advertiser, 11/7/93.

¹⁶⁸ Exhibit 8, Hon. Advertiser, 11/14/93.

among the names submitted by the committee. All three were clear that a commitment was obtained from the justices present that the selection would definitely come from among the nominees named by the committee.¹⁶⁹ And then the question was asked again by Mr. Walker, if we came up with four or five names, would that suffice. And the answer given was yes, they would pick one name from the list and add no other names to that list Rodrigues disputes this.¹⁷⁰

No Guidelines From Justices

The committee ran a newspaper advertisement soliciting applications from interested persons.¹⁷¹ They reviewed the applications submitted and met on several occasions at the office of the United Public Workers. They were given no specific guidelines by the justices as to how they were to make their selections. In the meetings they discussed the applicants and by secret ballot decided upon the final nominees

¹⁶⁹ Walker interview, 3/19/98, pp. 4-5. From page 4, Walker: Well, we asked them many questions, of course, were they sure that they would select from us -- absolutely sure, they said, if you give us the names we'll pick from your names, no question about it. From page 5, LG: Okay. Were you given any specific instructions about how to go about doing the selection? Walker: No, they said the process is entirely up to you, where you do it is entirely up to you. How much time you take for it is up to you. Um, who you bring us is entirely up to you. Just remember that you bring us a list of names and from that list we will select a new trustee. LG: I see. Walker: That was always unequivocal.

Takabuki interview, 7/15/98, pp. 3-4. JT: Well, one of the committee members -- before the work began -- put the question to them (the justices), if we give you the, a name, or set of names, will you select from that. Takabuki: I believe it was Bob Pfeiffer who did that. JT: And -- Takabuki. Because he didn't want to waste any time and I didn't want to, too. JT: Did they make a commitment to do that? Takabuki: Yes, as far as I'm concerned, they did.

Brandt interview, 3/12/98, pp. 12-13. Brandt: ... And as I recall, a question was asked, if one name was brought up, would that name be the one that we'd select And the answer was, which I recall, that they would prefer more than -- it was Justice Moon who talked to us -- that they would prefer more than one name.

¹⁷⁰ Rodrigues interview,, 4/1/98, pp. 19-20. Q. Do you remember in the first meeting that the committee had with the Justices that there was some sort of commitment that the selection would be made from whatever number was nominated by the committee? A. No, there was no commitment whatsoever The Court did not say we will definitely select from that list and nowhere else.

¹⁷¹ Exhibit 9, Hon. Advertiser, Public Notice, 1/26/94.

Waihee's Nomination Championed by Rodrigues

During the selection process, an application was received on behalf of then-Governor John Waihee which was not submitted by Waihee.¹⁷² Gary Rodrigues met with Waihee and asked him if he would be willing to serve as a KSBE trustee, and was told that Waihee was not interested.¹⁷³ Even after being told that, Rodrigues continued to argue strongly in committee meetings for Waihee's selection.¹⁷⁴ Rodrigues did not sign the final letter transmitting the nominations to the justices. Brandt and Walker recall that Rodrigues refused to sign after failing to have Waihee's name included in the final list. Rodrigues disputes that this was the reason.¹⁷⁵

¹⁷² Walker interview, 3/19/98, p. 7. Walker: Um, in one application, the application was submitted for one person by someone else, that was for Governor Waihee.

Brandt interview, 3/12/98, p. 18. A. ... Well anyway, the name John Waihee came up. And John Waihee's application did not have his signature. So I raised the question that it was not his signature. And it was stated that that question wasn't germane, because if his secretary signed it, that was okay.

¹⁷³ Rodrigues interview, 4/1/98, pp. 6-7. Q. Did you at any time confirm with Governor Waihee that he was even willing to serve if nominated? A. Yes. Q. How did you confirm that? A. I asked him. Q. Where did you ask him? A. In his office Q: So do you know whether Governor Waihee ever did in fact forward his own name? A. He did not forward his own name. Q. In the meeting where you asked him about his willingness to serve, what exactly did you ask? A. I pointed out to him that he was nominated and was he interested or not. And he responded that he was not interested because he intended to serve out his term as governor.

¹⁷⁴ Rodrigues interview, 4/1/98, p. 16. Q. During the course of the deliberations after you learned from Governor Waihee that he was not interested in being nominated, how did that affect the discussion of the group? A. It didn't. The discussions centered around -- I was for putting him on the list even though I knew he wouldn't accept it because the job of this group was not to find out if people would accept the job or not ... I knew ahead of time and I informed everyone that the governor would not accept even if the Court offered it to him because he had told me that. Q. Did you tell the governor that you would still keep his name -- A. Absolutely I said -- Q. --going? A. Yes. I said that I believed that he had so much to offer Bishop Estate with his skill, and he met every one of the criteria. And I believe he was the only one that met all of the criteria, but the discussion to me denigrated when it came to him because they were against it because he was a politician. And I couldn't understand that because we have just agreed to put Bertha Kawakami on the list"

¹⁷⁵ Walker interview, 3/19/98, pp. 16-17. Walker: And when, uh, Mr. Rodrigues found, uh, Mr. Waihee's name was not on the final list, he, um, wouldn't sign the document. LG: Alright. Now the document was, uh, essentially the list of names that had finally been arrived at. Walker: Yes. LG: And as I understand it all the committee members except Mr. Rodrigues signed? Walker: Yes. LG: Okay. Uh, now, did Mr. Rodrigues

Letter Delivered to Justices by Brandt: “Where’s His Name?”

Brandt personally delivered copies of the nomination letter¹⁷⁶ to each of the justices on or around March 17, 1994. She testified that, intending to merely drop off the letters, she was surprised to learn that the justices wanted to see her in person. She met with all five justices who each received their letter. She described what transpired:

Each had an envelope. And I’m sitting. And the time was ticking. And it was all quiet.

And as I recall, a sentence was made, not directly to me to answer, “Where’s his name?” Something to that effect.

Quiet. And then this I vividly recall. Justice Moon said to me, addressed that to me, and said -- and I’m completely at ease; I’m just waiting for the time to get out there -- “I note that you stayed away from matters of politics” or something like that, “Why is this person’s name here?” And immediately, I spoke up and said, “Well, I can’t speak for the rest of the group, but with that name, I can speak for my part of the choice.

“Bertha Kawakami is a graduate of Kamehameha School. Bertha Kawakami I know, because she’s from the island of Kauai. Bertha Kawakami served as chairman of the advisory committee to the president of Kamehameha Schools, a position I held after I retired from Kamehameha.

indicate why it was that he would not sign? Walker: He was furious, furious, he was screaming, he was yelling. LG: Uh, huh. Walker: And he raced out of his conference room and to a telephone. And we were told that within fifteen minutes he had reached Mr. Waihee. So he was really grieved.

Brandt interview, 3/12/98, p. 21. (Referring to a telephone conversation with the former secretary to the committee) Brandt: ... But she did remind me yesterday that every member of the Committee -- which I had forgotten -- had signed that letter, except Rodrigues. He was so cross he walked out of the room.

Rodrigues interview, 4/1/98, pp. 22-23. Q. At some point, a letter was signed by the committee that went to the Justices with the pick of the names? Did you sign that letter? A. I’m trying to remember. I think I didn’t sign the letter but not because I disagreed. I think I had left town when they were circulating – I cannot remember that

¹⁷⁶ Exhibit 10, Bishop Estate Vacancy Review Committee to Justices.

“Bertha Kawakami in my mind is not a politician. Her husband, at his untimely death she was invited to serve in his place. So I did not look upon her as being a politician when her name came up for consideration.

“And Bertha Kawakami, to my mind, would make a wonderful role model for the girls at Kamehameha, period.”

I remember going through all of that. Because I felt so strongly about it. And no questions were asked.¹⁷⁷

Actions Taken By Supreme Court

In a March 23, 1994 letter to Henry Walker, the justices advised that they intended to postpone appointment of a trustee until after the Commission on Judicial Conduct issued an opinion regarding the justices continued participation in the appointment process.¹⁷⁸

That opinion issued in August 1994 and in a letter to Henry Walker the justices advised that they had elected to continue participating in the appointment process, reopen the application procedure, and dispense with the further services of the Selection Review Committee.¹⁷⁹

Unsigned Letter to Henry Walker

Walker received a letter at his office on or after August 26, 1994, which was signed simply, “a friend.”¹⁸⁰ The letter reads in part:

“I learned from a very direct source, many weeks before your committee announced the nominees, that there would be a long delay by the judges in making the selection. “Pinky” Thompson, who was a party to the plan, would continue as a hold-over. This delay would be based on some concocted reason announced by the judges, and designed to postpone the selection until after the election when a new Governor is elected. This would allow the present Governor to serve out his term without having to resign, which would, of course, be a dead give-away that he resigned to be available to accept the appointment as the successor Trustee.”

December 1994 Lindsey Notes: “Only mechanism to allow the delay to occur”

¹⁷⁷ Brandt interview, 3/12/98, pp. 25-26.

¹⁷⁸ Exhibit 11, Justices’ Letter to Walker, 3/23/94.

¹⁷⁹ Exhibit 12, Justices’ Letter to Walker, 8/22/94.

¹⁸⁰ Exhibit 13, “a Friend” Letter to Walker, 8/26/94.

Pursuant to Attorney General Subpoena 98-53, the DAG obtained handwritten notes of meetings attended by then Trustee Lokelani Lindsey. Approximately 3,300 pages of notes, with numerous redactions, were received and reviewed.¹⁸¹ Notes dated 12/15/93,¹⁸² apparently from a trustee meeting, provide some indication that by that date a plan was being discussed to utilize a selection committee to assist the justices of the state Supreme Court in naming Thompson's replacement. This was some weeks before the public announcement of the planned formation of a committee. The notes indicate that Robert Pfeiffer, Herbert Cornuelle, Gladys Brandt, Alvin Shim, William Richardson, and Matsuo Takabuki were already being considered for the committee.

There are additional fragmentary references in the notes relating to the committee, which appear to be consistent with the information in the 8/26/94 letter to Walker:

- "Initial impact ... ticked off! However -- **if they already made up their minds ... the screening committee will be an excellent way to go.** (emphasis added)"
- "**Only mechanism to allow the delay** (emphasis added) to occur -- is the committee."

There is an entry that appears to be a list of names: "Walker, Pagett, Lum, Hash, Larry." The list is immediately followed by an underlined comment, "Made a commitment." The next line reads, "Wakatsuki" followed by "Didn't make a commitment."

Indications of KSBE Scripting Justices' Reaction to Committee Recommendations

There is information from within the records of the KSBE GRD which also appears to support the assertion in the Walker letter from "a Friend" that there was collusion or cooperation between KSBE and the members of the Supreme Court, generally in the workings of the screening committee, and specifically in contemplation of Governor Waihee or another politician to become the new trustee.

A data file was retrieved from the GRD computer media seized during the execution of the search warrant on Namlyn Snow's office on 6/26/99.¹⁸³ The file contains a two-page document dated 3/21/94, and is filenames "CJ". It is from "Nam" to "Speaker" and is titled "RE: TRUSTEE SELECTION PROCESS." It is understood that Snow and others at KSBE addressed Trustee Peters by that particular honorific, which attached during his tenure as the Speaker of the Hawaii House of Representatives. The date listed is within days of when Brandt delivered the committee recommendation letter.

The document is significant because it tends to illustrate the KSBE Government Relations Department Director's views and expectations.

¹⁸¹ pp. LL00001-LL03307.

¹⁸² pp. LL00604-LL00605

¹⁸³ Tsukayama memorandum, 12/14/99, Exhibit 27.

Snow Was Providing A Blueprint for Execution

Snow opened the memorandum, “I’ve attached one possible scenario which is to issue a press statement as described, followed by another press statement after the selection has been made.”

The Memorandum Indicates Some Ability for Peters to Influence the Justices’ Strategy

Snow wrote, “Speaker, events with regard to this appointment may be fast-breaking and there may not be much time to have any meaningful input on strategy with those ‘under the gun’ which is key to an undesired outcome.” (emphasis added)

Snow Presumed Chief Justice Moon Participation

Snow stated, “CJ Moon may need to clarify ...” (emphasis added).

In the second page of the document Snow began, “CJ Moon issue press release thanking the Screening Committee ...” (emphasis added).

Later Snow wrote, “In the press release CJ Moon can also say that the justices ...” (emphasis added).

At another point she stated, “CJ can further state that he has asked the committee ...” (emphasis added).

Snow Offered Justification for Justices to Duplicate Committee’s Work

Snow advised, “In the press release CJ Moon can also say that the justices, acting as individuals, accept full responsibility for the final selection in accordance with the provisions of Mrs. Bishop’s will and do not wish to shirk that responsibility. A statement to this effect serves to say ‘The buck stops here’ and regardless of any committee recommendations, the justices alone have to make the decision.”

Snow Offered Justification for a Publication to Be Selected

The second page of the Snow memorandum includes the following note:

Should the final selection be from the “political persuasion,” CJ and the justices can issue a statement saying that while the committee guidelines excluded certain professions, particularly politicians, the justices were looking for the most qualified candidate and did not see a person’s career in public service per se as a disqualifying factor. Those who serve in elected public office were chosen by our citizens to represent us. The fact that they are good enough to represent our citizens should not be used as

an indictment against their abilities to sit on the KSBE board of trustees. In fact, recognizing the current mood of certain segments of the community and the tremendous pressure which is being applied to exclude the appointment of politicians to the board of trustees, the appointment of this candidate was not an easy decision. The outstanding and exceptional career and performance of this appointee won the unanimous approval of the individual members of the court.

Snow Strategy Compared to Justice Actions

When Snow's memorandum to Peters is compared to later writings made by the justices, there appear to be a number of possible correlations:

Justices Repeat Committee Work

In March 1994, Snow wrote, "Now that the committee has finished, the justices will again review all applications/nominations ..." (emphasis added)

In an August 22, 1994 letter to committee member Henry Walker, the justices wrote, "Subsequent to our review of all of the applications, we will add the names of additional qualified candidates, if any, to the existing list of finalists which the committee has recommended."¹⁸⁴ (emphasis added).

Noting Lack of Interviews By Committee

Snow stated, "CJ Moon may need to clarify that the selection committee did not personally interview candidates and this is part of the process which is relied upon heavily by the justices." (emphasis added)

On 8/21/97 the justices were quoted by the Star-Bulletin in an article covering the justices response to the "Broken Trust" article,¹⁸⁵ "We understand that no interviews were ever conducted with the applicants and it is unclear how the final list was produced." (emphasis added)

Justices Conduct Own Interviews

Snow wrote in her 3/21/94 memorandum, "and, mindful of the committee's recommendations, the justices will begin the process of interviewing select candidates ..." (emphasis added)

¹⁸⁴ Exhibit 12, Justices letter to Walker, 8/22/94, p. 2.

¹⁸⁵ Exhibit 14, <http://Starbulletin.com/97/08/21/editorial/bishop.html>.

In letter to Walker, the justices stated, “Thereafter, all finalists will be personally interviewed and a selection will be made.”¹⁸⁶ (emphasis added)

In 1997, the justices claimed, “We conducted face-to-face interviews with those candidates who we felt were best positioned by way of their backgrounds ...”¹⁸⁷

Justices Note Lack of Guidelines Given to Committee

From the March 1994 Snow memorandum: “CJ Moon issue press release ... stating that in order to avoid any appearance of interference with the committee’s work the justices deliberately did not issue any guidelines to the committee.” (emphasis added)

In their 1997 “Broken Trust” response, the justices, referring to the selection committee, wrote, “We set no parameters on the search and gave no directions as to how they should conduct their business ...”¹⁸⁸

The language and content of the Snow memorandum indicate that the KSBE GRD Director believed that KSBE and/or Henry Peters enjoyed a relationship with Chief Justice Moon which would permit Peters to suggest courses of action to the Justices in the matter of appointing the replacement to Thompson.

Further, as illustrated by the above comparisons, it appears that:

1. Shortly after the selection committee provided a list to the justices which did not include Governor Waihee or other career politicians, Snow drew up proposed reactions and announcements for the justices to adopt; and,
2. In certain aspects, the justices’ writings and actions closely match those reactions and announcements scripted by Snow.

Gerard Jervis Contacts with Court

General Indications of Close Relationship with Levinson

There is evidence that suggests that Gerard Jervis maintained a personal friendship with Justice Levinson. A number of telephone messages were taken for Jervis that appear to support this view.¹⁸⁹

¹⁸⁶ Exhibit 12, p. 2.

¹⁸⁷ Exhibit 14, <http://Starbulletin.com/97/08/21/editorial/bishop.html>.

¹⁸⁸ Ibid.

¹⁸⁹ p. K-146153, “says you owe him a phone call (putting it mildly)”
p. K-146175, “Lynn out of town Wed. Good time to have boys nite out.”

Contact with Justices Indicated at Start Of Controversy

There is evidence that suggests that Jervis was speaking with one or more members of the State Supreme Court in early May about the problems evolving at KSBE. The Lindsey Notes and some trustee telephone messages provide indicators.

A message was received on May 2, 1997, for Trustee Jervis. It was from “Steve Levinson” and said, “Desperately needs to talk to you.”¹⁹⁰

Lindsey’s notes contain entries that appear to be from a May 5, 1997 meeting that all five trustees attended.¹⁹¹ In that meeting there is a reference to a Saturday meeting which was apparently attended by Stender, Wong, and Jervis. In the recap of the earlier meeting Jervis appears to have discussed his concerns. The notes read,

-- This is out in the community -- Jerry is very concerned about this. We are having a problem with a confidentiality -- we talk in a private meeting & the word is on the street -- **got a call from a Justice of the Supreme Court -- Chief Justice -- Judge Levenston (sic) Justices are concerned about what they hear in the community.**¹⁹² (emphasis added)

At one point in the meeting the notes seem to indicate that Jervis was discussing trust law with respect to KSBE in particular:

-- Beneficiary for this estate is a class of people children -- not even of Haw’n ancestry and yet to be born. (underlining original)¹⁹³

The notes continue with what appears to be a warning to the others that the problems coming to light must be resolved:

-- Supreme Court on a writ of _____ (sic) can hurt us & hurt us bad. This court has taken hard cases -- Same Sex Marriage & PASH. This Court can do this! I’m concerned about confidentiality ... and my role as a

p. K-146180, “No excuses for no phone call except if you’re dead!”

p. K-800191, “Says to please call him tomorrow. Wants to share happy stuff about the school and other stuff cause you’re his good buddy.”

¹⁹⁰ p. K800192.

¹⁹¹ pp. LL 02557-60.

¹⁹² Ibid., p. LL 02557.

¹⁹³ Ibid.

trustee. We must find a solution to this. This is about perception. We must talk about it. Maybe we disagree about the immience (sic) of this.¹⁹⁴

Lindsey notes appear to document a trustees meeting held on May 8, 1997.¹⁹⁵ In those notes it appears that Jervis stated:

-- My point is -- we need to do something. **I met w/two of the justices & they are upset.**¹⁹⁶ (emphasis added)

It was publicly reported on that same day that Kamehameha Schools alumna and former teacher Winona Beamer had sent a letter to the Supreme Court criticizing the trustees for management of the Schools.¹⁹⁷

Indications Of KSBE Attempts To Monitor & Influence Government Action

The Question of Lobbying

“We Must Address the Issue of Lobbying and Registering ...”

There is evidence that suggests that the question of whether KSBE would engage in lobbying practices was one which went unanswered for a number of years.

On September 3, 1991 Nathan Aipa, Estate General Counsel, wrote to Gilbert Tam, the Administration Group Director, regarding the GRD’s functions within KSBE:

... We must address the issue of lobbying and the registering of individuals who may fall into that category. Currently, the Ethics Commission is awaiting a communication from KS/BE regarding the legislative activities of Trustee Oswald Stender and several staff members at KS/BE particularly during the last legislative session. This issue needs to be addressed as soon as possible.¹⁹⁸

Later that month, attorney Stanford Manuia wrote to Aipa about consultations he had had with Daniel Mollway of the State Ethics Commission regarding the advisory opinion process:

¹⁹⁴ Ibid., pp. LL 02557-58.

¹⁹⁵ Ibid., p. LL 025570-72.

¹⁹⁶ Ibid., p. LL 02571.

¹⁹⁷ Exhibit 17, <http://starbulletin.com/97/05/08/news/story2.html>.

¹⁹⁸ p. AG000017423.

... Mr. Mollway advocated that the Kamehameha Schools/Bernice Pauahi Bishop Estate secure an advisory opinion from the Commission before engaging in specific activity to influence legislative or administrative action¹⁹⁹

In the same letter, Manuia pointed out an Oregon case in which:

... an elected official failed to obtain advice before engaging in activity which the Oregon Government Ethics Commission subsequently determined was in violation of the law.²⁰⁰

Nathan Aipa advised a member of his staff in mid-1994 that the trustees of KSBE were considering activities in lobbying on both the state and federal levels. He asked that briefing material be assembled for a trustee retreat and indicated that Namlyn Snow would be involved.²⁰¹

That material appears to have become a document that exceeds three hundred pages in length dated October 31, 1994.²⁰² It is marked “confidential” and was prepared for a Strategic Planning Retreat.²⁰³ It is titled, LOBBYING ALTERNATIVES AND POLICIES, and it presented to the KSBE trustees “... a comprehensive review ... by providing background information, definitions of lobbying laws from a tax and legal perspective, examples and policy alternatives.”²⁰⁴ There are documents which indicate that Namlyn Snow drafted the section titled, “Background.”²⁰⁵

The lobbying material contains a set of sixteen exhibits that include more than two hundred pages of materials from attorneys Stanford Manuia and Edwin Ing, the accounting firms of Price Waterhouse and Coopers & Lybrand, and the Hawaii State Ethics Commission.²⁰⁶

¹⁹⁹ pp. K145243-44.

²⁰⁰ Ibid.

²⁰¹ p. K145128.

²⁰² pp. K142416-K142733.

²⁰³ p. K142416.

²⁰⁴ p. K142423.

²⁰⁵ p. K141591, M. Mitsuyasu memorandum to Aipa, Snow, Ishikawa, 7/14/94. The document and its attachment shows that Snow was to be the drafter of “BACKGROUND” and would also review “BACKGROUND,” “CURRENT STATUS AND TRENDS,” and “ALTERNATIVES.”

²⁰⁶ pp. K142506-K142733.

In the material, the Hawaii Revised Statutes definition of Lobbying is cited (HRS § 97-1):

“Lobbying means communicating directly or through an agent, or soliciting others to communicate, with any official in the legislative or executive branch, for the purpose of influencing any legislative or administrative action ...”²⁰⁷

The documents point out that certain persons must register as lobbyists unless they fall under one of six exceptions. The last such exception is relevant to information and testimony provided to in the investigation by KSBE personnel:

(6) Any person who possesses special skills and knowledge relevant to certain areas of legislation, whose skills and knowledge may be helpful to the legislative and executive branches of state government, and who makes an occasional appearance at the request of the legislature or an administrative agency, or the lobbyist even though receiving reimbursement or other payment from the legislature or administrative agency or the lobbyist for the appearance.²⁰⁸ (emphasis added)

One of the exhibit documents included an advisory letter from Manuia that was dated August 11, 1993. While Manuia’s recommendations included advice for the Estate to register a limited number of lobbyists, it went on to cite the advantage of the above-noted exception:

We suggest that KSBE staff, who serve as resource persons or experts, respond to legislative inquiries. By definition a resource person or expert is not required to register as a lobbyist This is a useful exemption because all of KS/BE’s employees, including trustees, may qualify.²⁰⁹ (emphases added)

Manuia’s letter continues with a recommendation:

Given the broad scope of KS/BE activities in Hawaii, we advise invoking the resource person or expert exemption as often as possible because (1) a resource person or expert is permitted by law to respond on behalf of KS/BE without being required to register as a lobbyist, and (2) a high level of participation by resource persons or experts allows KS/BE to keep the number of registered lobbyists to a minimum.²¹⁰ (emphasis added)

²⁰⁷ p. K142543.

²⁰⁸ p. K142544.

²⁰⁹ p. K142533.

²¹⁰ Ibid.

Manuia's letter also gave some information regarding the advisory, rather than enforcement, postures adopted by regulatory agencies in the areas of campaign spending finance and lobbying:

In Hawaii there is a movement to consolidate campaign finance, ethics, and lobbying regulation This movement emphasize active enforcement as a means of balancing the right to free expression of opinions about executive and legislative action by publicly identifying the persons and expenditures made to influence. At present, the two agencies charged with administering campaign finance, ethics and lobbying regulation, have adopted an advisory rather than an enforcement or policing approach to administering the law.²¹¹

Within the Background section, believed to have been authored by Snow, there is a discussion of groups of volunteers formed or developed by KSBE GRD. In one section, Snow provides information that may have acted to persuade the trustees not to register lobbyists:

The members of these groups operate at various levels of independence with support from GRP volunteer staff. It is important that these volunteer networks be continued and more added to them as the need arises. It is equally important that these networks continue to be primarily composed of volunteers rather than paid KSBE staff or "professional lobbyists." Paid staff and lobbyists are often regarded by legislators as "hired guns." On the other hand, volunteers are perceived to have less monetary interests in the outcome of the legislation and, therefore, appear to have more credibility.²¹² (emphasis added)

Trustees' Decision Regarding Lobbying

Aipa testified that the general thrust of the presentation to the trustees was to register as a lobbyist, but that the seemingly unanimous conclusion was that there would not be lobbying.²¹³ Aipa did not recall a written policy being issues relating to lobbying at the state or local levels.²¹⁴

Still a Question

²¹¹ p. K142532.

²¹² p. K14234.

²¹³ Aipa interview, 8/25/99, p. 30.

²¹⁴ Ibid., p. 28.

Although in 1991 and later in 1994 Aipa had felt that the question of lobbying had to be addressed, and the trustees had made their wishes known at the retreat, he thought that there was still a question in some people's minds that there should be a lobbying policy.²¹⁵

We Do Not Lobby

"We Were Resource People"

There is evidence that suggests that Manuia's recommendation maximizing the use of Estate personnel as "resources" was followed. It was also suggested by testimony received that the Estate took the position that it did not engage in lobbying.

Rodney Park is the current Director of the KSBE Administration Group, one of the five Principal Executives of the Estate. He made clear that KSBE does not lobby. In one interview with him he was questioned about this specific matter:

JT: Do you take steps to ensure that the Government Relations Department does not engage in lobbying?

Park: Well, you know, it's Trustees policy that we do not lobby, but it's not illegal for us to lobby if we need to do certain things and, you know, we can lobby to preserve our tax exempt status and things like that. Um, so that's the -- the question is -- how do you want me to answer that?

JT: Okay, what areas, do you allow the Government Relations Department to lobby?

Park: I don't, trustees allow.

JT: Okay.

Park: And we don't lobby. That's our official position.

JT: So even in the -- in the -- so are you saying in no areas does Government Relations lobby?

Park: Not that I'm aware of.²¹⁶

Paul Cathcart is currently the Director of the Urban Oahu Division of the Asset Management Group of KSBE. From 1980 to 1982 he worked in what was then known as

²¹⁵ Ibid., p. 43.

²¹⁶ Park interview, 5/18/98, pp. 58-59.

the Land Management Department of the Estate and had the responsibility for Government and Community Relations.²¹⁷

Cathcart was asked about situations in which he may have met with government officials and acquainted those officials with the outcomes desired by KSBE. He answered that he did this, “[I]n response to their invitation to meet with them in their offices and they’ve asked us to, more information about and the rationale behind a particular position.”²¹⁸

As a senior manager of the Estate with twenty-years of experience, Cathcart has become familiar with Estate government practices and policies.²¹⁹ In his interview he replied to a question about whether KSBE has taken a position with respect to whether it will involve itself in lobbying:

That’s a broad question, what I’ve been told, instructed, as many of us managers who are expected to be involved with testifying, interfacing government officials, is that, told by our tax guys on staff that we are to respond to inquiries but limit the initiation of the interaction with government officials so to that extent, I mean, that has been the practice and well I can’t speak for the institution and what our policy is, only there is no written policy, I know that for a fact.²²⁰

Neil Hannahs is another long-time Estate executive. He has served both as the Director of Community Relations and the Director of Public Affairs.²²¹ He expressed his understanding of the Estate’s instructions regarding lobbying:

We followed the instructions that we were given and I represent the institution when I was asked to represent the institution on those issues. Part of the instructions was that we were advised that we were resource people. That in responding to public hearing notices and in testifying that, that did not constitute lobbying, that was just being a resource and getting the legislature the information that they were asking for by ways of a public hearing process.²²²

From Hannahs’ interview:

²¹⁷ Cathcart interview, 7/8/99, p. 3.

²¹⁸ Ibid., p. 7.

²¹⁹ Ibid., p. 12.

²²⁰ Ibid., pp. 11-12.

²²¹ Hannahs interview, 5/26/99, tape 1, p. 6.

²²² Ibid., p. 10.

JT: Okay. What were you told was the problem with KSBE engaging in lobbying:

Hannahs: I understand we weren't registered as lobbyists and the reason we weren't registered was because we felt, the trustees, felt that the people were serving as resources.²²³

Rodney Park discussed how an employee might entertain a legislator and provide them with information:

JT: Okay, so if in, say an employee used the card eight or ten times a month to have meetings like that, where with no business discussed, and purely social contact with state legislators over a period of years, would that be a problem or inappropriate?

Park: I would question the person's definition of social or you know not business related because again, we're kind of caught in an awkward situation here.

JT": Uh huh.

Park: It could be all, it could all could be solved if we registered as lobbyists, and did the disclosures and followed the guidelines and the laws and as a non-profit, we are within some limits, we are authorized to have lobbying. Okay, we as an organization made the business decision to say we are not going to register, we are not going to do the lobbying. So I would question the individual as to, wait a minute, wait a minute, are you so concerned the fact that we're taking the position, we're not lobbying then you're putting just social, but in fact what you're doing is you're actually educating and you're informing this person, about issues and enlightening this individual about maybe a different perspective, different point of view that you want this person to have, when this person is dealing with this specific issue. And if the answer is yes, I'd say, you know, wait a minute, there should be, this is not social, it's education and information sharing, for providing a decision maker with the interest of KSBE in mind.²²⁴

"Lobbying Is When You Talk To Legislators To Try To Affect Their Vote"

The people who worked directly for Snow also provided information regarding what was said within the GRD about lobbying as well as their understanding of the practice:

²²³ Ibid., p. 11.

²²⁴ Park interview, 6/23/99, p. 17.

Dawn Farm-Ramsey testified that when she first joined GRD she asked Snow about what lobbying is. Snow told her that, “lobbying is when you talk to legislators to try to affect their vote.”²²⁵

Snow may have indicated to Farm-Ramsey that Snow herself disagreed with the position by trustees not to lobby.

Farm-Ramsey: She well, she, as I recall her approach to that was always from KSBE’s standpoint, not specifically Government Relations Department standpoint, and it was we are entitled to lobby, that, my misunderstanding was that a 501(c)(3) organization was not allowed to lobby, and she corrected that and she said it is allowed to lobby, it’s the trustees’ own determination that we not lobby so that’s how she explained KSBE’s position.

TP: Okay, and it was the trustees decision that KSBE would not lobby?

Farm-Ramsey: That’s what she told me.

TP: Okay, so as far as you know, KSBE did not lobby and that was not a practice that was accepted?

Farm-Ramsey: That’s what was told me, that it was not, it was trustees’ choice.²²⁶ (emphases added)

Farm-Ramsey made clear that Snow did not like being asked about the topic of lobbying.

Farm-Ramsey: The only discussions were ones that I initiated, Nam did not and she didn’t take kindly to questions like that.

TP: How come, or –?

Farm-Ramsey: She, I don’t know, she just, she reacted pretty strongly when, when I would ask and so based on what she told me, just based on what whatever it was that she told me is how I continued to follow through or to continue to think about things like lobbying and sometimes like I said when she would get really upset about that it was more like from the standpoint of my questioning her maybe not ethics but just questioning her like I, that was not my place to question so you know.²²⁷

²²⁵ Farm-Ramsey interview, 8/5/99, p. 24.

²²⁶ Ibid., p. 28.

²²⁷ Ibid., pp. 27-28.

Lurline Naone-Salvador served as a Government Relations Officer from 1991 to 1994.²²⁸ She is presently Cultural/Historical Resources Manager in the Estate's Asset Management Group.²²⁹ She was asked whether Snow had ever discussed with her what lobbying was, she said, "Not really she just said we don't lobby."²³⁰

Alika Thompson said, "... I asked if we were going to register and they said no, 'cause we don't lobby, we provide information and testify, but we do not lobby."²³¹

Thompson was asked to distinguish what he did at KSBE from the lobbying he conducted while with Hawaiian Electric Company. He said:

Well I used to call legislators, department staff, for instance and ask you know, so that I can get an appointment with them and go over and talk to them about issues that we were interested in and what our position was and try and get a favorable reaction from them.²³²

Naone-Salvador described what she came to believe lobbying meant:

Lobbying to me in a nutshell is when you try to buy votes or to push your interest and either ho'omalimali or get people, buy their votes, actually. You know whether its wining and dining them or buying them gifts or taking care of their special, special things with special favors.²³³

Evidence Contrary to Lobbying Denials

Despite the contention that KSBE does not lobby at the state level, some documents and testimony were received that might indicate that some KSBE employee's conduct may have fallen into the stated definition of lobbying.

Contact Initiated by Estate

The resource exception appears to depend on information requests initiated by the government.

²²⁸ Salvador interview, 7/16/99, p. 4.

²²⁹ Ibid., pp. 2-3.

²³⁰ Ibid., p. 7.

²³¹ Alika Thompson interview, 6/21/99, p. 7.

²³² Ibid., p. 8.

²³³ Ibid., p. 8.

The following information was obtained from Hannahs:

JT: Were there times when you would pick up the phone and contact an elected official with the desire to meet with them to espouse the Estate's position?

Hannahs: I think that happened. It could very easily have happened.

JT: Okay.

Hannahs: Not a lot but -

JT: Who were the legislators, legislators or other elected officials that you did contact in that way.

Hannahs; I remember meeting with Milton Holt when he was Chair of I think Land Use Planning or something like that.²³⁴

Farm-Ramsey also provided testimony relating to initiation of contact:

JT: Would you ever made contact with the government official and say, and offer, to be available if they wanted your position?

Farm-Ramsey: Offer to be available if they wanted more information?
Yes.

JT: And generally speaking did they take you up on the offer?

Farm-Ramsey: ... But that would be the kind of thing you know an issue that would be coming forward that I would offer us to be a resource on it they required it.

JT: And while acting as a resource would you generally be making clear what Kamehameha's position was on a particular issue?

Farm-Ramsey: Uh, huh, yes.

JT: And were you also hoping that they would somehow act favorably toward Kamehameha --

Farm-Ramsey: Yes.

JT: -- once having formed that opinion?

²³⁴ Hannahs interview, 5/26/99, pp. 11-12.

Farm-Ramsey: Yes.²³⁵

Farm-Ramsey described a particular instance wherein a neighborhood board was considering what should be done with the Kamehameha Drive In. She had noted the presence of Councilman Hanneman's aide. She testified:

Afterward, the next day, I called the aide and I said, you know I'd like to offer KSBE as a resource to either you or the Councilman should you require any additional information. But they didn't call back.²³⁶

Soliciting Others to Communicate

The definition of lobbying under the Hawaii law cited in the trustee retreat briefing material (above) appears to indicate that lobbying can also occur by "communicating directly ... or soliciting others to communicate with any official ..." (emphasis added)

In late 1992 Farm-Ramsey, writing to Snow regarding her own appraisal stated, "... my work also involves highly sensitive and confidential subject matter as well as sensitive and confidential interaction with individuals and organizations."²³⁷ She continued to list "some of the major accomplishments of the past year or so."

- ❖ Recruited testifiers for legislative and city council hearings, especially those on mandatory conversion and rent control. As a result of their attendance and the testimony written for them, several testifiers were interviewed and their testimony excerpted and quoted in subsequent news articles;
- ❖ Recruited testifiers for Mr. Peters various bills introduced during the '92 session; much of phoning to seek testifiers were done at night at home;
- ❖ Developed testimony for recruited testifier at all hearings.²³⁸

In an interview Farm-Ramsey described how and why she would recruit testifiers:

JT: Let me ask you something, you know, you said you would be asked to recruit testifiers, who would be asking you to do that?

Farm-Ramsey: Nam.

²³⁵ Farm-Ramsey interview, 8/5/99, p. 50.

²³⁶ Ibid., p. 51.

²³⁷ pp. AG17678-80.

²³⁸ Ibid.

JT: Anyone else?

Farm-Ramsey: No.

JT: So would she be specific as to what hearing or matter that she wanted you to try to get testifiers for?

Farm-Ramsey: Yes.

JT: And when you recruited testifiers, would you tell them that your boss at KSBE had asked you to recruit people to speak?

Farm-Ramsey: No.

JT: Why didn't you tell people that you were doing this as part of your job, asking them to come out?

Farm-Ramsey: Because again like I said a lot of this was done not as my job, I mean is it my job when on my time at night, on the weekends, I'm calling people, I'm not getting comp time for it, I'm not getting paid for it, the, the, the request came in from Nam but the work was done on my own, the relationships were on my own, the money that was spent either taking people, driving testifiers sometimes to the hearings sometimes taking them out to dinner, you know before a hearing if it was expected to be lengthy, I absorbed all that, I never asked for reimbursement for it you know and so was it, you know she made that request from me but the request that I made of other people was to support KSBE.²³⁹

Farm-Ramsey also discussed the preparation of testimony for testifiers:

TP: Did you or KSBE ever draft the testimony for these people?

Farm-Ramsey: I did, I frequently did that.

TP: At work?

Farm-Ramsey: I may have, I may have done that at work. I don't have a computer at home that's why.²⁴⁰

Farm-Ramsey was explicit that in addition to testimony she asked others to make calls to legislators:

²³⁹ Farm-Ramsey interview, 8/5/99, pp. 16-17.

²⁴⁰ Ibid., p. 17.

JT: Okay, did you ever ask anyone else to contact a legislator in an attempt to affect their vote?

Farm-Ramsey: Yes.

JT: And were these people that you were asked to do this, well were you asked by Nam or others to do that? To get others to contact legislators?

Farm-Ramsey: I may have been, yes.²⁴¹

Later in the same interview:

TP: You mentioned earlier that you and correct me if I'm wrong (inaudible) did I understand you to say that you may have asked non-KSBE employees to contact Legislators?

DFR: Yes.

TP: Can you give us, tell us about that or give us an example?

DFR: Well it's, it's again in keeping with what I had said before about recruiting people to testify and on the issues of leasehold conversion or property rights that affected KSBE I would sometimes if the vote was going to be pending, I would call people and say you know could you call, could you call your councilman or your senator or whomever and express your thoughts about this and it was not you know I never tried to make it something that was forcing them but explaining the issue and then asking them if they would be supportive if they would mind calling so how they took it from there was up to them whether they followed through²⁴²

Drafting Legislation, Securing Introducers, Suggesting Introducers

Certain documents found in Snow's former office give further indications that KSBE involved itself in drafting proposed legislation, asking Milton Holt to secure introducers of legislation, and provided advice to a Senator suggesting whom he might ask to introduce legislation:

A memorandum dated January 23, 1997 from KSBE Senior Counsel Stacy Rezendes was apparently transmitted to attorney Al Jeremiah. The memorandum appears to be part of a five-page transmission that included two, two-page drafts for companion bills to be introduced in the House and Senate. Rezendes' memorandum reads in part:

²⁴¹ Ibid., p. 24.

²⁴² Ibid., pp. 26-27.

Enclosed please find a copy of a bill which I drafted for introduction in this year's legislature. It seeks to clarify that Native Hawaiian organizations may limit their benefits to Native Hawaiians without running afoul of civil rights laws.²⁴³

Beneath the printed portion of the memorandum are the following hand-written notes:

Hold -- 1/24/97

Talked to Stacey Late Submission -- May also have neg. impact if not passed; look for vehicle bill -- she & Al discussed amending trust section rather than civil rights section -- prob is if that's done they may change bill to affect KSBE Trust. Agreed that bill not that critical -- sent her past reso.²⁴⁴

The 1993 GRD Strategic Directions and Initiative document states, with respect to what GRD had done to support KSBE advocacy efforts:

... Researched, edited and assisted in drafting 32 legislative proposal and resolution of interest to KS/BE

... Assisted KS/BE Legal Division in formulating proposal for reversion of land taken by the federal government which has been submitted to Congressional staff for consideration ...²⁴⁵

A telefax transmitted sheet dated 1/18/96 addressed to Milton Holt (at fax number 586-6849) from KSBE GRD bears the following comments:

We don't believe this was introduced last session. If not, can you find someone to introduce House and Senate? Please advise. Thanks.²⁴⁶

There is what appears to be a draft of a bill for an act relating to public access which appears to relate to public access to recreational areas. It seemed to be intended to restrict such access to pedestrians and not vehicles. The amendment to the Hawaii Public Access Law's embodied in Chapter 46 makes clear that private property owners would not be required to provide vehicular access or public parking.²⁴⁷

²⁴³ pp. AG000019721-25.

²⁴⁴ Ibid.

²⁴⁵ p. AG000018672.

²⁴⁶ pp. AG000019785-87.

²⁴⁷ p. AG 000019805.

The draft contains two hand-written notes:

Marshall -- You may want Sen President to intro BR.

Bob Herkes For SPKR BR Left call w/Marshall

“BR” may refer to the practice of introducing legislation “By Request.”

“The Fact That It Was A ‘KSBE’ Bill Was Not Widely Known”

In the October 1994 lobbying briefing material prepared for the trustee retreat, Snow, as probable author of the background section, provided some specific information as to how KSBE accomplished desired outcomes even when it had an official “no-lobby” position.

The document noted a specific example that outlined the hidden nature of GRD initiatives, and the cooperation of specific legislation, which together contributed to success:

The decision that KSBE would not lobby has meant that not all the activities involving department staff are acknowledged and staff wear different “hats” at various times. While these private, volunteer lobbying activities occasionally create some “schizophrenic” behavior and confusion for staff it has generally operated well and successfully accomplished most of its activities. One example occurred during the last legislative session. A major bill which would allow a private land owner the right of first refusal for buying back his property taken by state and local government through eminent domain if the original public purpose no longer existed, was stalled in the Senate. The chairman of the committee announced that he would hear a few bills, including this one, only if he received a request from the public to do so. When we learned of the Senator’s actions, a member of the GRD staff acting as an individual on behalf of a family landholding stepped forward and gave testimony in support of the bill. The Senator reported the bill out and it successfully passed the Senate. Since the bill had been introduced by the Senate President “by request” (with the assistance of Senator Milton Holt) the fact that it was a “KSBE” bill was not widely known and, therefore, it did not attract unnecessary “knee-jerk” opposition. The idea for the reversion/right of first refusal bill was initiated two years earlier by GRD which had learned that similar legislation existed in another state. The bill was originally introduced by Representative Henry Peters and passed the legislature in 1992 but was subsequently vetoed by the Governor.²⁴⁸

Specific Situations

²⁴⁸ p. K142432.

Based on records reviewed and testimony received, it appears that KSBE may have developed a number of methods of obtaining government action favorable to its aims. The following are specific situations where indications of these possible methods may have been revealed.

Opposing Land Reform

KSBE has historically opposed legislated conversion of leasehold properties. In documents obtained from KSBE, some of the detailed planning, execution, and expenses of some of those activities were apparently described.

1991 Manuia Letter

In March 1, 1991 letter from attorney Stanford Manuia, there is a description of a number of items relating to land reform which were apparently discussed by a KSBE planning group.²⁴⁹ Excerpts follow:

- Trustees' goals re: leasehold conversion.
 - a) Keep public relations campaign going to buy time to ensure that the 1991 session concludes without mandatory conversion; monitor first cross-over deadline of Tuesday, March 12th. (Note: According to Elisa Yadao, air time is being purchased one week at a time.)
 - b) Divest residential leases eventually.
- Meeting with Hui Pono Aina on March 1st. The planning group agreed to present a four point program to the Hui.
 - a) promote voluntary conversion with appropriate capital gains tax relief
 - b) lease rent relief funded by conveyance tax on leasehold sales
 - c) promote coordination of State's policy on housing development (reconcile no growth vs. need for affordable housing dilemma)
 - d) Repeal Chapter 516
- KS Alumni/BPBE post card campaign to be implemented once Hui agrees to four point program. This means polling at the request of the Hui to gather information in support of the four point program, which would be publicized by the Hui.
- Participation in mass rally on March 20th or March 21st along with other Hawaiian groups including Mililani Trask.
- Extend public relations strategy to council Bill No. 156 which will be heard in mid-March, 1991 (Note: According to Nam Snow, there are four supportive council members.)

Records relating to an apparent 1994-1995 plan were obtained from KSBE. The records indicate that KSBE may have planned an extensive campaign against land reform during this period which was to begin at the State Democratic Convention. Some of the activities listed in the planning documents, and the KSBE role:

²⁴⁹ pp. K14502-05.

Activity	KSBE Role
State Democratic Convention	Protest demonstration; Host hospitality suite; Launch public info campaign
10 th Anniversary Midkiff Decision	Sponsor: 30 Min. video documentary; media release of KSBE statement; statewide ads
Kamehameha Day	KSBE statement; on-going ad campaign
Primary Elections	KSBE statements; on-going ads
General Elections	KSBE statements; on-going ads
Hawaiian Civil Club Convention	KSBE presentation
1995 Legislative Session	KSBE sponsors rally; ad campaign culminates ²⁵⁰

The extent of the planning and expense envisioned in the scheme may be indicated in other documents marked “DRAFT plan for KSBE activities at State Democratic Convention, May 27-May 29, 1994, Sheraton Waikiki.”²⁵¹ It provides the following details:

Estimated cost to conduct all activities as envisioned:
\$155,000 (emphasis original)

KSBE-hosted Hospitality Suite, Friday, 5/27 -- \$13,000

Suite to contain:

- KSBE anti-land reform informational display
- 8 to 10 minutes informational video
- Handouts
- Promo items
- General KBE informational materials
- Food catered for 150 people

Public demonstration, Saturday, 5/28 -- \$20,000

Between 100 and 200 demonstrators will be recruited to march and hold signs outside the convention site. As many as can be managed will [go] into the convention hall to hold signs. This will be coordinated per Nam/GRD suggestion.

Demonstrators will assemble at convenient location (i.e., 4th floor RHSC) for pule, light breakfast and briefing at 8:00, then proceed to convention site (Sheraton Waikiki) to march and picket. As opportunities present themselves, demonstrators will enter convention hall. Timing of arrival, location of pickets, etc. will be coordinated per Nam/GRD suggestion.

²⁵⁰ pp. K129908-09.

²⁵¹ p. K129911.

Bento lunches will also be provided if demonstration goes through the lunch hour.

Counter Rallies

Such public rally events may not have been confined to putting forward information favorable to KSBE's positions. Some evidence was developed indicating that KSBE also may have engaged in active attempts to counter other groups' attempts to get competing messages out.

Documents found in Snow's office included what appeared to be a note from Dawn Farm-Ramsey to Snow dated 3/5/93. It included entries below the heading "Dawn's Comp. Time." The document appeared to have been stamped "CONFIDENTIAL." Snow was asked about the information entered in the lower part of the document:

Farm-Ramsey: It says "Nam I submitted the top portion only to Laurita however you asked me to keep a record of my counter rally time which amounted to 25.5 hours, I used eight of those hours on 2/12 leaving a balance of 17.5 hours, I'm rounding that down to 16 hours to $16 + 7.5 = 23.5$ hours. Total comp time as of 3/5/93."

JT: Okay. Now what I'm trying to understand is why you submitted only the top portion to Laurita and not including the counter rally time?

Farm-Ramsey: I can only assume it was at Nam's request.

JT: What counter rally were you referring to?

Farm-Ramsey: I don't know, I don't know something in '93 I'm guessing.

JT: Okay were there any, have there been many counter rallies that you've been involved with?

Farm-Ramsey: Well, there were some that we did for Kuapa, there were two that we did for Kuapa, that was at the council level. Um, I can't remember any other rallies that we did.

JT: I'm not sure the difference between a rally and a counter rally, could you explain what you mean by the term counter rally?

Farm-Ramsey: I can't remember what this is in reference to so I don't, I don't know, I don't know what is meant. Unless there was a rally, a rally being staged by another group perhaps that we were countering.

JT: Were you ever asked to do that sort of thing?

Farm-Ramsey: There was one time, maybe this is it, I can't even remember the years. Where the lessees I believe they were, they were the Kuapa possibly lessees that were going to rally on the leasehold conversion issue and so I kind of got together some of my family and friends to rally in opposition to that.

JT: So were there like signs made?

Farm-Ramsey: There were signs that I paid for. And other people paid for out of their own pockets.

JT: Uh, huh and was that something that you were asked to do by Nam?

Farm-Ramsey: Well, I'm guessing that it must be I, you know I really don't recall the particulars of it but because I submitted a comp time sheet on it, I'm only I'm assuming she must have asked me to do something like that. I can't remember.²⁵²

Relating To Trustees Commissions

There is evidence indicating that Estate personnel and Trustees worked against measures to limit to change the structure of trustee commissions for a number of years.

Testimony By Estate Executives

In the search of Snow's office were found a number of documents indicating that senior Estate personnel may have presented testimony against legislative attempts to curb trustee commissions. They included the following:

1. A two-page document dated February 12, 1990 which appears to be testimony for the Senate Consumer Protection and Commerce Committee relating to Senate Bills 2127, 2343 and 3266. The second page of the document signed Gil Tam, Director, Administration Group, KS/BE. The testimony begins, "I would like to testify against passage ..."²⁵³
2. A three-page letter on KSBE letterhead dated February 12, 1990 to Senator Russell Blair, Chairman, Committee on Consumer Protection and Commerce.²⁵⁴ It begins, "I am Nathan Aipa, General Counsel of Kamehameha Schools/Bishop Estate. Thank you for this opportunity to speak in opposition to Senate Bills 2127, 2343, and 3266 which basically attempt to set a cap on commissions of trustees of charitable trusts."

²⁵² p. AG000017670-71.

²⁵³ pp. AG000018537-38.

²⁵⁴ pp. AG000018534-36.

3. A two-page document which has no specific date, but does reference the “Fifteenth Legislature 1990.”²⁵⁵ It is titled, “Testimony For the Senate ... Regarding Senate Bill No. 3266 Relating to Trusts introduced (sic) by Senator Koki.” It begins, “My name is Rodney Park and I am currently the Controller of the Kamehameha Schools/Bernice P. Bishop Estate.” It ends, “... I respectfully request that Senate Bill No. 3266 be held in committee. Thank you very much.”
4. A two-page document which has no specific date, but does reference the “Fifteenth Legislature 1990.”²⁵⁶ It is titled, “Testimony For The Senate ... Regarding Senate Bill No. 2343 Relating to Charitable Trusts introduced by Senator Russell Blair.” Again, this document identifies the testifier as Rodney Park and gives his position with KSBE. It also ends with request, “I respectfully request that Senate Bill No. 2343 not be adopted for the reasons presented.”

Attorney General 1991 Recommendations

Records received from the Estate indicate that the organization was placed on notice by the Attorney General in 1991 that there might be problems associated with involvement by some of its personnel in legislation regarding trustee commissions.

In November 1991 then-Attorney General Warren Price wrote to the KSBE trustees and pointed out that his office had been informed that in 1989 and 1990 officers and employees of KSBE had submitted testimony in opposition to measures proposing reductions or limits to trustee commissions. Price also pointed out that several requests had been received to investigate the use of Estate property and personnel to lobby against such measures. He submitted further:

In order to avoid both impropriety and the appearance of impropriety in the future, we recommend that the Trustees establish a written policy or rules that prohibit the Trustees from using Estate resources in their lobbying efforts and prohibit employees from using Estate time, equipment, office supplies, and other assets for lobbying on behalf of Trustees.²⁵⁷

Aipa’s written reply on November 20, 1991 stated the KS/BE possessed policies prohibiting the use of Estate assets and funds for any personal use or unrelated activities. He went on to point out that the activities cited by Price involving Estate personnel submitting testimony relating to trustee commissions were done so at the request of legislators hearing or interested in the measures. He opined that therefore those activities

²⁵⁵ pp. AG000018558-59.

²⁵⁶ pp. AG000018543-44.

²⁵⁷ p. K145233-34.

did not constitute lobbying. He pointed out that when such requests are received staff would continue to respond.²⁵⁸

Democratic Convention

It appears also, that the Estate's activities in this area may have extended beyond government legislation into the workings of the Democratic Party. A document, which is believed to date from the 1994 Democratic State Convention titled, "Resolution Calling For A Cap On Payments To Bishop Estate Trustees" was provided by KSBE.²⁵⁹ The resolution reads: "Therefore, be it resolved that the Democratic Party of Hawaii calls for the adoption of legislation to place a reasonable cap on the fees paid to Bishop Estate Trustee..." It bears a number of handwritten notes, some of which are:

Nam: Please insert in our Resolution The facts as follows:

1. The estate was established to build a school "one for girls & one for boys to be called the Kamehameha Schools.
2. The Kamehameha Schools is the sole beneficiary of the princess will.
3. The State of Hawaii - Dept of Ed is responsible to provide both specialized & general educational programs for all children -- Hawaiian included.

Monitoring Of Trustees Compensation Legislation

There is evidence that indicates that KSBE GRD and Namlyn Snow closely monitored legislation relating to trustee compensation and communicated with trustees about same:

1. A telephone message appears to have been taken for Trustee Richard Wong from Snow. It is dated 1/16/97 and reads, "Andy Levin introduced bill to reduce Trustees' compensation today. Bill being sent up for your review and info."²⁶⁰
2. A copy of a document titled, "Mini Journal Twenty-Sixth Day March 6, 1998."²⁶¹ It appears to document the activities of the House of Representatives for the indicated date. On the cover is a hand-written note which reads, "Laurita - see me. Re: Create Special File: Trustee Commissions."

²⁵⁸ p. K145226.

²⁵⁹ p. K129919.

²⁶⁰ p. K147758.

²⁶¹ pp. AG000019356-77.

3. A set of documents containing copies of proposed legislation, various drafts of testimony by Henry Peters, a Senate Journal, and a KSBE print-out labeled “HOT BILLS -- Alive Past First Crossover,” and other related papers.²⁶²
 - Some entries on the HOT BILLS printout:
 - Team Leader: Nam Snow, Milton Holt, Nathan Aipa
 - Staff: Nam Snow, Milton Holt, Nathan Aipa
 - 01/15/98 Lori Ogata ... THIS IS A HOT BILL
 - 01/20/98 Nam Snow [1 (Major impact)] Defer to Legal and trustees regarding final position. This is a “HOT” bill. Please notify immediately if scheduled for public hearing ...²⁶³
4. A telephone message appears to have been taken for Trustee Richard Wong from Namlyn Snow on 4/9/98. It reads, “re Trustees’ Commissions Proposed Senate Draft passed w/no discussed (sic) as thought it would be Will talk w/you later.”

Terrance Tom Fax

In the search of Snow’s office was evidence indicating that at least one legislator was providing specific information regarding trustee compensation legislation directly to KSBE during the 1998 session. A seven-page April 29, 1998 fax was found addressed to Nathan Aipa and Nam Snow from Terrance W. H. Tom, Esq.²⁶⁴ The reference line of the fax cover sheet reads only, “***Confidential***.”

Following the cover sheet are what appear to be two alternative drafts of House Bill 2362, Relating to Charitable Trusts. The language of the two drafts is similar, and each establishes “a task force on charitable trusts to review all existing state laws relating to the compensation of trustees of charitable trusts and to make recommendations to the legislature ...²⁶⁵

An apparent difference between the two drafts is the composition of the proposed commission. One creates a five member commission, “two of whom shall be appointed by the president of the senate, two of whom shall be appointed by the speaker of the house of representatives, and one of whom shall be appointed by the governor.”²⁶⁶ The other proposes a task force “... of six members three of whom shall be appointed by the

²⁶² pp. AG000019380-471.

²⁶³ p. AG000019420.

²⁶⁴ pp. AG000019349-55.

²⁶⁵ Ibid., pp. AG000019351, AG000019354.

²⁶⁶ Ibid., p. AG000019354.

president of the senate and three of whom shall be appointed by the speaker of the house.”²⁶⁷

1998 Session Expert Witness Expense/Planned Mizuguchi Meeting

There is testimony and documentary evidence which indicates that KSBE paid for the services of an expert witness to provide testimony and to possibly meet with Senate President Norman Mizuguchi on the matter of trustee compensation.

In an interview, Estate Director of the Administration Group Rodney Park provided the following testimony:²⁶⁸

SG: (Referring to 1998 legislative session) I was asking the question. This is Steve Goodenow. It was, uh, regarding any hearsay you might have heard about, uh, anyone on behalf of KSBE lobbying, uh for the Trustee compensation bill.

Park: I, uh, I don't know if this is lobbying, Steve, but I was -- I am aware -- this is not hearsay -- this part of it is factual. Back in maybe February of this year, the Senate had originally, um, picked up this subject matter and that's when they -- the ultimate decision was to, um, reasonable compensation. And then the House had something else, right, the House was gonna do a task force. But when the Senate was hearing the bill, whenever that was, February, March time period of this year. I know I got a call from Trustee Peters asking me to -- to make arrangements to fly in, uh, Gary Hourihan from SCA Consulting, Strategic Compensation Associates. SCA Consulting had previously had done studies for us in terms of, uh, Trustee compensation. They are nationally recognized, maybe internationally, um, international consulting firm in compensation. They pretty much, uh, did a -- did surveys, analysis, in terms of, um, they found out -- they interviewed all our Trustees, job duties, responsibilities, compared with -- with industry across America, uh, to find a comparable. I think they compared us to major manufacturing and services organizations. Not necessary to real estate nor banking because we do all of that. And -- anyway, so Gary had been involved with KSBE for at least -- oh, a number of years, maybe ten years.

HL: Could you spell his, uh, last name?

Park: H-O-U-R-I-H-A-N. And I remember getting a call from Trustee Peters wanting me to bring Gary in so that Gary could provide expert

²⁶⁷ Ibid., p. AG000019351.

²⁶⁸ Park interview, 5/8/98.

testimony to the Senate. Now, I don't know whether that is lobbying or testifying on behalf of a proposed legislation on it.

SG: Did you -- did that occur?

Park: That occurred. Now, that part is fact. The hearsay is once Gary came to town, and I greeted him and I met with him, and it was -- it's just 'cause I know him as personally, you know, just a change of pleasantries. He went right into Trustee Peters' office and they had done things. I know here that Trustee Peters was gonna try to arrange a pre-testimony meeting with the Senate leadership. Uh, that would be President Mizuguchi, uh, here and, um in fact I didn't see Gary after that. He was in town all of maybe two days.

JT: How did you hear that Mr. Peters was attempting to arrange a pre-testimony conference?

Park: I might have overheard that, um, from his secretary, Coreene Zablan.

JT: When you say you might have, is there any other sources that you might have heard from.

Park: No. I mean I must have heard it from her.

JT: Were you aware of what compensation Mr. Hourihan or his organization was paid for his, uh, time on this matter?

Park: On this matter. Yes, I was aware, um, we just had the bill about a month ago.

JT: And what was that amount?

Park: Uh, I'm guessing.

JT: Or estimating?

Park: Estimating. I think it was about like twenty, twenty-two -- let's say low twenties. \$20,000, 20, \$25,000.

There is some documentary evidence that appears to support Park's testimony. A copy of what appears to be the written testimony of Henry Peters dated 4/9/98 relating to H.G. No. 2362, Proposed Senate Draft 1 Relating to Charitable Trusts was found in the search

of Snow's office.²⁶⁹ The document refers to testimony submitted on the same measure by "Mr. Gary Hourihan, Chairman and CEO of Strategic Compensation Associates," and parenthetically noted that the Hourihan testimony was submitted to the House Judiciary Committee on 2/17/98.

Relating To the Attorney General's Investigation of Trustees of KSBE

There is some evidence to suggest that one or more persons associated with KSBE used connections with persons, both within and outside state government, to monitor the Attorney General's investigation of the trustees. Active measures may have been taken to attempt to reduce the effectiveness and ability of the DAG to complete its investigation and related prosecutions up to and including lobbying against the reappointment of then-Attorney General Margery Bronster.

Holt VISA Evidence Re Calvin Say and Terrance Tom

Records provided in response to Attorney General's Subpoena contain credit card charge slips for the KSBE VISA card assigned to Milton Holt. The records indicate that on September 2, 1997, during the period in which the Attorney General was conducting her preliminary review of the allegations found in the Broken Trust essay, Milton Holt spent \$65.25 on lunch with Representatives Calvin Say and Terrance Tom at Nicholas Nicholas restaurant. On the back of the slip, along with the date, place, and names of his two fellow legislators, Holt apparently wrote, "re: Bishop Estate publicity."²⁷⁰

Based on another charge slip a month later (October 5, 1997), Holt again had lunch with Representative Say at Steck's in the Kahala Mall. In this case the notation on the reverse includes, "re: BE investigation."²⁷¹

Draft Legislation Found in Snow Office

During the execution of the search warrant on the Snow office a document was found which appeared to be a draft of legislation relating to the investigative powers of the Attorney General. The wording of the draft precludes the Attorney General from conducting investigations with both criminal and civil implications relating to charitable trust.

The document reads, in part:

- (a) The Attorney General, when acting in its capacity as *parens patriae*, may investigate the transactions of charitable trusts for the purpose of

²⁶⁹ pp. AG000019385-87.

²⁷⁰ pp. K140499-500.

²⁷¹ pp. K140511-12.

determining whether the trusts are being properly maintained. Any investigation conducted by the Attorney General shall be done in an administrative capacity and as such the Attorney General shall bring any abuse or devatio (sic) on the part of the trustees to the attention of the court for correction and enforcement pursuant to the terms of the trust instrument.²⁷² (emphasis added)

Information received from Hannahs indicated that this legislation might have addressed specific concerns articulated by Henry Peters. According to Hannahs, referring to Peters,

“... he spoke quite a bit about his concerns about the, the role of the attorney general as parens patriae somehow and I don’t really understand how you distinguish what the A.G. did versus what he thought they ought to do but he would say that he felt that the pursuit of information from the estate using subpoenas and so forth was not consistent with the role of parens patriae and therefore somehow an unfair, unfair to the institution and out of character with the A.G.’s appropriate role.”²⁷³

Note Relating to Attorney General Budget

Also recovered in the search of Snow’s former office was a note from the front of a folder labeled “LEGISLATIVE PROPOSALS 1997.” It reads:

Stan Mukai -- Budget -- AG may ask for more \$\$\$. Need to cast doubt on propriety & focus on Masters Process -- Q. whether AG should investigate instead of going thru paren (sic) patriae masters role.²⁷⁴

Snow Message Relating To AG Investigation

The text of a telephone message believed to date from 4/17/98 indicated Snow’s continuing interest in the Attorney General’s budget. At apparently 10:10 a.m. Snow left a telephone message for Gerard Jervis. It reads:

FYI from Legislature: There was no money set aside by the Legislation for the AG investigation. Attorney General is finding money probably from past budget or from other sources. She hasn’t come in asking for any.²⁷⁵

²⁷² pp. AG000017404-05.

²⁷³ Hannahs interview, May 26,1999, pp. 21-22.

²⁷⁴ p. AG000019709.

²⁷⁵ p. K146825.

Wong/Mehau/Chun/Hanabusa/Buen/Matsuura

In response to Attorney General's subpoena a series of telephone messages was discovered. In each case the person being left the message is noted to be DW, which is believed to be a reference to Richard "Dickie" Wong. In every instance, the messages are signed with the initials "EK". Wong's secretary was Ernella Kam.

On Friday, January 22, 1999 three messages were taken within an hour for Wong. Starting at 11:42 a.m. a call was left by a "Larry" who left a telephone number of 537-5938, which is the listed telephone number of Hawaii Protective Association. Larry Ehukai Mehau is part owner of that company.²⁷⁶ The message reads, "Going back to Big Island this afternoon (537-5529)."²⁷⁷

At 12:17 p.m. another message was left by a "Larry," no return number was given. The message reads, "Thinks they have the votes to stop appointment. Would like to meet next week someplace private. Will call to let you know time and date." (emphasis original)²⁷⁸

Eleven minutes later, at 12:28 p.m. a message was left by "Haunani" of "Sen. Matsuura's." A telephone number of 586-6827 was left. That message reads, "Senator Matsuura would like a lunch appointment w/you sometime next week. Also to be present will be Sen. Hanabusa."²⁷⁹

On Monday, January 25, 1999 a message is left by "Haunani" of "Sen. Matsuura's." This message reads, "Wednesday for Breakfast -- Jonathan Chun, Colleen Hanabusa, Jan Buen, David Matsuura, & Larry. What time & where? Also mtg. w/H. Tajiri set for 2:30 p.m. Wed. afternoon -- Okay?"²⁸⁰

Attorney General Bronster Confirmation Vote Fails

On April 28, 1999 the Hawaii State Senate voted against the confirmation of Attorney General Bronster. Among those voting against the confirmation were Senators Chun, Hanabusa, Matsuura, and Buen.²⁸¹

²⁷⁶ Mehau interview, pp. 1-2.

²⁷⁷ p. K800059.

²⁷⁸ Ibid.

²⁷⁹ Ibid.

²⁸⁰ p. K800060.

²⁸¹ Exhibit 16, <http://starbulletin.com/1999/04/28/news/story1.html>.

When Lobbying Is Not Lobbying

“If you’re my friend, ... you gonna ... do it, I don’t have to ask you.”

Alexander “Alika” Thompson, Jr. repeatedly denied that he had engaged in lobbying on behalf of KSBE. He was asked to name the ways in which, as a Government Relations Officer, he would have direct contact with legislators. He replied:

I’d go to a fund-raiser or for instance or attend a conference or if I’m at the Legislature, I’d go sit in on a hearing and listen and then, ‘cause I’ve been around, ‘cause I used to lobby, so you know, obviously I know the guys so that they’re still friends, right?²⁸²

He was adamant that although he had used KSBE’S VISA credit card hundreds of times to entertain legislators he had neither discussed business nor had he asked for any government official to act in accord with KSBE’s wishes.

In one interview, Thompson was asked why it was to the benefit of KSBE for him to be eating or meeting so often with the legislators. He replied, “It was just, I would imagine it would be a benefit to anybody to have a, friendly relationship with legislators or staff”

Thompson was asked in the same interview “What the point was of picking up the tabs for these guys then ...?”

His answer may contain some indication of the KSBE mind set regarding government officials:

... if you and I are friends, and I have an issue that’s up, that you involved with or you on the committee or you’re in the legislature, whatever it is, it’s almost like I feel I don’t need to, to ask you to vote for my stuff already. It was like, uh, -- what would you say? -- understood. That if you’re my friend that you gonna, you know, do it, I don’t have to ask you.²⁸³

On June 21, 1999, Thompson listed those persons whom he believed to be his friends in the Legislature.²⁸⁴ It is unknown whether he therefore presumes that if he or KSBE have issues before these friends that they, “gonna, you know, do it, I don’t have to ask”

²⁸² A. Thompson interview, 6/21/99, p. 8.

²⁸³ A. Thompson interview, 10/19/99.

²⁸⁴ A. Thompson interview, 6/21/99.

JT: Who are the people that you consider as friends in the Legislature?
Thompson: In the present Legislature, I consider them all friends to begin with, yeah. Whitney Anderson, Jan Buen, Bobby

Bunda, Avery Chumbley, Jonathan Chun, Susan Chun
Oakland, Carol Fukunaga, David Ige, Marshall Ige, Les
Ihara, Lorraine Inouye, Randy Iwase, Brian Kanno, Cal
Kawamoto, Andy Levin, Dave Matsuura, Norman
Mizuguchi, Bob Nakata, Norman Sakamoto, Rod Tam, Joe
Tanaka, Brian Taniguchi in the Senate. In the House,
Philip Abinsay, Lei Ahu Isa, Dennis Arakaki, Romy
Cachola, Jerry Chang, Nestor Garcia, Ken Goodenow,
Chris Halford, Eric Hamakawa, Bob Herkes, Ken Hiraki,
Ken Ito, Mike Kahikina, Sol Kaho`alahala, Ezra Kanoho,
Bertha Kawakami, Marilyn Lee, Bertha Leong -- I meet her
a couple of times I don't know if you'd say a friend but I
consider her a friend she recognizes me I recognize her,
Barbara Marumoto, Ron Menor, David Morihara, Ermina
Morita, Bob Nakasone, Tom Okamura, Marcus Oshiro,
Paul Oshiro, Scott Saiki, Alex Santiago, Calvin Say, Joe
Souki, Dave Stegmaier, Nathan Suzuki, Marc Takai,
Dwight Takamine, Paul Whalen, Brian Yamane, Nobu
Yonamine and Teri Yoshinaga in the House.