00CT1106A

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

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F. PAGAY
CLERK

LAW OFFICES OF
TAYLOR, LEONG & CHEE

CARROLL S. TAYLOR #906-0
737 Bishop Street, Suite 2060
Honolulu, Hawai`i 96813
Telephone: 528-2222

Pro Se

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI`I

In the Matter of the Estate of BERNICE P. BISHOP, Deceased.	EQUITY NO. 2048 (KSCC) AMENDED RESPONSE OF CARROLL S. TAYLOR TO THE RESPONSE OF THE INTERIM TRUSTEES OF KAMEHAMEHA SCHOOLS TO REPORT OF MASTER ROBERT RICHARDS REGARDING RETENTION OF NON-STAFF COUNSEL; AFFIDAVIT OF CARROLL S. TAYLOR; EXHIBITS A-C; CERTIFICATE OF SERVICE Date: December 8, 2000 Time: 10:00 a.m. Judge: Kevin S. C. Chang

AMENDED RESPONSE OF CARROLL S. TAYLOR TO THE RESPONSE OF THE INTERIM TRUSTEES OF KAMEHAMEHA SCHOOLS TO REPORT OF MASTER ROBERT RICHARDS REGARDING RETENTION OF NON-STAFF COUNSEL

Comes now CARROLL S. TAYLOR and files this Amended Response to the "Response of the Interim Trustees of Kamehameha Schools to Report of Master Robert Richards Regarding Retention of Non-Staff Counsel" filed November 3, 2000, stating as follows:

INTRODUCTION

My Response filed on November 16, 2000 related a conversation between myself and a person whom I had surmised to be Ronda Kent at Ashford & Wriston. I have since spoken with Ronda and she says that she is not the person with whom I spoke in the conversation detailed on pages 6 and 7 of my November 16th Response; she knows that we had a conversation, but she was not party to the one which I summarized in my Response. I accept her word, and I must therefore make clear that the conversation which I recited was with someone other than her. Hence, this amended response is necessary to clarify the record.

In addition, I have had the time and opportunity to further consider and review the genesis of Rule 42(c), HPR. Accordingly, this amended response more fully discusses the issues involving Rule 42(c).

Thus, this amended response is intended to completely replace my November 16th Response.[1]

MORGAN LEWIS ALLEGATION

On page 113 of the Morgan Lewis Report attached as Exhibit

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[1] My original Response was filed on November 16, 2000, one day after I learned inadvertently that the Morgan Lewis Report made a reference to me which suggested that I had been inconsistent in my interpretation of Rule 42(c), HPR. Since a hearing was to occur on November 17, 2000, I was under extreme time pressure to file a refutation of the implication and was unable to be as thorough as the seriousness of the matter requires.

"B" to the Interim Trustees' November 3, 2000 Response is a paragraph purporting to describe my perspective on Hawai`i Probate Rule 42(c). That paragraph implies that I advanced a position to the drafters of the Report which is inconsistent with a position attributed to me and allegedly memorialized in an in-house memorandum prepared by Ronda Kent at Ashford & Wriston. The implication is totally inaccurate. The record should reflect the truth; hence, this amended response.[2]

TAYLOR'S ALLEGED INCONSISTENT STATEMENTS

Not everything attributed to me by the Morgan Lewis report is inaccurate. It is true that

1. I served on the Committee which drafted the Probate Rules,
2. I believe that the "nonfeasance" of the fiduciary which must be reported to the court includes nonfeasance in all aspects of the fiduciary's duties [where such nonfeasance constitutes a breach of trust],
3. I believe that Rule 42(c) requires attorneys to report to the court fiduciary <u>mis</u>conduct that has not risen to the level of illegality, and

[2] I was not given the courtesy of a draft of the section of the Morgan Lewis Report that contains comments attributed to me, much less the entire report, prior to its issuance; hence, I was unable to correct the document before it was presented to and approved by my former clients or filed with the court.

> 4. I believe that the acts which are reportable [to the court] include situations in which the Trustees were obligated to take affirmative action to avoid a breach of their fiduciary duties, or in which the Trustees had disregarded sound advice that taking certain actions would breach their fiduciary duties.

See Morgan Lewis Report at 113.

However, the implication that those beliefs are inconsistent with a December, 1997 conversation which I had with Ronda Kent or anyone else is inaccurate and unwarranted. I do not recall the conversation with Ronda, but I do not doubt her word that we had one. However, since the *raison d'etre* for Rule 42(c) was both to enable and to obligate ethical attorneys to go to the court to report breaches of trust,[3] and since I have known that from the day of its drafting until today, it is inconceivable that I would have held or articulated a different opinion in December, 1997. Thus, either I misunderstood Ronda's question or she misunderstood my answer when she prepared the December 15, 1997 Memorandum allegedly attributing another opinion to me.

I requested a copy of the December 15, 1997 Memorandum from Ashford & Wriston so that I could see exactly what had been asked and what was attributed to me in that Memorandum. Ashford &

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[3] See discussion of Rule 42, *infra*.

Wriston requested permission from Colleen Wong, general counsel for the trustees, to release a copy to me.[4] Colleen Wong refused to permit me to review the Memorandum.[5] Thus, (i) Morgan Lewis is allowed to review a Memorandum which quotes me, (ii) in a written report that is now part of the public record, Morgan Lewis construes the Memorandum to say that I have been duplicitous in my interpretation of Rule 42(c), (iii) the trustees adopt the Morgan Lewis Report, (iv) the trustees authorize the Morgan Lewis Report to be filed in court, and (v) the trustees' general counsel denies me the right to inspect the Memorandum. Based on this, it is not unreasonable to infer that the December 15th Memorandum is being withheld from me because it has been incorrectly construed in the Morgan Lewis Report.[6]

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[4] See Exhibit A attached.

[5] See Exhibit B attached.

[6] Attorney-client and work product privilege cannot properly be asserted as justifications to prevent my inspection; by lifting the veil on a portion of the Memorandum's content, i.e. "Taylor stated [in the Memorandum] that Rule 42(c) was to be read narrowly, consistent with our reading noted above," the trustees cannot thereafter assert privilege to justify lowering the veil. See United States v. Blackburn, 446 F.2d 1089 (5th Cir. 1971), cert. denied, 404 U.S. 1017, 92 S.Ct. 679, 30 L.Ed.2d 665 (1972) ("(W)hen the client and attorney themselves, for purposes beneficial to the client, lift the veil (of attorney-client privilege), they cannot lower it again", quoting United States v. Shivley, 112 F.Supp. 734, 742 (S.D. Cal. 1953) 446 F.2d at 1091); see also, Greater Newburyport Clamshell Alliance v. Public Service Co., 838 F.2d 13 (1st Cir. 1988) ("Particularly in a civil case, a privileged party cannot fairly be permitted to disclose as much as he pleases and then to withhold the remainder to the detriment of the defendant. 8 Wigmore On Evidence, §§ 2327 at 635-36 (McNaughton rev. 1961)." 838 F.2d at 20); Brownell v. Roadway Package Systems, 185 F.R.D. 19 (N.D. N.Y. 1999) (where adequacy of counsel's investigation is at issue, attorney-client privilege waived as to statements by employees to counsel);

I can recall only one conversation with Ashford & Wriston about the Probate Rules.[7] That conversation occurred relatively early in the Bishop Estate dispute. I had received a call from Attorney General Margery Bronster asking me if, in my opinion, the former trustees' counsel had a duty to report some specific type of information to the court. I recall the question to be whether the attorney's Rule 42(c) obligation to "monitor the status of the estate" required the attorney to actively investigate the fiduciary's conduct in search of possible breaches of trust where none were otherwise evident or indicated. I said "No", for Rule 42(c) was not intended to turn the trustee's lawyer into an investigator with the task of unearthing possible misdeeds. Shortly thereafter, I received a call from someone with a female voice (who represented that she was associated with Ashford & Wriston) asking roughly the same question. Once again, I said "No". The female voice then commented that she wished I

<u>Hearn v. Rhay</u>, 68 F.R.D. 574 (E.D. Wash. 1975) (implied waiver of attorney-client privilege occurs when party (i)asserts privilege in the course of some affirmative act, <u>e.g.</u>, filing suit, thereby(ii) putting the privileged information at issue, and (iii) upholding the privilege would deny the opposing party access to information necessary for its defense); <u>International Paper Co. v. Fibreboard Corp.</u>, 63 F.R.D. 88, 92 (Del. 1974) (it would be "manifestly unfair" to allow one party to make factual assertions and then deny the other party "the foundation for those assertions in order to contradict them."); <u>Moore's Federal Practice</u> 3rd ed., ¶26.49[5]; <u>Weinstein's Federal Evidence</u>, §503.40.

[7] As noted in footnote 10 of my November 16th Response, I received a number of calls from various people involved in the Bishop Estate dispute.

would tell that to the Attorney General. I responded that I had in fact already told the Attorney General. The female voice expressed surprise, and I explained that the Attorney General had previously called with much the same question and that I had given her the same answer. The female voice then suggested, perhaps facetiously, that I call the Attorney General back and tell her again. I stated that I believed that the Attorney General understood my position.

RULE 42 ANALYSIS

The Morgan Lewis Report is premised on what I strongly believe to be a major misconception regarding the plain meaning, intent and proper interpretation of Rule 42(c). This fundamental misconception casts doubt on both the conclusions and the recommendations contained in the Morgan Lewis Report.

Some background on the genesis of Rule 42, HPR, may help put the matter in perspective.

There is uncertainty in the trust and estate field as to whom the attorney represents: the fiduciary, the trust or estate as an entity, or the beneficiaries.[8] The purpose of Rule 42(a),

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[8] See Rule 1.7, HRPC, Comment 13 ("In an estate administration[,] the identity of the client may be unclear under the law of a particular jurisdiction. Under one view, the client is a fiduciary; under another view the client is the estate or trust, including its beneficiaries.").

HPR,[9] was to make clear that, in Hawai`i, the attorney represents the fiduciary. With that attorney-client relationship comes the obligation of the attorney to keep confidential information relating to the client, i.e., the attorney is not permitted, with certain exceptions, to disclose any information to others relating to his or her representation of the fiduciary.[10]

However, Rule 42(b), HPR,[11] makes clear that the attorney is not prevented by the confidentiality requirement of Rule 1.6(a), HRPC, from discussing with the beneficiaries those acts of the fiduciary which the attorney actually knows to be illegal. The Rule 42(b) mandate goes well beyond the Rule 1.6(b), HRPC, requirement that a lawyer must reveal only information "which clearly establishes a criminal or fraudulent act in the furtherance of which the lawyer's services had been used". Disclosure under Rule 42(b) must be made to the beneficiaries whether or not the attorney's services had been used to further the illegal

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9 "An attorney employed by a fiduciary for an estate, guardianship, or trust represents the fiduciary as client ..."

10 See Rule 1.6(a), HRPC ("A lawyer shall not reveal information relating to the representation of a client unless a client consents after consultation ..."). In the fiduciary context, the attorney-client privilege established by Rule 503, HRE, is diluted when it is the beneficiary who is seeking information. See Riggs National Bank of Washington D. D. v. Zimmer, 355 A.2d 709 (Del. Ch. 1976) and its progeny.

11 "An attorney for an estate, guardianship, or trust ... shall owe a duty to notify [the] beneficiaries or ward of activities of the fiduciary actually known by the attorney to be illegal that threaten the security of the assets under administration or the interests of the beneficiaries."

activity.[12]

Rule 42(c), HPR,[13] addresses the attorney's obligations with respect to acts or inactions of the fiduciary which fall short of the illegal acts covered by Rule 42(b), but which nonetheless constitute breaches of the fiduciary's duty. Once again, the confidentiality requirement of Rule 1.6(a), HRPC, is trumped by a reporting requirement, but in this instance the attorney is required (after notice to the fiduciary) to report to the court rather than to the beneficiaries. Specifically,

1. the first sentence of Rule 42(c)[14] makes clear that attorneys who represent fiduciaries have obligations as officers of the court, including "securing the efficient and effective management of the estate";

2. the second sentence of Rule 42(c)[15] imposes upon the

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12 The Rule 42(b), HPR, legal obligation requiring disclosure to beneficiaries trumps the Rule 1.6(a), HRPC, ethical obligation mandating confidentiality. <u>See</u> Rule 1.6(c), HRPC ("A lawyer may reveal information relating to representation of a client to the extent the lawyer reasonably believes necessary: ... (6) to comply with other law or court order.").

13 "An attorney for an estate, guardianship, or trust ... has an obligation to monitor the status of the estate and to ensure that required actions such as accountings and closing a probate estate are performed timely. The attorney, after prior notice to the fiduciary, shall have an obligation to bring to the attention of the court the nonfeasance of the fiduciary."

14 "An attorney for an estate, guardianship, or trust is an officer of the court and shall assist the court in securing the efficient and effective management of the estate."

15 "The attorney has an obligation to monitor the status of the estate and to ensure that required actions such as accountings and closing a probate estate are performed timely."

attorney the affirmative obligation both to "monitor the status of the estate" and to ensure that actions required of the fiduciary are timely performed;[16] and

3. the third sentence of Rule 42(c)[17] imposes upon the attorney the obligation to report to the court if the fiduciary fails to perform his obligations ("the nonfeasance[18] of the fiduciary").[19]

The genesis of Rule 42(c), HPR, was a situation which confronted drafting committee member Carolyn Grayson: she was the attorney for a guardian who was, in her opinion, breaching his fiduciary duties. When she sought advice from the Office of Disciplinary Counsel as to whom she could report the breach, she was told that her ethical obligation to her client, the guardian, prevented her from telling anyone of the breach. The primary purpose of Rule 42(c), then, was to give the ethical attorney an

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[16] As discussed *supra*, the monitoring requirement was not intended to impose an affirmative duty on the attorney to search out trustee misconduct. However, when information becomes known to the attorney which suggests that the trust or estate is being improperly administered, the attorney is obliged to act to protect the interests of the beneficiaries.

[17] "The attorney, after prior notice to the fiduciary, shall have an obligation to bring to the attention of the court the nonfeasance of the fiduciary."

[18] See Black's Law Dictionary, 5th Ed at 950 ("Nonperformance of some act which ought to be performed, omission to perform a required duty at all, or total neglect of duty.").

[19] See also Commentary to Rule 42 ("The attorney has an affirmative obligation to inform the court of the nonfeasance of the fiduciary.").

avenue to protect the interests of the beneficiary/ward without running afoul of the disciplinary rules.[20]

Professors Langbein and Leubsdorf each devote one paragraph of their respective opinion letters to Rule 42(c). Langbein at 10; Leubsdorf at 5-6. Langbein summarily dismisses Rule 42(c) as "not germane to the alleged breaches of trust committed by the former KS Trustees",[21] while Leubsdorf would restrict Rule 42(c) to mandating that fiduciary counsel only report the fiduciary's failure to perform a narrow range of ministerial duties, i.e., "actions required in the 'efficient and effective management' of the trust or estate". Id. As reputable trust and ethics law professors, presumably they are supportive of the goal of the Rule 42(c) drafters to provide an avenue of redress for the ethical counsel of a breaching fiduciary. Their conclusion, however, is that the specific language of the Rule does not accomplish this commendable objective. It is illogical, however, to read the Rule as requiring the attorney to abandon his duty of confidentiality in order to report minor trustee misconduct while

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[20] I have spoken with Carolyn Grayson, and she confirms my recollection. See attached affidavit and Exhibit B.

[21] As noted in footnote 7 of my November 16th Response, Professor Langbein's statement that Rule 42(c) does not require a trustee's attorney to report to the court "arguable weaknesses in the trustee's position in fiduciary matters" is accurate but not helpful. Langbein at 10. What the attorney must report are breaches of trust, of which there were many under the former regime. The record does not reflect whether any were reported to the court.

not requiring the attorney to report major trustee misconduct. I am surprised that they read the words so narrowly and ignore completely the history and intent of the Rule. The plain meaning and only reasonable interpretation produces the result which was intended by the drafters and which should be desired by any ethical attorney who practices in the field.

Thus, where the fiduciary has engaged in illegal acts, the attorney must notify the beneficiaries under Rule 42(b), but where the fiduciary has merely failed to discharge his duties (e.g., engaged in improper but not illegal acts, or failed to perform required acts), the attorney must notify the court under Rule 42(c). It is the court's responsibility, then, to protect the interests of the beneficiaries.

CONCLUSION

I am greatly disappointed that the Morgan Lewis Report implies that I have been inconsistent in my interpretation of Rule 42. This inaccurate implication is based upon an in-house memorandum crafted by counsel with an interest to protect. The Report does not contain (i) the substance of the comments attributed to me, (ii) the context of the comments, (iii) the questions asked of me, or (iv) a copy of the memorandum.

Even putting professional courtesy, civility and personal relations aside, in the interests of producing an accurate report

Morgan Lewis should have provided me with at least (i) their summary of the notes of my meeting with Messrs. Gardner, Lewis and Carlson, and (ii) a copy of the December 15, 1997 Memorandum, with a request that I explain any apparent inconsistencies.[22] As it stands, the Morgan Lewis Report is lacking in accuracy, and its suggestion that my understanding or description of Rule 42(c) has changed over the years, or that I would say one thing about it privately to Ronda Kent and something significantly different to Morgan Lewis, is as unfair as it is wrong. The trustees compound the error by refusing me the opportunity to review the Memorandum after they have misused it, presumably inadvertently, in a manner consistent with their objectives.

WHEREFORE, I request that either (i) the last two sentences of the second paragraph on page 113 of the Morgan Lewis Report be stricken or (ii) an evidentiary hearing be scheduled[23] so that I may have the opportunity to establish the falsity of the implication that I have been inconsistent in my interpretation of Rule 42(c).

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[22] As appears from Appendices C and D attached to the Morgan Lewis Report, Professors Langbein and Leubsdorf were each given a draft of the Report for their review before its issuance.

[23] With discovery under the Hawai`i Rules of Civil Procedure so that I may have the opportunity to review, *inter alia*, the December 15th Memorandum.

Dated: Honolulu, Hawai`i, November 30 2000.

Respectfully submitted,

Carroll S. Taylor

00TP0807

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI`I

In the Matter of the Estate of BERNICE P. BISHOP, Deceased.	)	EQUITY NO. 2048 (KSCC) AFFIDAVIT OF CARROLL S. TAYLOR

AFFIDAVIT OF CARROLL S. TAYLOR

STATE OF HAWAI`I)
) SS.
CITY AND COUNTY OF HONOLULU)

CARROLL S. TAYLOR, being first duly sworn on oath, deposes and says:

1. Affiant is an attorney licensed to practice law in the State of Hawai`i;

2. In the early 1990's, Affiant was appointed by the Chief Justice to the Judicial Council Committee on Probate Rules and the Uniform Probate Code;

3. The Committee's first task was the drafting of the rules which became the Hawai`i Probate Rules;

4. At the time, the Committee was chaired by Judge Ronald Ibarra and its members, other than the Affiant, were Judges George

Masuoka, Patrick Yim, and John McConnell, and attorneys John Conrad, Carolyn Grayson, and Peter Ng;

5. Affiant recalls that Rule 42, with its probate, malpractice, ethical and attorney-client implications, was discussed and debated by the Committee more than any other proposed rule;

6. All of the factual statements in the attached memorandum, including but not limited to the discussion of the genesis of Rule 42 and the conversation which I had with person with a female voice representing herself to be associated with Ashford & Wriston, are true and correct to the best of my knowledge and recollection;

7. Subsequent to the filing of my Response on November 16, 2000, I located Carolyn Grayson in Kansas and spoke with her about her recollection of the genesis of Rule 42(c);

8. Her recollection comported exactly with mine, and she said that she thought that she still had her notes of the Committee meetings and she volunteered to look for them;

9. Subsequently, I received an e-mail from Carolyn which appears as the third and last entry on Exhibit B attached hereto;

10. I responded to Carolyn's e-mail with one of my own, and she responded to my e-mail with a second e-mail;

11. My e-mail and her responsive e-mail are contained as the second and first entries, respectively, on attached Exhibit B;

12. Exhibit B, then, is a true and correct copy of e-mail transmissions between Carolyn Grayson and me, and are maintained in my files in the ordinary course of business;

13. Exhibits A and C are true and correct copies of correspondence which I received in the ordinary course of business on or about November 17th and November 29th, respectively, and are maintained in my files in the ordinary course of business.

Further affiant sayeth naught.

Carroll S. Taylor

CARROLL S. TAYLOR

Subscribed and sworn to before me
this 30th day of November, 2000.

Tammy K. F. Matsunaga

Print Name: TAMMY K. F. MATSUNAGA
Notary Public, State of Hawaii
My commission expires: AUGUST 5, 2002

LS.

ASHFORD & WRISTON

ATTORNEYS AT LAW

November 17, 2000

Colleen I. Wong, Esq.
Chief Legal Officer
Office of the Chief Legal Officer
Kamehameha Schools
567 South King Street, Suite 310
Honolulu, Hawai'i 96813

Re: Rule 42 Memorandum

Dear Colleen:

My partner, Ronda Kent, prepared a memorandum addressed to me and dated December 15, 1997 concerning Probate Rule 42. In the memorandum, she discussed a telephone conversation with Carroll Taylor, who participated in drafting the Rule. The memorandum or the substance of it was shared with Nathan Aipa at the time of the memorandum's preparation. The memorandum is referred to in the Morgan Lewis Report. Carroll has filed a Response to the Report and has requested a copy of the December 15 memorandum.

Ronda and I have no objection to providing Carroll with the copy he requests. There are a number of conflicting considerations, however, including the following: The memorandum may be deemed to constitute work product as to which the Trustees may have the right to assert a claim of privilege. That privilege, if any, may be deemed waived by the Trustees' publication of the Morgan Lewis Report. Carroll may be deemed to be within such a privilege. Production to any person of any matter referred to in the Morgan Lewis Report may open the door to additional requests by others persons for copies of other records.

A copy of the memorandum is enclosed. Please review it and let me know whether I am authorized by the Kamehameha Schools Bernice Pauahi Bishop Estate to release a copy to Carroll Taylor. If so authorized, we will provide a copy to Carroll in the form enclosed, unredacted in any respect, and without charge to anyone, unless you direct otherwise.

Please call me if you have any questions or wish to discuss this matter further.

Very truly yours,

ASHFORD & WRISTON

By Robert Bruce Graham, Jr.

Enclosure
cc: Carroll S. Taylor, Esq., w/o encl.
Ronda K. Kent, Esq., w/o encl.

EXHIBIT 4

Carroll Taylor

From: "Carolyn Grayson" <cyg@srskansas.org>
To: <ctaylor@hawaii.rr.com>
Sent: Wednesday, November 22, 2000 1:14 PM
Subject: Re: Hawaii Probate Rules

Yes, I can confirm that your recollection is correct.

Carroll, as I read the rule, there is the Commentary that was added by our committee that supports how we drafted this rule. It mentions that, "the attorney and the fiduciary enjoy a qualified attorney-client relationship." It further says, and I quote, "It is qualified to the extent that the attorney also has a duty to the beneficiaries to inform them of the serious and clear malfeasance of the fiduciary so that they may take actions to protect themselves and their interests in the estate, and a duty to the court to monitor the progress of the estate and inform the court of the nonfeasance of the fiduciary, so that the court can call the fiduciary to account and enhance the efficiency and effectiveness of the judicial system." The Commentary also cites caselaw. Nowhere in the Commentary did we was this was limited to accountings only. The Commentary is about two (2) pages long so I only quoted to you our Summary of the Commentary.

Do your rules have the Commentary? I find it hard not to interpret the rule any other way than the way you did, if you read the Committee's Commentary. Let me know if your final draft does not include it and I will fax you a copy.

I'll end here. Take care.
Carolyn.

>>> "Carroll Taylor" <ctaylor@hawaii.rr.com> 11/22/00 02:09PM >>>
Carolyn,

Thank you for looking for your notes; mine appear to be gone too, so I am not surprised that yours are also.

Lest anybody doubt either my recollection as to the genesis of Rule 42(c) or my description to you of what that recollection is, I spell out my recollection below. If that comports with your recollection, I would appreciate it if you would confirm that.

As I recall, you had a situation where you were representing a guardian who was, in your opinion, breaching his fiduciary duties. You checked with the Office of Disciplinary Counsel to see to whom you could report your concerns. You were told by ODC that you were obliged to maintain the confidentiality of information relating to your client unless either your client (the guardian) consented to the disclosure or there was a statute or court order or rule which permitted or required disclosure. Accordingly, we drafted 42(c) in order to give the attorney an avenue to report the fiduciary's misdeeds without running afoul of the ethical rules.

Do I recall correctly?

It was good talking with you. I'm glad the decision to move to Kansas has

EXHIBIT B

worked out so well for you and the family.

Happy Thanksgiving!

Carroll
----- Original Message -----
From: "Carolyn Grayson" <cyg@srskansas.org>
To: <ctaylor@hawaii.rr.com>
Sent: Wednesday, November 22, 2000 8:06 AM
Subject: Hawaii Probate Rules

Hello Carroll. I was able to get to my basement to look for my Hawii Probate Rules notes. I know I took notes at each meeting. To my surprise, I can only find my final copy of the final Hawaii Probate rules and the note from Judge Ronald Ibarra.

I don't know if I can help you now. I do however, remember how we got to draft Rule 42(c). Your recollection is correct on the conflict that I had with a prior case and why we said that the Attorney for an estate, guardianship, or trust is an officer of the court. I am very sorry I could not be of more help.

Let me know if I can do anything more for you. Thank you for your time and attention. Happy Thanksgiving.

Carolyn

ASHFORD & WRISTON
ATTORNEYS AT LAW

Paul S. Aoki*
Marjorie C.Y. Au*
Kirk W. Caldwell*
Rosemary T. Fazio*
Michael W. Gibson
Robert Bruce Graham, Jr.*
Francis P. Hogan
Ronda K. Kent*
Diane S. Kishimoto*
Galen C. K. Leong*
John A. Lockwood*
James K. Mee*
Wayne Nasser*
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Mary Beth M. Wong*
Jody Kaulukukui Li
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Diane Yuen Praywell
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COUNSEL
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David B. Dohms
David C. Farmer
Matthew G. Jewell
Dennis A. Krueger
Paul A. Tomar
OF COUNSEL
Clinton R. Ashford
Albert H. Ogawa*
A. James Wriston, Jr.*

*A Law Corporation

November 28, 2000

Carroll S. Taylor, Esq.
Taylor Leong & Chee
737 Bishop Street
Suite 2060
Honolulu, Hawai'i 96813

Dear Carroll:

I wrote Colleen Wong concerning your request for a copy of the memorandum prepared by Ronda Kent that is referenced in the Morgan Lewis Report.

By letter received today, Colleen has instructed me that I am not authorized by the Kamehameha Schools to release the memorandum to you.

Very truly yours,
ASHFORD & WRISTON

By Robert Bruce Graham, Jr.

cc: Colleen I. Wong, Esq.
Melvyn M. Miyagi, Esq.

EXHIBIT C

HONOLULU OFFICE
Mailing Address:
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NOV 29 2000

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI`I

In the Matter of the Estate of BERNICE P. BISHOP, Deceased.	)	EQUITY NO. 2048 (KSCC) CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing pleading has been served on the following parties at their respective addresses by means of mailing with postage prepaid on 11/30/00.

EARL I. ANZAI, ESQ.
Attorney General
DOROTHY SELLERS, ESQ.
HUGH R. JONES, ESQ.
DANIEL A. MORRIS, ESQ.
Department of the Attorney General
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