COPY

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

---:---

In the Matter of the Estate of BERNICE P. BISHOP, Deceased.	EQUITY NO. 2048 **EXHIBITS RE DEPOSITION OF RICHARD S.H. WONG, VOLUMES I & II**

EXHIBITS RE

DEPOSITION OF RICHARD S.H. WONG, VOLUMES I & II

Taken on Octone 20 and 21, 1999.

COLBERT M. MATSUMOTO 2276-0
Suite 2000, Amfac Tower
700 Bishop Street
Honolulu, Hawaii 96813
Telephone No. 523-2999

Master

FILE

CIRCUIT COURT
STATE OF HAWAII
FILED

1998 OCT -2 PM 4:03

D. SAKIMOTO
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

In the Matter of the Estate of BERNICE P. BISHOP, Deceased.	EQUITY NO. 2048 STIPULATIONS CONCERNING MASTER'S RECOMMENDATIONS (109th, 110th, and 111th ANNUAL ACCOUNTS) and ORDER Hearing Date: Oct. 2, 1998 Hearing Time: 9:00 a.m. Judge: Colleen K. Hirai

STIPULATIONS CONCERNING MASTER'S RECOMMENDATIONS
(109th, 110th, and 111th ANNUAL ACCOUNTS)

These Stipulations are entered into by and among Petitioners RICHARD SUNG HONG WONG, OSWALD KOFOAD STENDER, MARION MAE LOKELANI LINDSEY, GERARD AULAMA JERVIS and HENRY HAALILIO PETERS, TRUSTEES UNDER THE WILL AND OF THE ESTATE OF BERNICE PAUAHI BISHOP, DECEASED (hereinafter the "Trustees"); and Respondent MARGERY S. BRONSTER, ATTORNEY GENERAL OF THE STATE OF HAWAII, as *parens patriae* (hereinafter the "Attorney General");

Deposition Exhibit No. 35
Deposition of R. Wong
Date 10-20-99

EXHIBIT 35

RECEIVED
OCT 02 1998
TWENTIETH DIVISION

and COLBERT M. MATSUMOTO, Master with respect to the Trustees' One Hundred Ninth, One Hundred Tenth and One Hundred Eleventh Annual Accounts (hereinafter the "Master").

On August 7, 1998, the Master filed herein his Master's Consolidated Report on the 109th, 110th, and 111th Annual Accounts (the "*Master's Consolidated Report*"). The *Master's Consolidated Report* makes nineteen specific Recommendations concerning the Trust Estate and its annual accounts.

On September 9, 1998, the Trustees filed herein their Trustees' Response to the Master's Consolidated Report on the One Hundred Ninth, One Hundred Tenth and One Hundred Eleventh Annual Accounts of the Trustees (the "*Trustees' Response*"). The *Trustees' Response* addresses each of the nineteen Recommendations made by the Master in the *Master's Consolidated Report*.

On September 9, 1998, the Attorney General filed herein her Attorney General's Response to the Master's Consolidated Report on the 109th, 110th, and 111th Annual Accounts (the "*AG's Response*"). The *AG's Response* agrees with each of the Master's nineteen Recommendations, suggests amendments and additions to them, and suggests additional court action based upon the *Master's Consolidated Report*.

On September 9, 1998, Trustee Oswald Kofoad Stender filed herein his Trustee Oswald Kofoad Stender's Response to Master's Report (*"Trustee Stender's Response"*). *Trustee Stender's Response* recommends approval of the Master's Recommendations.

Since September 9, 1998, the parties each have filed additional or supplemental reports, responses or objections herein.

The parties acknowledge that there are material differences of opinion concerning the statements and contentions in the *Master's Consolidated Report*, the *Trustees' Response*, the *AG's Response*, and other reports, responses and objections filed herein. Without conceding the accuracy of any such statements and contentions, the parties have agreed that it is in the best interest of the Trust Estate that the Stipulations hereinafter set forth be implemented.

The Stipulations hereinafter set forth concern sixteen ~~seventeen~~ of the nineteen Recommendations made by the Master in his *Master's Consolidated Report*, and, upon approval by this Court, shall be a Court order binding upon the parties hereto and their respective successors in office. The Master's seventeenth, eighteenth and nineteenth Recommendations are not covered by these Stipulations.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Master, the Trustees and the Attorney General as follows:

Nothing herein contained shall be deemed or construed to preclude, estop or otherwise bar any party from seeking other or further relief from the Court in this proceeding or upon any petition, response or objection now pending or filed hereafter, provided however, that these Stipulations shall not be amended or superseded by implication but only by express order of the Court entered upon agreement of the parties or after hearing at which all parties, or their respective successors in office, shall have had notice and a reasonable opportunity to be heard. Subject to the foregoing, nothing contained in these Stipulations shall be deemed or construed to preclude any party from petitioning the Court for further instructions concerning any matter.

Nothing herein contained shall be deemed or construed as an admission or concession of any liability on the part of any party hereto.

Without limiting the generality of the foregoing paragraph, the Trustees and the Attorney General hereby expressly reserve all claims, arguments, defenses, responses and objections which have been or may hereafter be raised by them in their respective Responses to the *Master's Consolidated Report* and any supplement thereto, and in their respective cross-responses and cross-objections herein.

The following are the ~~seventeen~~ sixteen stipulations of the parties:

Stipulation No. 1: <u>New Financial Statement Presentation Shall Be Adopted.</u>

The Trustees shall adopt the format of the financial statement and supplemental schedules recommended in the *Andersen Report,* with the same level of detail, and shall file the audited financial statement and supplemental schedules with each annual account, beginning with the 112th Annual Account (FY 1997). The foregoing financial statement shall be prepared as a special purpose financial statement and shall be audited in full compliance with Generally Accepted Accounting Principles ("GAAP").

Stipulation No. 2: <u>Corpus And Revenue Activity Shall Be Specifically Reported.</u>

Effective with their 112th Annual Account (FY 1996-1997) and for each Account thereafter, the Trustees shall submit a special purpose financial statement which conforms to the trust accounting format as proposed by the *Andersen Report*.

Stipulation No. 3: Accumulated Income Shall Be Restored To The Revenue Account.

The Trustees shall not reclassify accumulated or unexpended income to corpus and shall restore to the revenue account all accumulated income which previously was reclassified to corpus. The Trustees shall provide to the Master a report of their actions pursuant to this paragraph within 60 days from the date upon which the Court enters its order approving this Stipulation.

Stipulation No. 4: An Accounting Of Accumulated Income And Independent Verification Shall Be Provided.

The Trustees shall provide to the Master an accounting of all accumulated income within 60 days from the date upon which the Court enters its order approving this Stipulation. The Master shall cause the Trustees' accounting to be reviewed and verified by Arthur Andersen LLP and shall report that firm's conclusions to the Court.

Stipulation No. 5: Strategic Planning Shall Incorporate Planning For Expenditure Of Accumulated Income.

The Trustees' strategic planning process, which is described more fully below, shall incorporate planning for the expenditure of accumulated income.

Stipulation No. 6: No Future Reclassification Of Accumulated Income Shall Be Made Without Prior Court Approval.

The Trustees shall not reclassify accumulated or unexpended income to corpus pursuant to H.R.S. Chapter 517D, the Uniform Management of Institutional Funds Act, except with the prior approval of the Court obtained upon a petition for instructions with notice to the Attorney General as *parens patriae* of the Trust Estate.

Stipulation No. 7: The Replacement Cost Reserve Shall Be Discontinued Pending Further Instructions Of The Court.

The Trustees shall discontinue the Replacement Cost Reserve pending further instructions of this Court obtained upon a petition for instructions with notice to the Attorney General as *parens patriae* of the Trust Estate. Nothing herein shall be deemed or construed to amend or supersede prior orders of this Court concerning the depreciation reserve.

Stipulation No. 8: Investment Performance Schedules Shall Be Regulariy Prepared And Shall Be Incorporated As Supplemental Schedules To The Financial Statements.

Beginning with the 112th Account and at least annually thereafter, the Trustees shall cause benchmarked investment performance schedules to be prepared. If the Trustees believe an appropriate benchmark does not exist or cannot reasonably be developed, the Trustees shall provide a reasonable explanation in the schedules for their inability to identify or develop such a benchmark. The presentation of this information shall evolve to include at least one-year, five-year, and ten-year annualized income yield and total return analyses. The schedules shall be audited and attached as supplemental schedules to the special purpose financial statements submitted to the Court with the annual accounts of the Trustees. The Trustees shall consult with experts to develop appropriate benchmarks which shall be utilized in connection with such supplemental schedules, subject to the review and approval by the Court, through a stipulation or order, within 60 days from the date on which the Court enters its order approving this Stipulation.

Stipulation No. 9: Investment Return Analysis Shall Use Appropriate Performance Measures.

In preparing performance return analyses, the Trustees shall utilize appropriate measures such as time weighed return (TWR) and internal rate of return (IRR) for various time spans to allow meaningful comparisons against performance benchmarks.

Stipulation No. 10: Investment Policies Shall Be Reviewed.

The Trustees shall undertake a comprehensive review of their investment policies as recommended by the *Andersen Report* in conjunction with the overall strategic planning process described below.

Stipulation No. 11: Due Diligence And Investment Monitoring Policies, Practices, And Procedures Shall Be Strengthened.

The Trustees shall improve and strengthen the due diligence and investment monitoring policies, practices, and procedures as recommended in the *Andersen Report*. The Trustees shall report their implementation plan to the Master within 60 days from the date on which the Court enters its order approving this Stipulation.

Stipulation No. 12: Investment And Management Decisions Shall Be Properly Documented.

The Trustees shall ensure that appropriate documentation of their investment and management decisions is prepared and maintained as recommended in the *Andersen Report*. Such documentation shall be made available for review by the court's master in connection with the annual account review process. The Trustees shall report their implementation plan to the Master within 60 days from the date on which the Court enters its order approving this Stipulation.

Stipulation No. 13: **Strategic Planning Shall Be Implemented.**

The Trustees shall prepare a request for proposals ("RFP"), the objective of which shall be the development of a comprehensive educational and financial strategic plan for consideration and adoption by the Trustees. The RFP shall more specifically define the scope of the strategic planning project to be undertaken. The RFP shall be disseminated to strategic planning firms. The RFP shall identify the qualification criteria of the strategic planning firms from which proposals shall be solicited. Such qualifications should include expertise in education, investments and financial planning. The Trustees shall seek comment from the Master and the Attorney General regarding the RFP and shall obtain the approval of the RFP from the Court, through a stipulation or order, within 90 days from the date on which the Court enters its order approving this Stipulation.

The Trustees shall review the responses to the RFP and, subject to the review and approval by the Court, through a stipulation or order, the Trustees shall select one or more qualified strategic planning firms within 120 days from the date on which the RFP is approved by the Court.

The scope of the strategic planning project should involve the development of an educational plan in conjunction with an investment plan. The educational plan should take into account the future potential of the financial resources of the Trust Estate. The investment plan should be fashioned to meet projected educational program needs. The principal focus of this interrelated planning process should be the educational mission of the Trust Estate.

The investment plan should take into full account diversification (including thoughtful goal-oriented asset allocation), risk (including income volatility), cost-conscious administration, the perpetual nature of the Trust, and preservation of the corpus of the Trust Estate consistent with the terms of the Will.

The strategic planning firm should begin its work no later than 30 days from the date of its engagement. The strategic plan should be completed and presented to the Trustees, the Court and the Attorney General as *parens patriae* within twelve months from the date of engagement of the strategic planning firm, unless extended for good cause upon notice to the Court, the Master and the Attorney General as *parens patriae*.

The strategic planning process shall include input concerning the educational plan component of the strategic plan from appropriate persons, including, but not limited to, administrators, teachers, staff, parents, students, and alumni. The Trustees, in the prudent exercise of their discretion, shall act upon the proposed strategic plan within 90 days after it is presented to them and shall present a report to the Court and the Attorney General, as *parens patriae*, regarding their decision.

The Master shall have full access to the strategic planning firm to monitor and review the ~~development~~ progress of the strategic planning process, including stakeholder input, and may require such status reports and meetings as he reasonably sees fit.

MSB
Cumn
Ckp

This Stipulation supersedes the stipulation set forth in Part I, Section G of the Stipulation Concerning Master's Recommendations (109th Annual Account) filed herein on December 19, 1997.

Stipulation No. 14: A New CEO Based Management System Shall Be Instituted.

The Trustees shall cease to employ the "lead trustee" system of management in administering the Trust Estate.

The Trustees shall adopt and implement a CEO based system of management for the Trust Estate consistent with the concept recommended in the *Andersen Report* and hire a CEO within 180 days after the date on which the Court enters its order approving this Stipulation. The system shall incorporate a formal governance policy which more clearly defines the roles of the Board of Trustees and that of the CEO. The role of the CEO shall be consistent with standards for delegation of authority under trust law.

The Master shall have full access to the Trustees to monitor and review the development of the CEO based management system, the formal governance policy, and the selection of the CEO, and may require such status reports and meetings as he reasonably sees fit.

The Trustees shall seek comment from the Master and the Attorney General, as *parens patriae*, regarding the CEO based management system and the formal governance policy and shall obtain the approval of the CEO based management system and formal governance policy from the Court, through a stipulation or order.

Stipulation No. 15: A Compliance Plan For Determining Trustee Compensation Shall Be Prepared.

On or before November 13, 1998, the Trustees shall submit to this Court for its review and approval a plan for determining trustee compensation that is in compliance with and satisfies applicable requirements of state and federal law, including without exception, federal Intermediate Sanctions legislation and Treasury regulations incident thereto, and H.R.S. Section 607-20, as amended by Act 310 of the 1998 Hawaii State Legislature.

The plan shall include provision for the preparation of an independent professional study concerning reasonable trustee compensation which utilizes relevant and appropriate criteria. The study shall be commissioned under the auspices of the Court, by the Court's master or such other person or entity as the Court shall order, consistent with requirements of applicable law and regulation. The cost of any such independent professional study shall be borne as an expense of the Trust Estate. Should the Trustees or others wish to contest, rebut or supplement the study by commissioning another study, they shall do so at their own expense unless the Court first shall have approved the additional study as an expense of the Trust Estate.

Stipulation No. 16: Stricter Conflict Of Interest Policies And Procedures Shall Be Adopted.

The Trustees shall develop and adopt stricter guidelines and procedures to ensure appropriate compliance with fiduciary standards. The Trustees shall provide to the Master a report of their actions pursuant to this paragraph within 90 days from the date upon which the Court enters its order approving this Stipulation.

The Restated Guidelines shall be further amended to include a provision requiring that future masters review the Trustees' compliance with conflict of interest policies and procedures in connection with their review of the Trustees' Annual Accounts.

DATED at Honolulu, Hawaii, OCT 0 2 1998.

ROBERT B. GRAHAM, ~~JR.~~
Attorney for Petitioners Richard Sung Hong Wong, Marion Mae Lokelani Lindsey, Gerard Aulama Jervis, and Henry Haalilio Peters, Trustees under the Will and of the Estate of Bernice Pauahi Bishop, Deceased

CRYSTAL K. ROSE
Attorney for Petitioners Oswald Kofoad Stender, Trustee under the Will and of the Estate of Bernice Pauahi Bishop, Deceased

MARGERY S. BRONSTER
KEVIN T. WAKAYAMA
Attorney General, State of Hawaii, in her capacity as *parens patriae*

COLBERT M. MATSUMOTO
Master

APPROVED AND SO ORDERED:

colleen k. hirai
Judge of the Above-Entitled Court

Lawrence A. Wangler
Principal

Koll Center North - East Tower
2010 Main Street, Suite 1050
Irvine, CA 92714
714 253-6208
Fax: 714 253-6288

Towers Perrin

Confidential

February 8, 1996

Mr. Rodney J. Park
Director, Administration Group
Kamehameha Schools Bernice Pauahi Bishop Estate
567 South King Street
Suite 200
Honolulu, Hawaii 96813

Dear Rodney:

Enclosed is our preliminary report on trustee compensation. In addition to the material in the report the following information may be of interest to the trustees.

- Generic job descriptions for the positions of CEO, COO, CFO, and Treasurer are attached. We will be asking the trustees to determine how they allocate their time among the various roles and responsibilities. Ideally, the trustees will have an opportunity to review our report and the job descriptions in advance of the February 22 meeting.

- In the report (page 13) we comment on the compensation of Harvard's investment management company, which operates as a separate organization with a separate board of directors. As noted in the material previously sent to you, the Harvard investment company manages Harvard's $7.3 billion portfolio using highly sophisticated investment vehicles. On further investigation it appears that Harvard's compensation arrangement is unique. We were able to identify two other universities with similar organization arrangements: Stanford, where the president of the investment management company received $631,000 (cash compensation) in 1995, and Duke, where the president of the investment management company received $409,000 (cash compensation) in 1995.

  The University of Texas is spinning off the investment group as a separate organization effective March 1. The portfolio under management will be somewhat over $4 billion. No compensation has been set for the president of the investment company, but the intent is to add an incentive program to the current compensation program. Investment managers at large universities whose

Deposition Exhibit No. 37
Deposition of R. Wong
Date 10/21/99

EXHIBIT 37

Towers Perrin

investment management function is not a separate organization earn on average $233,000 (cash compensation).

We pursued this topic because of the general interest expressed by trustees. However, as noted in our report, investment management by itself does not represent in our opinion a valid basis for comparison with the trustees' roles and responsibilities.

- We do not believe that the issue of organization tax status is relevant in our analysis of the appropriate compensation for trustees.
- We suspect that critics of trustee compensation look to other not-for-profit organizations (e.g., private schools and foundations) for comparisons. Information on similar organizations is provided for reference in our report. However, we do not believe that these organizations represent a valid starting point for our analysis, as explained in the report.
- On page 14 we identify the factors we believe support an adjustment of our initial market data to account for characteristics unique to KSBE. The consequence of these adjustments is aggregate governance costs of $3.4 million to $3.8 million, or $685,000 to $760,000 per trustee.
- Incorporating a rough estimate of the position-weighting outcome, the aggregate governance costs would be $4.2 million to $4.7 million, or $840,000 to $940,000 per trustee.

We look forward to meeting with the trustees on February 22. In the meantime please do not hesitate to call me with any questions.

Sincerely,

Lawrence A. Wangler

Enclosures

LAW:kcg

cc: Mike Davis — Towers Perrin/Minneapolis

Chief Executive Officer

Position Summary:

May serve as presiding officer of the Board of Directors, and in that capacity, guides the deliberations and activities of that group. As Chief Executive of the company is responsible for directing the business with the objective of providing maximum profit and return on invested capital; establishing current and long-range objectives, plans and policies subject to the approval of the Board of Directors; and representing the company with its major customers, the financial community and the public.

Position Responsibility:

With the advice of the members of senior management, develops the basic objectives, policies, and operating plans of the business; submits these to the Board of Directors for their approval.

Insures that corporate policies are uniformly understood and properly interpreted and administered by subordinates; reviews and approves proposed internal policies of subordinate units.

Insures that adequate plans for future development and growth of the business are prepared, and participates in their preparation; periodically presents such plans for general review and approval by the Board of Directors.

At specified intervals, presents proposed operating and capital expenditure budgets for review and approval by the Board of Directors.

With the advance knowledge and approval of the Board of Directors, plans and directs all investigations and negotiations pertaining to mergers, joint ventures, the acquisition of businesses, or the sale of major assets.

Analyzes operating results of the corporation and its principal components relative to established objectives and insures that appropriate steps are taken to correct unsatisfactory conditions.

Insures the adequacy and soundness of the company's financial structure, reviews projections of the company's working capital requirements. Negotiates and otherwise arranges for any outside financing that may be indicated.

Establishes and maintains an effective system of communications throughout the company.

Prescribes the specific limitations of the authority of subordinates regarding policies, contractual commitments, expenditures, and personnel actions. Reviews and approves the appointment, employment, transfer or termination of all key executives. Insures the adequacy and proper utilization of the services provided by the corporate staff units and resolves any conflicts arising between operating groups, staff units and other elements under immediate supervision.

Plans for the development of personnel resources within the company and maintains programs which will encourage successful future management of the business.

Takes necessary actions to protect and enhance the company's investments in subsidiaries and affiliates.

Represents the company as appropriate in its relationships with major customers, suppliers, competitors, commercial and investment bankers, government agencies, professional societies and similar groups.

Chief Operating Officer

Position Summary:

Directs, administers and coordinates the activities of the corporation in accordance with policies, goals and objectives established by the Chief Executive Officer and the Board of Directors. Assists the Chief Executive Officer in the development of corporate policies and goals that cover company operations, personnel, financial performance and growth.

Position Responsibility:

Guides and directs the members of management in the development, production, promotion and sale of the corporation's products and services throughout the world.

Directs corporate operations to achieve budgeted profit results and other financial criteria and to preserve the capital funds invested in the enterprise.

Directs the development and preparation of short-term and long-range plans and budgets based upon broad corporate goals and growth objectives. Recommends their adoption to the Chief Executive Officer.

Develops and maintains a sound plan of corporate organization. Establishes policies to insure adequate management development and to provide for capable management succession. Recommends changes in corporate organization as required by the development and growth of the corporation.

Directs the development and installation of corporation procedures and controls, to promote communication and adequate information flow, and thereby solidify management control and direction of the enterprise.

Develops and establishes corporate operating policies consistent with the Chief Executive Officer's broad policies and objectives and insures their adequate execution. Appraises and evaluates the results of overall operations regularly and systematically and reports these results to the Chief Executive Officer.

Delegates portions of activities, responsibilities, and authorities, as necessary and desirable, to corporate staff and to general managers. Insures that the responsibilities, authorities and accountability of all direct subordinates are defined and understood.

Directs the development and establishment of adequate and equitable personnel policies, salary administration policies and employee benefit plans throughout the corporation. Insures that the interests and welfare of employees as individuals are preserved and protected.

Insures sound services and working relationships with key staff of important customers and vendors, with outside services such as consultants, legal counsel, advertising agencies, auditing and brokerage firms and with outside public and governmental bodies.

Insures that all corporate activities and operations are carried out in compliance with local, state and federal regulations and laws governing business operations.

Directs and personally participates in acquisition and growth activities, including investigations, evaluations, and negotiations, in accordance with corporate objectives and plans established by the Chief Executive Officer and the Board of Directors.

Assumes other special activities and responsibilities from time to time as directed by the Chief Executive Officer.

Top Financial Executive

Position Summary:

Responsible for the organization's overall financial plans and policies along with its accounting practices and the conduct of its relationship with lending institutions, shareholders and the financial community. Directs treasury, budgeting, audit, tax, accounting, purchasing, real estate, and insurance activities for the corporation and its subsidiaries. Has specific responsibility for developing and coordinating necessary and appropriate accounting and statistical data for all departments of the business.

Position Responsibility:

Directs the Controller in providing and directing procedures and systems necessary to maintain proper records and to afford adequate accounting controls and services.

Directs the Treasurer in activities as custodian of the funds, securities and assets of the corporation.

Appraises the corporation's financial position and issues periodic financial and operating reports. Directs and coordinates the establishment of corporate budget programs.

Cooperates with the Vice Presidents in coordinating expenditure programs with forecasted cash flow.

Directs, consolidates and analyzes all cost accounting procedures together with other statistical and routine reports, including any desirable analysis of monthly departmental reports.

Proposes policies for the establishment and maintenance of inventory levels for raw materials, supplies, material-in-process and finished goods.

Directs the company's insurance programs.

Responsible for the preparation and issuance of the corporation's Annual Report.

Directs and analyzes studies of general economic, business and financial conditions and their impact on the corporation's policies and operations.

Treasurer
(If Not Top Financial Executive)

Position Summary:

Plans and gives general direction to the conduct of corporate treasury activities which include the care and custody of funds and other financial assets, and supervision of the banking, credit and insurance functions of the corporation.

Position Responsibility:

Maintains custody and is accountable for all cash, securities and financial assets of the organization.

Reviews the cash position of the corporation daily; plans for maintenance of adequate funds through cash and other financial forecasts to meet outstanding and planned commitments.

Provides for the arrangement and administration of lines of credit, and working and depository accounts in appropriate banks.

Maintains necessary relationship with banks and other financial institutions. Periodically reviews financial statements of depositories to determine the stability of these organizations.

Responsible for the proper signature and endorsement for corporate checks, notes, bonds, mortgages, and all corporate documents specifically authorized by the Board of Directors.

Supervises management of policies and procedures relating to credit and collection.

Maintains adequate and suitable insurance or self-insurance programs and makes recommendations for the purpose of maintaining or improving the insurability of corporate property.

Supervises the maintenance of proper bond, shareholder and dividend records.

Directs studies of general economic, business and financial conditions and their impact on operations or policies and the company budget.

Responsible for preparation and issuance of the corporation's Annual Report.

Lawrence A. Wangler
Principal

Koll Center North - East Tower
2010 Main Street, Suite 1050
Irvine, CA 92714
714 253-5208
Fax: 714 253-5288

Towers Perrin

CONFIDENTIAL

March 13, 1996

Mr. Rodney J. Park
Director, Administration Group
Kamehameha Schools Bernice Pauahi Bishop Estate
567 South King Street
Suite 200
Honolulu, Hawaii 96813

Re: Final Report - Trustee Compensation

Dear Rodney:

Enclosed are six copies of our final report on KSBE trustee compensation. The first two pages provide an executive summary. Our methodology is consistent with that presented to you on January 24 and to the Trustees on February 22. In addition to providing a median or 50th percentile competitive reference, we provided a 75th percentile competitive reference.

Trustee compensation between the 50th and 75th percentiles is supportable. Commentary on the various compensation levels follows.

- Unadjusted median ($511,000 per Trustee)

  This represents the starting point of our analysis and is the most defensible. However, it fails to take into account the unique characteristics of KSBE and the multidimensionality of trustee responsibilities.

- Adjusted median ($683,000 to $758,000 per Trustee)

  This takes into account the unique characteristics of KSBE and the multidimensionality of trustee responsibilities. We believe that this level of compensation is defensible to "stakeholders" (e.g., people of Hawaiian ancestry, the legislature, the media).

Deposition Exhibit No. 38
Deposition of R Wong
Date 10-21-99

EXHIBIT 38

Towers Perrin

- Adjusted 75th percentile ($921,000 to $1,021,000 per Trustee)

  Organizations will target their executive pay at various levels in relation to the "market." In particular, it is not unusual to target incentive compensation at the 50th percentile for achieving goals and at the 75th percentile for significantly exceeding preestablished performance goals. Because Trustee compensation is 100% performance based, it is reasonable for the Trustees to establish their compensation at a level corresponding to the 50th percentile to 75th percentile data consistent with corresponding levels of performance.

  Currently there are a number of organization performance metrics (e.g., college acceptances, return on investment, sales per square foot) that could be used easily to assess organization (and thus Trustee) performance. Linking trustee compensation to preestablished performance "targets" will, in our opinion, reduce substantially the current friction with the "stakeholders" regarding trustee compensation. Conceptually, Sections 607-18 and 20 of Hawaii's revised statutes would represent the compensation "funding formula." Distribution of monies from the created pool pursuant to the funding formula would be linked to achievement of key performance goals. In essence, this has been occurring informally. We believe that formalizing this arrangement would significantly enhance the defensibility of trustee compensation.

We also prepared an exhibit that shows three levels of trustee compensation using various assumptions for weighting of the Trustees' responsibilities. This exhibit was prepared at the request of the Trustees and does not represent a Towers Perrin recommendation. As part of our analysis we have investigated the concept of weighting to account for position responsibilities and concluded that it does not apply here for the following reasons:

- Organizations incur costs of governance that reflect in the aggregate quite similar roles and responsibilities. These roles and responsibilities must be fulfilled for an organization to be successful over the long term (e.g., an organization cannot be successful with only half of a CFO). Weighting produces this outcome.

- Although a few organizations have two CEOs, such a configuration tends to be transitional in nature. In addition, an organization with two CEOs typically does not also have a COO. Weighting results in more than one CEO.

- Our adjustment methodology already takes into account the multidimensionality of the Trustees' roles and responsibilities. In essence, the adjustment methodology itself takes into account how the Trustees spend their time.

Towers Perrin

Please let me know if the Trustees would like to schedule a meeting to review our findings in more detail. We are prepared to make a formal presentation of our findings and to discuss the methodology in greater detail. We remain prepared to discuss our findings with KSBE "stakeholders" at your request.

Sincerely,

Lawrence A. Wangler

Enclosures

cc: Mr. Michael Davis, Principal Towers Perrin - Minneapolis

Trustee Compensation Weighting Scenarios (*Median*)

Legend for weighting
CEO/COO/CFO Treasurer

	25/25/25/25	45/25/20/10	60/20/10/10
Aggregate governance costs	$3,417.0 to $3,789.0	$4,207.0 to $4,669.0	$4,541.0 to $5,041.0
Remuneration per Trustee (5)	683.0 to 758.0	841.0 to 934.0	908.0 to 1,008.0

Kamehameha Schools Bernice Pauahi Bishop Estate

Trustee Compensation

March 15, 1996

Towers Perrin

EXHIBIT 39

EXHIBIT M

Deposition Exhibit No. 39
Deposition of R Wong
Date 10-21-99

M14028

Table of Contents

Executive Summary

- ☐ Kamehameha Schools Bernice Pauhi Bishop Estate (KSBE) is a large, diversified organization with operations ranging from private school administration to commercial real estate management.

- ☐ Organizational governance for KSBE is provided by five trustees, who are appointed to their positions by members of Hawaii's supreme court (acting as individuals)

  — For the purpose of this report organizational governance is defined as the combined activities (and related costs) of a Board of Directors, Chief Executive Officer (CEO), Chief Operating Officer (COO), Chief Financial Officer (CFO), and Treasurer (or investment officer).

- ☐ Aggregate governance costs of organizations with similar revenue levels and real estate activities represent a reasonable starting point for the development of a framework for trustee compensation.

- ☐ Any analysis of compensation must take into consideration the unique characteristics of KSBE, the scope of its operation, and the multidimensionality of trustee roles and responsibilities.

M14030

DEPO OF RICHARD WONG EXH 39

- On the basis of the foregoing information, we developed an opinion regarding competitive annual compensation for KSBE trustees, which is summarized in the table below.

	At the Median or 50th Percentile	At the 75th Percentile
	(000)	(000)
Aggregate governance costs	\$3,417.0 to \$3,789.0	\$4,603.0 to \$5,106.0
Per trustee (assuming 5 trustees)	\$ 683.0 to \$ 758.0	\$ 921.0 to \$1,021.0

Background

- KSBE is a charitable trust established for a single goal: to provide educational opportunities to young Hawaiians (with native Hawaiian blood) through the Kamehameha Schools
  - As a charitable trust KSBE must support the Kamehameha Schools in perpetuity.
- KSBE has:
  - Annual revenues of $304 million and 1,200 employees
  - Educational activities that affect 3,800 students at the various campus sites of KSBE
  - An education budget in excess of $120 million
  - 173,000 acres of conservation land, 189,000 acres of agricultural land, and 833 acres of commercial property. The commercial property generates approximately 93% of KSBE's income
  - Multiple subsidiary organizations
  - An investment portfolio valued at close to $2 billion.

The trust assets are, in accordance with the will of Ke Ali'i Bernice Pauahi Bishop, managed for the exclusive benefit of the Kamehameha Schools.

Background (continued)

- ☐ Although no recent valuation of total assets has been performed, estimates of the value of KSBE's total assets made publicly by third parties range from $10 billion to $12 billion.

- ☐ Trustees (five) are appointed to their positions by the members of Hawaii's supreme court (acting as individuals) and receive compensation for their services in accordance with the performance-based commission structure set forth in Sections 607-18 and 20 of Hawaii's revised statutes

  — Sections 607-18 and 20 provide for trustee commissions at an annual rate of 10% of the first $1,000 of estate revenue; 7% of the next $4,000; 5% of the next $100,000; 3% of the next $100,000; and 2% of all revenue in excess of $205,000. In addition, trustees are entitled to 2.5% of income received from the sale of corpus assets. Finally, trustees are entitled to reasonable allowances for bookkeeping, clerical, and special services; and expenses incidental to the discharge of their responsibilities

  — A historical perspective on the total commissions earned under the commission structure and taken by trustees is provided in Exhibit I

  — From 1980 through 1995 trustees voluntarily chose not to accept a total of $31 million of commissions, representing 42% of the commissions allowable for that period.

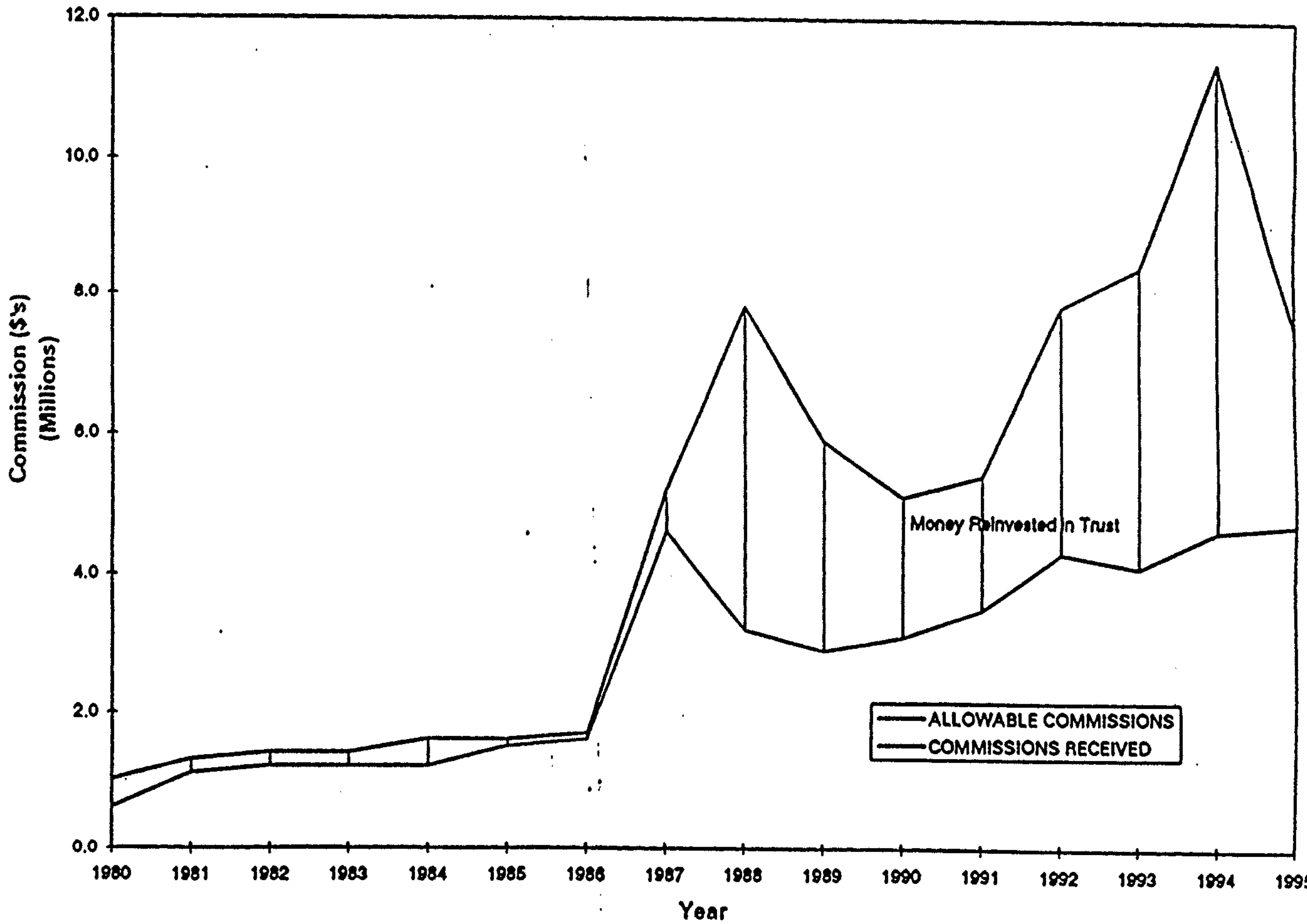
- ☐ The trustees asked Towers Perrin to independently review their responsibilities and authorities in light of the aggregate value of the commissions provided pursuant to Sections 607-18 and 20 and "competitive" practices for positions with similar levels of responsibility and authority.

M14033

DEPO OF RICHARD WONG EXH 39

Exhibit I

Schedule of Aggregate Trustees' Commissions



Towers Perrin

M14034

Study Methodology (continued)

☐ Towers Perrin completed the following activities in support of its independent review of trustee commissions:

— Met initially with Rodney J. Park, Director, Administration Group of KSBE to collect background information on KSBE

— Met with KSBE trustees as a group, then each trustee independently, to enhance our understanding of KSBE and the scope and nature of the responsibilities of a trustee

— Toured the Kamehameha School on Oahu and met with school administrators to discuss the breadth of educational activities

— Visited a number of commercial property sites on Oahu and met with members of the commercial property management team to gain deeper insight into the range of real estate activities

— Reviewed documentation collected both through the foregoing activities and independently, including:

- ◆ Last will and testament of Ke Ali'i Bernice Pauahi Bishop
- ◆ Budgets and financial results
- ◆ School curriculum, student demographics, graduation rates
- ◆ Statutes governing trustee commission structures
- ◆ Newspaper reports on KSBE
- ◆ Relevant compensation surveys
- ◆ KSBE organization charts
- ◆ Previous Towers Perrin studies and reports relevant to the project
- ◆ Form 990 for selected not-for-profit organizations.

M14035

Study Methodology (continued)

- Relevant compensation references were accessed from our data bank of more than 500 public, private, and custom compensation surveys.
- Senior executive compensation practitioners throughout Towers Perrin were consulted at various junctures to obtain broad and in-depth input on the structuring of appropriate levels for trustee commissions.
- A preliminary report of our findings was delivered to the trustees prior to finalization.

Findings

- KSBE is a complex and multidimensional organization requiring management in and understanding of four diverse fields:
  - — Multilevel school strategic planning and administration
  - — Real estate development and management
  - — Investment strategy and management
  - — Organizational governance
    - ◆ For the purpose of this report organizational governance is defined as the combined activities (and related costs) of a Board of Directors, Chief Executive Officer (CEO), Chief Operating Officer (COO), Chief Financial Officer (CFO), and Treasurer (or investment officer).

- In addition to the requirement that trustees maintain expertise in each of the foregoing areas, several characteristics of the trustees' roles and responsibilities are distinctive:
  - — Trustees are dedicated full-time to KSBE activities
  - — Trustees assume more personal liability than is typical in other organizations, whether public or private
  - — Trustees are restricted by the trust from delegating responsibilities pertaining to the making of basic policy and investment decisions, and thus are actively involved in the management of KSBE
  - — Trustees assume accountability for both the governance and the overall operation of the Kamehameha Schools and 18 subsidiary companys
  - — Trustee compensation is 100% performance-based unlike virtually all other organizations — which provide positions with similar roles and responsibilities with 45% to 75% of their compensation package on a fixed basis, regardless of performance (e.g., base salary, group benefits, and executive benefits and perquisites)

Findings (continued)

— The KSBE trustees collectively perform what would be five distinct and separate roles in other organizations:

- ◆ Board of Directors
- ◆ Chief Executive Officer (CEO)
- ◆ Chief Operating Officer (COO)
- ◆ Chief Financial Officer (CFO)
- ◆ Treasurer (investment function).

- The first step in the two-step process of developing a competitive frame of reference for trustee compensation is the collection of relevant references. The second step focuses on the interpretation of the data collected in the first step and the application of the data to KSBE.

Step 1 — Data Collection

- Because of KSBE's uniqueness and the trustees' multidimensional roles and responsibilities, no existing database directly addresses their compensation. However, we can examine compensation practices in organizations in which similar management and governance skills are required. Included in our analysis are the following five subgroups:
  - A broad cross-section of 400+ manufacturing, service, and distribution organizations; a revenue assumption of $300 million was used in the analysis (Refer to Appendix A for a list of survey participants.)
    - Regression analysis was used to predict compensation (e.g., revenues of $300 million predict the level of compensation)
  - A sample of large private and public real estate developers. These data were supplemented with information from a survey of REITs and large commercial property management firms
    - Accessed via private and custom surveys
  - Positions in the investment management field
    - Accessed via custom surveys
  - Large foundations
    - Accessed via Form 990
  - Large private educational institutions
    - Accessed via custom survey.

Findings (continued)

- Exhibit II contains a summary analysis for each of the subgroups
  - It is important when reviewing this information to keep in mind that the data have not yet been adjusted to reflect the distinctive characteristics of KSBE and the multidimensional nature of KSBE trustees' roles and responsibilities. This will follow in Step 2.

Summary of Relevant Compensation References[1]
(Median Data Reported)

Exhibit II

	Manufacturing/ Service/Distribution Organizations (000)	Real Estate Development (000)	Large Private Education Institutions[3] (000)	Top Executive of Investment Management Group[4] (000)	Foundation CEO[5] (000)
Aggregate governance costs[2]	$ 2,355.0	$ 2,757.0	$ 1,260.0	N/A	N/A
Top executive exclusively	—	—	—	$ 773.0 — $ 1,403.0	$ 315.0 — $ 621.0[6]

[1] Appendix B provides detail breakdown of the data.
[2] Aggregate governance costs represent the total compensation costs (inclusive of base salary, incentives, benefits and perquisites) for a Board of Directors, CEO, COO, CFO, and Treasurer.
[3] Fifteen large universities. Median full-time employees are 8,347 (including 1,393 faculty). Annual budget of $965 million (median) and 10,800 full-time students (median).
[4] Example would be real estate investment group, equity group, bond group, etc. Total compensation costs reported.
[5] Survey data reference practices in eight foundations with assets of $2 billion or more.
[6] Benefit costs excluded due to wide variability in foundation benefit practices.

Note: Data in this exhibit require further adjustment to take into account the unique characteristics of KSBE and trustees' multidimensional roles and responsibilities.

Step 2 — Interpretation of Data and Application to KSBE

- The information presented in Exhibit II requires adjustment to reflect:
  - — Distinctive organization characteristics of KSBE (identified on page 6)
  - — Unique trustee responsibilities (identified on page 7) vis-á-vis the position parameters reported in the compensation survey data
  - — The risk inherent in how pay is earned by KSBE trustees, as opposed to the positions reported in the compensation survey data
    - ◆ Trustee pay is 100% at risk while similar positions in other organizations have a significant portion of their total compensation (e.g., base salary, group benefits, and executive benefits/perquisites) essentially guaranteed regardless of performance
  - — The assumption of personal liability by trustees
  - — Full-time goverance responsibilities
  - — Career appointment.

- Three data references reported in Exhibit II will not be considered further for the following reasons:

  — Investment management: too highly specialized and accounts for only a portion of KSBE activities

  — Large private educational institutions: scope of operations sufficiently different to make matching problematic

  — Foundation CEO: pay references limited to CEO and vary significantly based on foundation's mission. In addition, aggregate governance costs cannot be identified

    - In many cases governance costs may be "outsourced" by foundations and other not-for-profit organizations, a typical example being investment management. An illustration of this is Harvard University, which established a wholly owned subsidiary to manage its investments. The pay of the top three positions at this subsidiary in 1995 was $3 million, $1.6 million, and $1.2 million

    - Typically a foundation CEO's pay has no risk element.

Findings (continued)

- The remaining two references (manufacturing/service/distribution organizations and real estate) provide the best starting point for determining a reasonable and competitive level of trustee commission
  - — Provides a solid foundation for organizational governance costs
  - — Reflects a reasonable range of trustee responsibilities
  - — Includes all pay elements commonly found in executive pay packages
  - — Represents organizations from which trustees might be "recruited."

- The average aggregate governance costs of the manufacturing, service, distribution organizations, and real estate companies will be adjusted to take into account
  - 100% performance-based compensation (positive influence)
  - Assumption of personal liability (positive influence)
  - Organization configuration requiring management expertise across diverse fields (e.g., multilevel school administration, commercial real estate development and property management, and investment management) (positive influence)
  - Multidimensional position responsibilities (e.g., each trustee serving concurrently as CEO, COO, CFO, Treasurer, and Board of Directors) (positive influence)
  - Career appointment (negative influence)
  - Full-time board governance responsibilities and service on multiple subsidiary boards (positive influence). Applied only to board compensation costs.
- Exhibit III reflects the results of the foregoing adjustments at the median or 50th percentile.

Interpretation of Data and Application to KSBE (Aggregate Governance Costs at the Median)

Exhibit III

	Annualized (Median or 50th Percentile)
☐ Average of aggregate governance costs[1]	$2,330.0
Adjustment factor (+35% to +50%)	$ 816.0 to $1,165.0
Subtotal	$3,146.0 to $3,495.0
☐ Board of Directors'	$ 226.0
Adjustment factor (+20% to +30%)	$ 45.0 to $ 68.0
Subtotal	$ 271.0 to $ 294.0
Total governance costs	$3,417.0 to $3,789.0
☐ Remuneration per trustee (5 trustees)	$ 683.0 to $ 758.0

(1) Average of aggregate governance costs from pages 1 and 2 of the Appendix, excluding Board of Directors' costs.

M14047

- Exhibit IV reflects the results of the foregoing adjustments at the 75th percentile
  - — The 75th percentile for management positions was calculated at 36% above the median based on an analysis of 50th and 75th percentile pay relationships found in the manufacturing, service, and distribution organization database
    - ◆ This database was used because of its large sample size and, thus, its enhanced statistical validity
    - ◆ Incentive compensation, both short- and long-term, heavily influences the results at the 75th percentile
  - — The 75th percentile for Board of Directors' costs was calculated at 20% above the median based on an analysis of survey data applicable to Board of Directors' pay practices.

Interpretation of Data and Application to KSBE
(Aggregate Governance Costs at the 75th Percentile)

Exhibit IV

	Annualized (75th Percentile)
☐ Average of aggregate governance costs[1]	$ 3,169.0
Adjustment factor (+35% to +50%)	$ 1,109.0 to $ 1,585.0
Subtotal	$ 4,278.0 to $ 4,754.0
☐ Board of Directors'[2]	$ 271.0
Adjustment factor (+20% to +30%)	$ 54.0 to $ 81.0
Subtotal	$ 325.0 to $ 352.0
Total governance costs	$ 4,603.0 to $ 5,106.0
☐ Remuneration per trustee (5 trustees)	$ 921.0 to $ 1,021.0

(1) Average of aggregate governance costs from pages 1 and 2 of the Appendix B, multiplied by 136% and excluding Board of Directors' costs.
(2) Board of Directors' costs multiplied by 120%.

M14049

Other Observations

- Trustee commissions have been managed prudently given the level of fees generated pursuant to Sections 607-18 and 20. (Refer to Exhibit I, page 3.)

- Allowable trustee commissions would be higher under other state regulations. As an illustration, using KSBE fiscal year-end financial results and Delaware's commission structure, a $7.7 million pool would be created (versus $7.5 million for Hawaii), while Georgia's and Kentucky's commission structure would result in commission pools of $22.5 million and $24.7 million, respectively

  — Only five other states have defined commission structures for trustees. An additional four specify that the commission structure should be "reasonable."

Conclusions

- ☐ KSBE is a complex organization. No directly comparable organization exists.
- ☐ Trustee roles and responsibilities are distinct from those at other not-for-profit and for-profit organizations.
- ☐ Aggregate commissions taken by the trustees must take into account:
  - — Organizational complexity
  - — Trustee's roles and responsibilities
  - — Risk orientation of pay
  - — Personal liability
  - — Career appointment
  - — Aggregate costs of governance in other organizations adjusted for the foregoing factors.
- ☐ The risk orientation inherent in the trustee commission structure is in the best long-term interest of the trust.
- ☐ Trustees have prudently managed their commissions within the provisions of Sections 607-18 and 20.

CDB

Executive Compensation Data Base Participants

A.C. Nielsen
A.E. Staley Manufacturing
A.O. Smith
A.T. Cross
ADC Telecommunications
ADT Security Systems
AICPA
AMP
ARCO Chemical
AST Research
AT&T
AT&T Global Information Solutions
AVCO Financial Services
Abbott Laboratories
Acme-Cleveland
Advanced Micro Devices
Advanced Technology Labs
Advo
AgrEvo
Air Products and Chemicals
Albemarle
Alcon Laboratories
Allergan
Alliant Techsystems
AlliedSignal
Altec Industries
Amdahl
American Brands
American Express
American Home Products
American President
American Protective Services
American Stores
Ameritech
Ameron
Apogee Enterprises
Apollo Travel
Applied Power
Armstrong World Industries
Ashland
Automatic Data Processing
Avery-Dennison

BASF
BOC Group
Baxter International
Beckman Instruments
Becton Dickinson
Bellcore
BellSouth
Bemis
Berlex Laboratories
Bertelsmann Music Group
Bethlehem Steel
Betz Laboratories
Black & Decker
Boeing
Bolt Beranek & Newman
Borg-Warner Security
Bose
Boston Scientific
Bristol-Myers Squibb
Brown & Williamson Tobacco
Brown-Forman
Browning-Ferris
Bull HN Information Systems
Burlington Northern
Bundy

CBI Industries
CBS
CF Industries
CH2M Hill
CIGNA
COMSAT
CPC International
CSX
Cabot
California State Automobile Association
Campbell Soup
Capital Cities/ABC
Ceradon
Ceramark
Cargill

Carpenter Technology
Carter-Wallace
Castrol North America
Caterpillar
Ceridian
Champion International
Chicago Title and Trust
Chiquita Brands
Chiron
Chrysler
Church & Dwight
Ciba
Citicorp
Clark Equipment
Clark USA
Clorox
Coastal
Colgate-Palmolive
Coltec Industries
Columbia Gas Systems
Columbia House
Compaq Computer
Consolidated Natural Gas
Control Data Systems
Cooper Industries
Cooper Tire & Rubber
Coors Brewing
Copperweld
Cordis
Corning
Coulter
Cox Enterprises
Cray Research
Creative Hairdressers
Crompton & Knowles
Crown Central Petroleum
Cyro
Cytec

Danaher Controls
Darden Restaurants
Data General

Dayton Hudson
Dell Computer
Deluxe
Dial
Diamond Shamrock
Diebold
Digital Equipment
Dionex
Donaldson
Dow Jones
DowBrands
Dravo
Dresser Oilfield Services
DuPont Merck

E.W. Scripps
EG&G
ESCO Electronics
E-Systems
Eastman Chemical
Eastman Kodak
Ecolab
El Paso Natural Gas
Electronic Data Systems
Elf Atochem
Eli Lilly
Eljer Industries
Enron
Essex Group
Exide
Exxon

FPL Group
Fannie Mae
Federal Express
Ferro
Fidelity Investments
First Mississippi
Florida Power
Foamex International
Ford
Fort Howard Paper

Towers Perrin

M14052

Executive Compensation Data Base
Participants (continued)

Freightliner
Furon

G.D. Searle
GATX
GEC Marconi Electronic Systems
GNB
GROWMARK
GTE
GenCorp
Genentech
General Cable
General Chemical
General Dynamics
General Electric
General Motors
General Signal
General Tire
Geon
Georgia Gulf
Georgia-Pacific
Gerber Products
Gilead Sciences
Glaxo
Gleason Works
Goodyear Tire & Rubber
Goulds Pumps
Great Lakes Chemical
Greyhound Lines

H.B. Fuller
Harcourt General
Harris
Hartford Steam Boiler
Haworth
Helene Curtis
Henkel
Hercules
Hershey Foods
Heublein
Hillhaven
Hilton Hotels

Himont
Hoechst Celanese
Hoffmann-LaRoche
Holiday Inn Worldwide
Holophane
Honeywell
Hosokawa
Howmet
Hubbell

IBM
IMO Industries
IMS America
INTELSAT
ITT
ITT Automotive
Ideal Industries
Immunex
Ingersoll-Rand
Intel
Interlake
International Multifoods
Itochu International

J.C. Penney
J.M. Huber
James River
Jim Walter
Johnson & Johnson
Johnson Controls
Joseph E. Seagram & Sons
Jostens

Kansas City Southern
Keebler
Kelly Services
Kennecott
Kerr-McGee
Kroger

LTV Steel
Laerdal Medical

Le Blond Makino Tool
Lennox International
Lever Brothers
Linotype-Hell
Litton Industries
Lockheed Sanders
Loews
Long John Silver's
Lord
Lowe's
Lyondell Petrochemical

M.A. Hanna
MAPCO
MCI
MEMC Electronic Materials
MITRE
MagneTek
Mallinckrodt Medical
Manor Care
Manville
Marion Merrell Dow
Marriott
Martin Marietta
Mary Kay Cosmetics
MasterCard
Matsushita Electric
Maybelline
McCormick
McDonald's
McGraw-Hill
McKesson
Merck
Meredith
Microsoft
Modine Manufacturing
Monsanto
Moore
Moorman Manufacturing
Morton
Mtel
Murphy Oil

NEC America
NICOR
NYCOMED
Nalco Chemical
National Medical Enterprises
National Semiconductor
Nelson Metal Products
Nike
Nissan
Norfolk Southern
Norstan
Northeast Utilities
Northern Telecom
Northrop Grumman
Norwest

Occidental Petroleum
Olsten
Oracle Systems
Oryx Energy
Outrigger Hotels

PECO Energy
PHH Group
PPG Industries
Pacific Telesis
PacifiCare
PacifiCorp
Pagenet
Pamida
Panhandle Eastern
Parker Hannifin
Payless Cashways
Pennzoil
Pentair
Perkin-Elmer
Petrolite
Pfizer
Philips Electronics
Pitney Bowes
Portland General Electric

Towers Perrin

M14053

Executive Compensation Data Base
Participants (continued)

Praxair
Premark International
Premier Industrial
Prodigy Services
Progressive
Providence Journal
Providian
Pulitzer
Purdue Frederick

QMS
QVC

Ralston Purina
Reader's Digest
Reckitt-Colman
Red Lion Inns
Reebok
Reliance Electric
ReliaStar Financial
Revlon
Rexene Products
Reynolds Metals
Rhone-Poulenc
Rhone-Poulenc Rorer
Ricoh
Roadway Services
Robert Bosch
Rocco
Rogers
Rohm & Haas

Rollerblade
Ryder System

S.C. Johnson Wax
SCEcorp
SNET
Safety-Kleen
Sandoz Pharmaceuticals
Sanofi
Sanofi Winthrop
Sara Lee
Schering-Plough
Scotsman
Seagate Technology
Sequa
Shaklee
Sharp Electronics
Sherwin-Williams
Siemens
Silicon Graphics
Smart & Final
Smith & Nephew Richards
SmithKline Beecham
Sony Electronics
Southeastern Mills
Southland
Sprint
Square D
Stanhome
Star Enterprises
Steelcase

Sun
Sunmark
Symbol Technologies

3M
Tambrands
Tandem Computers
Target Therapeutics
Tastemaker
Teledyne
Tenneco
Textron
Thiokol
Thomas & Betts
Time Warner
Timken
Toro
Tracor
Transamerica
Transamerica Leasing
Tredegar Industries
Tribune
Tucson Electric Power
Twentieth Century Services

UGI
US West
USF&G
USG
USX
Union Camp

Union Carbide
Union Pacific
Union Texas Petroleum
Unisys
United Dominion
United Parcel Service
United Stationers
United Technologies
Upjohn

VF
Viacom International
Volvo North America

W.H. Brady
W.R. Grace
WPP
Walt Disney
Wang Laboratories
Warner-Lambert
Welch Foods
Wendy's International
West
Westinghouse Electric
Westinghouse Savannah River
Weyerhaeuser
Wisconsin Power & Light
Witco
Wm. Wrigley Jr.

Xerox

Zeneca

Number of Participants: 438

July 1995

Towers Perrin

M14054

Manufacturing/Service/Distribution Organizations[1]
(Median Data Reported)

Compensation Program Elements	CEO (000)	COO (000)	CFO (000)	Treasurer (000)	Board of Directors[2] (000)	
Base salary	$392.0	$313.1	$188.3	$114.4	$166.0 (Total annual compensation for outside directors)	
Annual bonus	162.7	110.6	58.3	22.2		
Long-term incentive (annualized)	227.8	145.9	78.4	27.4	60.0 (Stock awards)	
Group benefits ☐ Medical insurance	4.2	4.2	4.2	4.2		
☐ Life insurance	3.3	3.1	1.5	.9		
☐ Long-term disability insurance	1.5	1.5	.9	.6		
☐ Dental insurance	.9	.9	.9	.9		
☐ Retirement*	44.4	33.9	19.7	10.9		
☐ 401(k) (3%)*	16.6	12.7	7.4	4.1		
☐ Social Security	11.0	9.1	6.5	4.9		
Executive perquisites ☐ Automobile	12.0	9.6	7.2	4.8		
☐ Miscellaneous	15.0	12.0	8.0	4.0		
Subtotal	$891.4	$656.6	$381.3	$199.3	$226.0	Total $2,354.6

[1] From Towers Perrin 1995 Proprietary Compensation Data Bank.
[2] From 1995 Conference Board survey. Assumes four outside directors.
[*] Assumes restoration plan in place.

M14055

Real Estate Development[1]
(Median Data Reported)

Compensation Program Elements	CEO (000)	COO (000)	CFO (000)	Treasurer (000)	Board of Directors[2] (000)	
Base salary	$415.0	$362.0	$194.0	$109.0	$166.0 (Total annual compensation for outside directors)	
Annual bonus	282.0	202.0	83.0	32.0		
Long-term incentive (annualized)	249.0	169.0	81.0	26.0	60.0 (Stock awards)	
Group benefits □ Medical insurance	4.2	4.2	4.2	4.2		
□ Life insurance	3.3	3.2	1.5	.9		
□ Long-term disability insurance	1.5	1.5	.9	.6		
□ Dental insurance	.9	.9	.9	.9		
□ Retirement*	55.8	45.1	22.2	11.3		
□ 401(k) (3%)*	20.9	16.9	8.3	4.2		
□ Social Security	13.0	11.1	6.9	5.0		
Executive perquisites □ Automobile	12.0	9.6	7.2	4.8		
□ Miscellaneous	15.0	12.0	8.0	4.0		
Subtotal	$1,072.6	$837.5	$418.1	$202.9	$226.0	Total $2,757.1

[1] Custom survey of 27 large real estate developers with heavy emphasis on commercial properties. Supplemented with data from consulting assignments for commercial developers and REITs during 1995.
[2] From 1995 Conference Board survey. Assumes four outside directors.
(*) Assumes restoration plan in place.

Towers Perrin

M14056

Investment Management[1]
(Average Data Reported)

Compensation Program Elements	Top Executive of Investment Management Group: Internal Asset Manager (000)	Top Executive of Investment Management Group: External Asset Manager (000)
Base salary	$ 327.0	$ 251.0
Annual bonus	145.0	1,037.0
Long-term incentive (annualized)[2]	196.0	75.0
Group and executive benefits[3]	105.0	40.0
Total	$ 773.0	$ 1,403.0

[1] From two private surveys conducted by Towers Perrin in 1993
— The first survey covers compensation at 19 internally and externally focused investment management organizations
— The second survey covers compensation at 15 large foundations.
[2] Estimated on the basis of consulting experience.
[3] Based on benefit relationships shown on page 1 of this Appendix and on consulting practice.

Definitions

Top Executive of Investment Management Group: Responsible for the overall financial performance of the equity investment group. Sets policy and develops and implements strategy to be followed in investment decision-making. Oversees the investment staff and budgets. Participates in top-level strategy and policy committees. May be the CEO of the group or report to the parent organization CEO and/or COO.
Internal Asset Manager: Primarily manages internal assets, such as pension funds and endowments. Positions have relatively limited marketing responsibilities in that they do not have to "sell" their services to external clients.
External Asset Manager: Primarily manages external assets and usually has marketing and client servicing responsibilities for clients outside the organization.

Foundations[1]
(Actual Data Reported)

Foundation	Assets (Billions)	CEO Pay[1] (000)
Ford Foundation	$ 6.6	$ 548,371
J. Paul Getty Trust	6.2	620,497
MacArthur Foundation	3.1	382,349
The Rockefeller Foundation	2.4	408,363
Andrew W. Mellon Foundation	2.3	455,389
Robert Wood Johnson Foundation	3.8	315,000
Lilly Endowment Inc.	2.8	330,000
Pew Charitable Trusts	3.3	318,231

[1] As of 1994. Cash compensation only.

Select Universities[1]
(Median Data Reported)

Compensation Program Elements	President (000)	Provost—Top Academic Officer (000)	Top Financial Officer (000)	Top Investment Officer (000)
Total cash compensation	$ 300.6	$ 215.6	$ 208.4	$ 233.1
Group benefits	72.0	50.0	48.0	54.0
Special benefits	75.0 [2]	3.0	—	—
Total	447.6	268.6	256.4	287.4
		Aggregate governance costs		$ 1,260.0[3]

[1] 1995 compensation of 15 large universities. Median full-time employees are 8,347 (including 1,393 faculty). Annual budget of $965 million (median) and 10,800 full-time-students (median).
[2] Includes housing, automobiles, and club dues.
[3] Trustees or Board members usually serve without pay.

APR 1 1996

Lawrence A. Wangler
Principal

Koll Center North - East Tower
2010 Main Street, Suite 1050
Irvine, CA 92714
714 253-5208
Fax: 714 253-5288

Towers Perrin

CONFIDENTIAL

March 27, 1996

Mr. Rodney J. Park
Director, Administration Group
Kamehameha Schools Bernice Pauahi Bishop Estate
567 South King Street
Suite 200
Honolulu, Hawaii 96813

Dear Rodney:

As a follow-up to my correspondence dated March 13, 1996, this letter provides amplification on the references to trustee compensation "defensibility." First, a few definitions would be helpful:

- By defensibility, we mean the degree (or difficulty) to which "stakeholders" can be convinced that trustee compensation is reasonable.
- By stakeholders we mean those outside KSBE who believe that they have a "stake" in the organization. This includes the media, people of Hawaiian ancestry, government regulators, etc. Typically, stakeholders have varying degrees of influence at various times on the governance of an organization.

In my previous letter we note that the unadjusted median ($511,000 per Trustee) is the most defensible level of compensation. What we mean is that this level of remuneration is the easiest to defend because it is a simple average of the governance costs of comparable complex business organizations.

We note that the next level of remuneration ($683,000 to $758,000 per Trustee) also is defensible. Basically, we are saying that our methodology for adjusting the first reference point to take into account the unique characteristics of KSBE and the multi-dimensionality of trustee responsibilities is supportable (obviously if it wasn't, we would not suggest it as a methodology). However, convincing "stakeholders" of its reasonableness will be somewhat more difficult. This is because stakeholders must have a fairly sophisticated understanding of how other organizations are structured and governed. As an example of the problems this could pose, KSBE has been referred to at varying times as a "complex, multinational organization" and as a "local operator of a private school."

Deposition Exhibit No. 40
Deposition of RWong
Date 10-21-99

EXHIBIT 40

Towers Perrin

Finally, we comment on the 75th percentile reference ($921,000 to $1,021,000). Basically, what we mean in our commentary is that when trustee remuneration approaches this level it is easier to support when it is directly linked to preestablished performance goals as opposed to being determined subjectively after the statute-based formula creates the incentive pool. Thus, for example, having the Trustees establish organization goals at the beginning of the year and measure KSBE's performance against these goals at the end of the year, adjusting trustee compensation accordingly, would enhance the ability to explain trustee remuneration to, and have it accepted by, stakeholders. This really isn't any different then the situation that arises in connection with the compensation of public corporation executives. Shareholders want to see a correlation between pay and performance. When the correlation is strong, little "heat" is generated.

This approach also has the benefit of being able to link the entire organization to a consistent set of performance measures. Thus, the entire management team of KSBE would see its compensation move up or down on the basis of their success in achieving preestablished, quantifiable performance goals. Obviously, Trustees would have to be willing to have their compensation fluctuate from year to year on the basis of the overall organization's success in achieving its performance goals.

****

I hope that this answers the Trustees' questions on this matter. In all executive compensation consulting assignments we establish as a basic criterion that our recommendations must be defensible to shareholders of public companies, owners of private companies, and stakeholders of not-for-profit institutions. This ensures that our recommendations are not shaded by client relationships, outside influences, or inappropriate analytical methodologies.

Please feel free to call if further amplification is required. When the SCA report is received, we will continue to be available to respond to questions on differences between our two methodologies and recommendations.

Sincerely,

Larry Wangler

Lawrence A. Wangler

cc: Mr. Michael Davis - Towers Perrin/Minneapolis

B 158443

KAMEHAMEHA SCHOOLS
BERNICE PAUAHI BISHOP ESTATE
567 SOUTH KING STREET, SUITE 200
P.O. BOX 3466 - HONOLULU, HAWAII 96801

CHECK NO. B158443
BANK OF HAWAII
FINANCIAL PLAZA OF THE PACIFIC
HONOLULU, HAWAII
59-102
1213

VOID 90 DAYS AFTER	PROTECTED AMOUNT	PAY THIS AMOUNT
11 AUG 1994	$**19,531.31	$**19,531.31

TO THE ORDER OF
OMNITRAK GROUP INC
CENTRAL PACIFIC PLAZA
220 SO KING ST, STE 975
HONOLULU, HI 96813

AUTHORIZED SIGNATURE
AUTHORIZED SIGNATURE

⑈158443⑈ ⑆121301028⑆ 0001⑉133157⑈ ⑈0001953131⑈

08/11/94
121301028

For deposit in
BANK OF HAWAII
MAIN OFFICE
to the credit of
Omnitrak Research & Marketing Group, Inc.
01-065068

BANK OF HAWAII
ANNEX PROOF DEPT.
HONOLULU, HI. U.S.A.
121301028

Deposition Exhibit No. 41
Deposition of R Wong
Date 10-20-99

EXHIBIT 41

KAMEHAMEHA SCHOOLS
BERNICE PAUAHI BISHOP ESTATE
567 SOUTH KING STREET, SUITE 200
P.O. BOX 3466 • HONOLULU, HAWAII 96801

B 159067
CHECK NO. B159067

BANK OF HAWAII
FINANCIAL PLAZA OF THE PACIFIC
HONOLULU, HAWAII

59-102
1213

VOID 90 DAYS AFTER	PROTECTED AMOUNT	PAY THIS AMOUNT
08 SEP 1994	$**48,552.24	$**48,552.24

TO THE ORDER OF
OMNITRAK GROUP INC
CENTRAL PACIFIC PLAZA
220 SO KING ST, STE 975
HONOLULU, HI 96813

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

⑈159067⑈ ⑆121301028⑆ 0001⑈133157⑈ ⑈0004855224⑈

09/12/94
121301028
92260270

For deposit in
BANK OF HAWAII
MAIN OFFICE
to the credit of
Omnitrak Research & Marketing Group, Inc.
01-065068

Deposition Exhibit No. 42
Deposition of R. Wong
Date 10-20-99

EXHIBIT 42

KAMEHAMEHA SCHOOLS
BERNICE PAUAHI BISHOP ESTATE
567 SOUTH KING STREET, SUITE 200
P.O. BOX 3466 · HONOLULU, HAWAII 96801

B 160125
CHECK NO. B160125

BANK OF HAWAII
FINANCIAL PLAZA OF THE PACIFIC
HONOLULU, HAWAII
59-102
1213

VOID 30 DAYS AFTER	PROTECTED AMOUNT	PAY THIS AMOUNT
17 OCT 1994	$**41,760.55	$**41,760.55

TO THE ORDER OF
OMNITRAK GROUP INC
CENTRAL PACIFIC PLAZA
220 SO KING ST, STE 975
HONOLULU, HI 96813

AUTHORIZED SIGNATURE
AUTHORIZED SIGNATURE

⑈160125⑈ ⑆121301028⑆ 0001⑈13338 7⑈ ⑈0004176055⑈

10/21/94
121301028
92034554

BANK OF HAWAII
MAIN OFFICE
to the credit of
Omnitrak Research & Marketing Group, Inc.
01-065068

0111 83619

BANK OF HAWAII
121301028

OCT 21 94

Deposition Exhibit No. 43
Deposition of R Wong
Date 10-20-99

EXHIBIT 43

KAMEHAMEHA SCHOOLS
BERNICE PAUAHI BISHOP ESTATE
567 SOUTH KING STREET, SUITE 200
P.O. BOX 3466 - HONOLULU, HAWAII 96801

B 163865
CHECK NO. B163865

BANK OF HAWAII
FINANCIAL PLAZA OF THE PACIFIC
HONOLULU, HAWAII

59-102
1213

VOID 90 DAYS AFTER	PROTECTED AMOUNT	PAY THIS AMOUNT
28 FEB 1995	$**21,622.47	$**21,622.47

TO THE ORDER OF
OMNITRAK GROUP INC
CENTRAL PACIFIC PLAZA
220 SO KING ST, STE 975
HONOLULU, HI 96813

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

⑈163865⑈ ⑆121301028⑆ 0001⑈133357⑈ ⑈0002162247⑈

For deposit in
BANK OF HAWAII
MAIN OFFICE
to the credit of
Omnitrak Research & Marketing
01-0655

02/01/95
121301028
91227295

Deposition Exhibit No. 44
Deposition of R Wong
Date 10-20-99

EXHIBIT 44

BANK OF HAWAII
FINANCIAL PLAZA OF THE PACIFIC
HONOLULU, HAWAII

CHECK NO. 300473

59-102
1213

KAMEHAMEHA SCHOOLS BERNICE PAUAHI BISHOP ESTATE

VOID 60 DAYS AFTER	PAY THIS AMOUNT
09/26/95	$*****29,315.83

TWENTY NINE THOUSAND THREE HUNDRED FIFTEEN AND 83/100 ********************* DOLLARS

PAY TO THE ORDER OF
Q MARK RESEARCH
& POLLING
1001 BISHOP ST. 19TH FLOOR
HONOLULU, HI 96813

Wallace H. C.
AUTHORIZED SIGNATURE

Lokelani Lindsey
AUTHORIZED SIGNATURE

⑈300473⑈ ⑆121301028⑆ 0001⑈133357⑈ ⑈0002931583

For deposit in
BANK OF HAWAII
HEAD OFFICE
to the credit of
STARR SEIGLE McCOMBS, INC
dba PROFESSIONAL COMMUNICATIONS
01-012460

For deposit in
BANK OF HAWAII
HEAD OFFICE
to the credit of
STARR SEIGLE McCOMBS, INC
dba QMARK RESEARCH & POLLING
01-012460

09 / 29 / 95
121301028
92077177

Deposition Exhibit No. 45
Deposition of B Wong
Date 10-20-99

EXHIBIT 45

BANK OF HAWAII
FINANCIAL PLAZA OF THE PACIFIC
HONOLULU, HAWAII

CHECK NO. 302386

59-102
1213

KAMEHAMEHA SCHOOLS BERNICE PAUAHI BISHOP ESTATE

VOID 90 DAYS AFTER	PAY THIS AMOUNT
12/14/95	$*****29,315.83

TWENTY NINE THOUSAND THREE HUNDRED FIFTEEN AND 83/100 ********************** DOLLARS

PAY TO THE ORDER OF
Q MARK RESEARCH
& POLLING
1001 BISHOP ST, 19TH FLOOR
HONOLULU, HI 96813

TWO SIGNATURES REQUIRED FOR CHECKS GREATER THAN $5000

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

⑈302386⑈ ⑆121301028⑆ 0001⑈133357⑈ ⑈0002931583⑈

12 / 19 / 95
121301028
91268700

For deposit in
BANK OF HAWAII
HEAD OFFICE
to the credit of
STARR SEIGLE McCOMBS, INC.
dba QMARK RESEARCH & POLLING
01-012460

Deposition Exhibit No. 46
Deposition of R Wong
Date 10-20-99

EXHIBIT 46

DEPO OF RICHARD WONG EXH 46

BANK OF HAWAII
FINANCIAL PLAZA OF THE PACIFIC
HONOLULU, HAWAII

CHECK NO 256972

50-102
1213

KAMEHAMEHA SCHOOLS BERNICE PAUAHI BISHOP ESTATE

VOID 90 DAYS AFTER	PAY THIS AMOUNT
07/03/97	$****81,973.92

EIGHTY ONE THOUSAND NINE HUNDRED SEVENTY THREE AND 92/100 ****************** DOLLARS

PAY TO THE ORDER OF
Q MARK RESEARCH & POLLING
A DIV OF STARR SEIGLE MCCOMBS INC
PACIFIC TOWER 19TH FLR 1001 BISHOP ST
HONOLULU, HI 96813

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

TWO SIGNATURES REQUIRED FOR CHECKS GREATER THAN $5000.

⑈256972⑈ ⑆121301028⑆ 0001⑈018515⑈ ⑈0008197392⑈

07 / 09 / 97
121301028
91096849

For deposit in
BANK OF HAWAII
HEAD OFFICE
to the credit of
STARR-SEIGLE-McCOMBS, INC.
01-012460

For deposit in
BANK OF HAWAII
HEAD OFFICE
to the credit of
STARR SEIGLE McCOMBS, INC.
dba QMARK RESEARCH & POLLING
01-012460

Deposition Exhibit No. 50
Deposition of R. Wong
Date 10-20-99

EXHIBIT 50

Kamehameha Schools Bernice Pauahi Bishop Estate

PURCHASE REQUISITION

REFERENCE NUMBERS

REQUISITION NO. 533703

COST CENTER GRD 360000166

	REQUIRED QTY.	UNIT	DESCRIPTION (Include Model No., Size, Color, Make, Etc.)	E/F	OBJ ACCT. SUB	UNIT PRICE	EXTENSIONS
1			Water Issues Tracking		63300 Con/Gen		13,332.48
2			Land and Water Issues		" "		24,269.28
3			Land and Water Issues		" " "		5,103.84
4			Land and Water Issues		"		39,268.32
5							
6			(refer to attached invoices)				
7							
8							
9							
10			6/30/97 -				
11			Per Wally Chin - amount will be taken				
12			out of '96-'97 fiscal year budget.				
13							

14	Requested By: Lavinia Hooker	Date 6/30/97	Requested For Use By (Office, Dept., Job) Government Relations	Date Needed	STATE TAX
15	Approved By: [signature]	Date	Requisitioner's Phone No.	Via	TOTAL 81,973.92

16 SUGGESTED VENDOR (use complete name, address and phone no.)

1) Q-Mark
1001 Bishop Street/Pacific Tower
19th Floor
Honolulu, HI 96813

2)

3)

DELIVERY ADDRESS: (USE COMPLETE NAME, ADDRESS & CONTACT PERSON)

PURCHASING OFFICE USE ONLY (COMMENTS)

CHANGES:

Date	P.O. Number	Date	P.O. Number	Date	P.O. Number
Vendor		Vendor		Vendor	

Distribution: WHITE - Purchasing Office
CANARY - Forward with white copy. This copy will be returned to you after prices have been confirmed and Purchase Order is issued.
PINK - Requisitioners Copy

Deposition Exhibit No. 51
Deposition of R Wong
Date 10-20-99

EXHIBIT 51

FORM OBM-P-007 10/.

P024183

SMS MARK RESEARCH & POLLING

FriJun 28, 1996

INV.#60-1003-5080AF
CU - 5080
1 Of 1

Ms. Nam Snow
Kamehameha Schools/ Bishop Estate
Kawaiaha'o Plaza suite 301
567 South King Street
Honolulu, Hawaii 96813

PROJECT NAME: Water Issues Tracking

SCOPE OF WORK: *Scope of work includes methodology design and planning, sample generation, questionnaire design and pre-test, data collection by professional interviewers, editing/coding/data entry and verification, statistical analysis, report writing and interpretation, and in-person presentation of findings.*

METHODOLOGY: Telephone

SAMPLE DESCRIPTION: Oahu Residents

NUMBER OF RESPONDENTS: 400

AVERAGE LENGTH OF INTERVIEW: 12 minutes

FEES:	Project Cost	$12,800.00
	4.16% Hawaii State Tax	$532.48
	TOTAL PROJECT COST	**$13,332.48**

TOTAL DUE AND PAYABLE NOW $13,332.48

WedOct 2, 1996

INV.# 60-1001-5104B
CU - 5104
2 of 2

Ms. Nam Snow
Kamehameha Schools/Bishop Estate
Kawaiaha'o Plaza, Suite 301
567 South King Street
Honolulu, Hawaii 96813

PROJECT NAME: Land & Water Issues

SCOPE OF WORK: *Scope of work includes methodology design and planning, sample generation, questionnaire design and pre-test, data collection by professional interviewers, editing/coding/data entry and verification, statistical analysis, report writing and interpretation.*

METHODOLOGY: Telephone

SAMPLE DESCRIPTION: Hawaii Residents

FEES:	Fees	$4,900.00
	4.16% Hawaii State Tax	$203.84
	TOTAL PROJECT COST	**$5,103.84**

TOTAL DUE AND PAYABLE NOW **$5,103.84**

P024186

DEPO OF RICHARD WONG EXH 51

3

RESEARCH & POLLING

Fri, Sep 6, 1996

INV.# 60-1001-5104AF
CU - 5104
1 Of 1

Ms. Nam Snow
Kamehameha Schools/Bishop Estate
Kawaiaha'o Plaza, Suite 301
567 South King Street
Honolulu, Hawaii 96813

PROJECT NAME: Land & Water Issues

SCOPE OF WORK: *Scope of work includes methodology design and planning, sample generation, questionnaire design and pre-test, data collection by professional interviewers, editing/coding/data entry and verification, statistical analysis, report writing and interpretation, and in-person presentation of findings.*

METHODOLOGY: Telephone

SAMPLE DESCRIPTION: Hawaii Residents

FEES:	Fees	$23,300.00
	Hawaii State Tax	$969.28
	TOTAL PROJECT COST	**$24,269.28**

TOTAL DUE AND PAYABLE NOW **$24,269.28**

A DIVISION OF STARR SEIGLE MCCOMBS, INC.
Pacific Tower, 19th floor • 1001 Bishop Street • Honolulu, HI 96813
Phone (808) 524-5194 Facsimile (808) 524-5487

SMS MARK

ThuOct 31, 1996

INV.# 60-1001-5104F
CU 5104
3013

Ms. Nam Snow
Kamehameha Schools/Bishop Estate
Kawaiaha'o Plaza, Suite 301
567 South King Street
Honolulu, Hawaii 96813

PROJECT NAME: Land & Water Issues

SCOPE OF WORK: *Scope of work includes methodology design and planning, sample generation, questionnaire design and pre-test, data collection by professional interviewers, editing/coding/data entry and verification, statistical analysis, report writing and interpretation.*

METHODOLOGY: Telephone

SAMPLE DESCRIPTION: Hawaii Residents

FEES:	Fees	$37,700.00
	4.16% Hawaii State Tax	$1,568.32
	TOTAL PROJECT COST	**$39,268.32**

TOTAL DUE AND PAYABLE NOW **$39,268.32**

P024188

Q MARK
RESEARCH & POLLING

Wed, Jun 25, 1997

Namlyn Snow
Government Relations
Kamehameha Schools Bishop Estate
Kawaiaha'o Plaza Suite 100
567 King Street
Honolulu, Hawaii 96813

Dear Nam:

I am writing to request payment of our outstanding invoices.

These invoices date as far back as last June. The earliest invoice is for a survey, as you may recall, that was an update of the public's attitude toward water issues and was conducted Oahu-wide. I presented this data to you and Ben Kudo in July of 1996.

The other invoices are for various area polls to do with water and land issues. All individual poll results as well as summary reports have been delivered to you. I am sending a separate sheet that lists each survey and the dates it was completed. I am willing, as I offered earlier, to break these invoices into any segments you desire but am anxious to get them cleared up. This is an enormous sum of money for this small company and one that is difficult for me to carry.

Thank you for your attention. I am, of course, willing to provide more detail or data from these surveys at any time in the future.

Best regards,

BARBARA ANKERSMIT
President

Deposition Exhibit No. 52
Deposition of R Wong
Date 10-21-99

EXHIBIT 52

1001 BISHOP STREET • PACIFIC TOWER 19TH FLOOR

MARK
RESEARCH & POLLING

FriJun 28, 1996

INV.#60-1003-5080AF
CU - 5080
1 Of 1

Ms. Nam Snow
Kamehameha Schools/ Bishop Estate
Kawaiaha'o Plaza suite 301
567 South King Street
Honolulu, Hawaii 96813

PROJECT NAME: Water Issues. Tracking

SCOPE OF WORK: *Scope of work includes methodology design and planning, sample generation, questionnaire design and pre-test, data collection by professional interviewers, editing/coding/data entry and verification, statistical analysis, report writing and interpretation, and in-person presentation of findings.*

METHODOLOGY: Telephone

SAMPLE DESCRIPTION: Oahu Residents

NUMBER OF RESPONDENTS: 400

AVERAGE LENGTH OF INTERVIEW: 12 minutes

FEES:	Project Cost	$12,800.00
	4.16% Hawaii State Tax	$532.48
	TOTAL PROJECT COST	**$13,332.48**

TOTAL DUE AND PAYABLE NOW $13,332.48

Primary Election Polls

House District 46	300	Interviews	Completed 8/26 - 8/29	$4,600.00
House District 12	300	Interviews	Completed 8/20 - 8/22	$4,600.00
House District 47	300	Interviews	Completed 8/22 - 8/24	$4,600.00
House District 4	300	Interviews	Completed 8/26 - 8/31	$4,600.00
Senate District 20	350	Interviews	Completed 8/31 - 9/2	$4,900.00
Senate District 14	350	Interviews	Completed 9/14 - 9/15	$4,900.00

General Election Polls

House District 4	300	Interviews	Completed 10/26 - 10/27	$4,600.00
Senate District 25	350	Interviews	Completed 10/17 - 10/21	$4,900.00
House District 46	300	Interviews	Completed 10/24 - 10/26	$4,600.00
House District 24	300	Interviews	Completed 10/26 - 10/27	$4,600.00
Senate District 8	350	Interviews	Completed 10/20 - 10/21	$4,900.00
House District 8	300	Interviews	Completed 10/21 - 10/23	$4,600.00
Senate District 24	350	Interviews	Completed 10/17 - 10/19	$4,900.00
House District 47	300	Interviews	Completed 10/26 - 10/27	$4,600.00

Total Professional Fees $65,900.00

MARK

ThuOct 31, 1996

INV.# 60-1001-5104F
CU - 5104
3 Of 3

Ms. Nam Snow
Kamehameha Schools/Bishop Estate
Kawaiaha'o Plaza, Suite 301
567 South King Street
Honolulu, Hawaii 96813

PROJECT NAME: Land & .Water Issues

SCOPE OF WORK: *Scope of work includes methodology design and planning, sample generation, questionnaire design and pre-test, data collection by professional interviewers, editing/coding/data entry and verification, statistical analysis, report writing and interpretation.*

METHODOLOGY: Telephone

SAMPLE DESCRIPTION: Hawaii Residents

FEES:	Fees	$37,700.00
	4.16% Hawaii State Tax	$1,568.32
	TOTAL PROJECT COST	**$39,268.32**

TOTAL DUE AND PAYABLE NOW $39,268.32

WedOct 2, 1996

INV.# 60-1001-5104B
CU - 5104

Ms. Nam Snow
Kamehameha Schools/Bishop Estate
Kawaiaha'o Plaza, Suite 301
567 South King Street
Honolulu, Hawaii 96813

PROJECT NAME: Land & Water Issues

SCOPE OF WORK: *Scope of work includes methodology design and planning, sample generation, questionnaire design and pre-test, data collection by professional interviewers, editing/coding/data entry and verification, statistical analysis, report writing and interpretation.*

METHODOLOGY: Telephone

SAMPLE DESCRIPTION: Hawaii Residents

FEES:	Fees	$4,900.00
	4.16% Hawaii State Tax	$203.84
	TOTAL PROJECT COST	**$5,103.84**

TOTAL DUE AND PAYABLE NOW **$5,103.84**

RESEARCH & POLLING

Fri, Sep 6, 1996

INV.# 60-1001-5104AF
CU - 5104
1 0f 1

Ms. Nam Snow
Kamehameha Schools/Bishop Estate
Kawaiaha'o Plaza, Suite 301
567 South King Street
Honolulu, Hawaii 96813

PROJECT NAME: Land & Water Issues

SCOPE OF WORK: *Scope of work includes methodology design and planning, sample generation, questionnaire design and pre-test, data collection by professional interviewers, editing/coding/data entry and verification, statistical analysis, report writing and interpretation, and in-person presentation of findings.*

METHODOLOGY: Telephone

SAMPLE DESCRIPTION: Hawaii Residents

FEES:	Fees	$23,300.00
	Hawaii State Tax	$969.28
	TOTAL PROJECT COST	**$24,269.28**

TOTAL DUE AND PAYABLE NOW $24,269.28

A DIVISION OF STARR SEIGLE MCCOMBS, INC.
Pacific Tower, 19th floor • 1001 Bishop Street • Honolulu, HI 96813

Richard S.H. Wong
Chairman
Board of Trustees
Kamehameha Schools Bishop Estate

Richard Wong has served as a Trustee since 1993. Born in Honolulu, he holds a degree in Social Work from the University of Hawai'i.

Mr. Wong has more than 25 years of experience in Hawai'i politics, having served in the Hawai'i State House of Representatives from 1966 to 1974 and in the State Senate from 1974 to 1992, serving as Senate president from 1979.

He is a former business agent and assistant division director for the United Public Worker's union, and is proprietor of a real estate company.

Mr. Wong is involved in various civic and community groups, including the John Howard Association, the Lanakila Advisory Council, the Moanalua Gardens Community Association, and the Kalakaua Lions.

He has been named Outstanding State Legislator, Outstanding Alumnus of Maryknoll High School, received Honorary Doctorate of Humane Letters and Distinguished Service Award from the University of Hawaii and is also a member of the governing board of the Council of State Governments.

September 9, 1996

Deposition Exhibit No. 54
Deposition of R Wong
Date 10-20-99

EXHIBIT 54

223961.1

Of Counsel:
WATANABE, ING & KAWASHIMA

JAMES KAWASHIMA #1145-0
J. DOUGLAS ING #1538-0
999 Bishop Street, 23rd Floor
Honolulu, Hawaii 96813
Telephone No. (808) 544-8300

MIYAGI, NOHR & MYHRE

MELVYN M. MIYAGI #1624-0
1001 Bishop Street, Suite 1200
Honolulu, Hawai'i 96813
Telephone No. (808) 524-2466

TAYLOR LEONG & CHEE

CARROLL S. TAYLOR #906-0
737 Bishop Street, Suite 2060
Honolulu, Hawaii 96813
Telephone No. (808) 528-2222

MILLER & CHEVALIER

EMMETT B. LEWIS Admitted Pro Hac Vice
655 Fifteenth Street, N.W.
Suite 900
Washington, D.C. 20005-5701

Attorneys for Robert K.U. Kihune, Constance H. Lau,
Francis A. Keala, David P. Coon and Ronald D. Libkuman,
Trustees under the Will and of the Estate of
Bernice Pauahi Bishop, Deceased

CIRCUIT COURT
STATE OF HAWAII
FILED

1999 SEP 28 PM 2:43

M. MATSUMOTO
CLERK

Deposition Exhibit No. 58
Deposition of R. Wong
Date 10-20-99

EXHIBIT 58

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

In the Matter of the Estate of BERNICE P. BISHOP, Deceased.	EQUITY NO. 2048 **NOTICE OF TAKING DEPOSITIONS UPON ORAL EXAMINATION; CERTIFICATE OF SERVICE**

NOTICE OF TAKING DEPOSITIONS
UPON ORAL EXAMINATION

TO: EARL I. ANZAI, ESQ.
DOROTHY SELLERS, ESQ.
HUGH R. JONES, ESQ
Department of the Attorney General,
State of Hawaii
425 Queen Street
Honolulu, Hawaii 96813

CRYSTAL ROSE, ESQ.
BRUCE VOSS, ESQ.
Alii Place, 16th Floor
1099 Alakea Street
Honolulu, Hawaii 96813

Attorneys for TRUSTEE OSWALD KOFOAD STENDER

MICHAEL J. GREEN, ESQ.
DAVID GIERLACH, ESQ.
345 Queen Street, 2nd Floor
Honolulu, Hawaii 96813

Attorneys for TRUSTEE MARION MAE LOKELANI LINDSEY

RENEE M.L. YUEN, ESQ.
Suite 702A, Haseko Center
820 Mililani Street
Honolulu, Hawaii 96813

Attorney for TRUSTEE HENRY HAALILIO PETERS

WAYNE M. SAKAI, ESQ.
Burke, Sakai, McPheeters, Bordner, Iwanaga & Estes
Grosvenor Center, Mauka Tower
737 Bishop Street, Suite 3100
Honolulu, Hawaii 96813

AND

GLENN K. SATO, ESQ.
Sato & Thomas
770 Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813

Attorneys for TRUSTEE RICHARD SUNG HONG WONG

MELVIN Y. AGENA, ESQ.
Law Offices of Melvin Y. Agena
840 Pioneer Plaza
900 Fort Street
Honolulu, Hawaii 96813

Attorney for TRUSTEE GERARD AULAMA JERVIS

PLEASE TAKE NOTICE that on the dates and time indicated below, at the offices of WATANABE, ING & KAWASHIMA, First Hawaiian Center, 23rd Floor, 999 Bishop Street, Honolulu, Hawaii 96813, on behalf of Robert K.U. Kihune, Constance H. Lau, Francis A. Keala, David P. Coon and Ronald D. Libkuman, Trustees under the Will and of the Estate of Bernice Pauahi Bishop, Deceased, the depositions of the following will be taken:

NAMES AND ADDRESSES	DATES AND TIME OF DEPOSITIONS
HENRY H. PETERS c/o Renee M.L. Yuen, Esq. Suite 702A, Haseko Center 820 Mililani Street Honolulu, Hawaii 96813	Tuesday, October 12 and Wednesday, October 13, 1999 9:00 a.m.
RICHARD S.H. WONG c/o Glenn K. Sato, Esq. Sato & Thomas 770 Pauahi Tower 1001 Bishop Street Honolulu, Hawaii 96813	Thursday, October 14 and Friday, October 15, 1999 9:00 a.m.

Said depositions shall be upon oral examination pursuant to the Hawaii Rules of Civil Procedure, before an officer authorized by law to administer oaths. The oral examination will continue from day to day until completed. You are invited to attend and examine. Said parties are required to attend.

DATED: Honolulu, Hawaii, September 28, 1999

Of Counsel:
WATANABE, ING & KAWASHIMA

JAMES KAWASHIMA
J. DOUGLAS ING
Attorneys for Robert K.U. Kihune, Constance H. Lau, Francis A. Keala, David P. Coon and Ronald D. Libkuman, Trustees under the Will and of the Estate of Bernice Pauahi Bishop, Deceased

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

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

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following persons by hand delivery on September 28, 1999, addressed as follows:

EARL I. ANZAI, ESQ.
DOROTHY SELLERS, ESQ.
HUGH R. JONES, ESQ
Department of the Attorney General,
State of Hawaii
425 Queen Street
Honolulu, Hawaii 96813

CRYSTAL ROSE, ESQ.
BRUCE VOSS, ESQ.
Alii Place, 16th Floor
1099 Alakea Street
Honolulu, Hawaii 96813

Attorneys for TRUSTEE OSWALD KOFOAD STENDER

MICHAEL J. GREEN, ESQ.
DAVID GIERLACH, ESQ.
345 Queen Street, 2nd Floor
Honolulu, Hawaii 96813

Attorneys for TRUSTEE MARION MAE LOKELANI LINDSEY

RENEE M.L. YUEN, ESQ.
Suite 702A, Haseko Center
820 Mililani Street
Honolulu, Hawaii 96813

Attorney for TRUSTEE HENRY HAALILIO PETERS

WAYNE M. SAKAI, ESQ.
Burke, Sakai, McPheeters, Bordner, Iwanaga & Estes
Grosvenor Center, Mauka Tower
737 Bishop Street, Suite 3100
Honolulu, Hawaii 96813

AND

GLENN K. SATO, ESQ.
Sato & Thomas
770 Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813

Attorneys for TRUSTEE RICHARD SUNG HONG WONG

MELVIN Y. AGENA, ESQ.
Law Offices of Melvin Y. Agena
840 Pioneer Plaza
900 Fort Street
Honolulu, Hawaii 96813

Attorney for TRUSTEE GERARD AULAMA JERVIS

DATED: Honolulu, Hawaii, September 28, 1999

Of Counsel:
WATANABE, ING & KAWASHIMA

JAMES KAWASHIMA
J. DOUGLAS ING
Attorneys for Robert K.U. Kihune, Constance H. Lau, Francis A. Keala, David P. Coon and Ronald D. Libkuman, Trustees under the Will and of the Estate of Bernice Pauahi Bishop, Deceased

223961.1

Of Counsel:
WATANABE, ING & KAWASHIMA

JAMES KAWASHIMA #1145-0
J. DOUGLAS ING #1538-0
999 Bishop Street, 23rd Floor
Honolulu, Hawaii 96813
Telephone No. (808) 544-8300

MIYAGI, NOHR & MYHRE

MELVYN M. MIYAGI #1624-0
1001 Bishop Street, Suite 1200
Honolulu, Hawai'i 96813
Telephone No. (808) 524-2466

TAYLOR LEONG & CHEE

CARROLL S. TAYLOR #906-0
737 Bishop Street, Suite 2060
Honolulu, Hawaii 96813
Telephone No. (808) 528-2222

MILLER & CHEVALIER

EMMETT B. LEWIS Admitted Pro Hac Vice
655 Fifteenth Street, N.W.
Suite 900
Washington, D.C. 20005-5701

Attorneys for Robert K.U. Kihune, Constance H. Lau,
Francis A. Keala, David P. Coon and Ronald D. Libkuman,
Trustees under the Will and of the Estate of
Bernice Pauahi Bishop, Deceased

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

In the Matter of the Estate of BERNICE P. BISHOP, Deceased.	)	EQUITY NO. 2048 **SUBPOENA DUCES TECUM** (RICHARD S.H. WONG)

SUBPOENA DUCES TECUM

THE STATE OF HAWAII

To the Sheriff of the State of Hawaii or his Deputy, or any Police Officer in the State of Hawaii:

You are commanded to Subpoena:

RICHARD S.H. WONG
c/o Glenn K. Sato, Esq.
Sato & Thomas
770 Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813

to produce, to permit inspection of, and copying of at the offices of WATANABE, ING & KAWASHIMA, First Hawaiian Center, 23rd Floor, 999 Bishop Street, Honolulu, Hawaii 96813, as soon as possible, but not more than one week after service of this subpoena, any and all documents upon which you will rely for your denial that:

1. You neglected the primary purpose and/or function of KSBE as a 501(c)(3) institution.

2. Compensation you received as a trustee for the years 1990 through 1999 was excessive or not reasonable.

3. The Trust Estate fund used for purposes of intermediate sanctions constituted private inurement.

4. The Trust Estate fund expended for purposes of analyzing or examining a change in domicile and/or change in tax status constituted private inurement.

5. You created or caused a substantial risk to the tax-exempt status of the Trust Estate.

6. You failed to implement Stipulation No. 14 requiring the trustees to develop a management system and hire a CEO by March 31, 1999.

DATED: Honolulu, Hawaii, September 28, 1999

M. MATSUMOTO (SEAL: FIRST CIRCUIT COURT, STATE OF HAWAII)

Clerk of the above-entitled court

September 22, 1995

PRIVIILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

To: KSBE Trustees

From: John Waihee
Denis Dwyer
Norma Wong

Re: **STATUS OF INTERIM SANCTIONS LEGISLATIVE PROPOSAL**

Status

The interim sanctions amendments are part of the House tax bill that have been reported out of Ways and Means Committee. Similar measures have been supported by the House in the past, and we do not expect that there is any opportunity to kill the measure there.

The Senate schedule is predicated on the House schedule. That is, the Senate will begin its serious work on the tax measure prior to the House passing their bill, but not substantially before that time. Two days ago, it appeared certain that the House would be moving fast and, therefore, the Senate Finance Committee would markup the bill as early as next Wednesday. That would mean we would have to get our proposed amendments to the Senate Finance Chairman today. This schedule is now slipping, but we are still operating as if under the gun.

Environment

There are strong proponents for these amendments in the House, in particular: Reps. Stark & Houghton, and former Rep. Pickle has called Senate members within the last two weeks. Similar amendments have been previously introduced and passed in the House, only to be killed in the Senate. In the past, the Senate has used the "we haven't had hearings on this measure" as the reason to kill the amendments. However, there has been a flood of publicity on tax-exempt organizations in general over the past year and we cannot count on a technical reason to kill the amendments this time around.

VLDC01-63885.1

Deposition Exhibit No. 60
Deposition of R Wong
Date 10-20-99

EXHIBIT 60

Strategy

The strategy is simple: (1) Target key senators on the Finance Committee to ensure that the Senate version has no interim sanctions language in the bill. (2) Prepare the way for a fight in conference committee by (a) keeping the votes "no" in the Senate; (b) softening up the House members to the extent possible so that they are ready to deal; and (c) preparing an acceptable fall back position if it becomes an absolute political necessity for Congress for there to be some language in the bill that addresses the general issue of the accountability of charitable organizations.

The message is encapsulated in the attached papers; the strategy must also include the messengers. To that extent, we are moving towards broadening the base of affected parties. We believe that other institutions, especially large universities, foundations, museums with revenue producing arms, hospitals, university hospitals, would be detrimentally affected. Individual attorneys and consultants in the firm who have contacts in various organizations or with lobbyists of those organizations have started making calls. [We can give you a brief run-down on those calls by phone conference]

This strategy hopes to place Bishop Estate among others that will be affected.

In terms of targetting key senators, our efforts are focused on: Senate Finance Committee Chairman Roth, and Committee Members Hatch, Murkowski, Nichols, Chaffee, Dole and Moynihan.

Fred Malek has been briefed and is fully committed to be part of the team. His targets will be Roth (through Kemp), Dole (through Haley Barbour, chairman of the RNC, and others), and Hatch. He also knows Murkowski and Nichols. We will coordinate movement closely with Malek.

Firm members are contacting key members' staff of the Senate Finance Committee, to gather intelligence. This will be followed up by direct conversations using the best messengers (from the firm, or from 3rd parties that we have ties to).

Chairman Wong, Denis Dwyer and Norma Wong met with Senator Inouye this a.m. The Senator is fully on board, characterizing the House strategy as "the bloodletting has begun". He has asked us to work closely with him, and we are preparing bullet points and a "dear colleague" letter that he will give selectively to those senators that he is currently assisting on defense appropriations measures. The meeting could not have gone any better.

VLDC01-63885.1

We have had several conversations with the attorney for BYU-Hawaii. We believe that they and their foundation will also be affected. Even if it is not, they want to be supportive of Bishop Estate's cause and will arrange for a favorable meeting with Senator Hatch.

Moynihan is the ace in the hole if it gets down to arguing the case "for the children" in conference committee. To that extent, we are seeking an appointment with him for Chairman Wong.

VLDC01-63885.1

NOT FOR DISTRIBUTION

INTERIM SANCTIONS TALKING POINTS

• Need Hearings Granting power to Treasury (IRS) officials to impose a sweeping revision of the tax treatment of charities which includes total confiscation of assets, for violating complex, and as yet undefined requirements and doing so without Senate hearings, is unconscionable.

• Mere $33 Million in Revenue The revenue raised by this provision (estimated at a mere $33 million over seven years) is minuscule when weighed against the uncertainty over undefined requirements and administrative burdens which are imposed. In fact, the compliance cost of charities will be greater than the revenue expected to be raised by this provision.

• Increased IRS Burdens It is unlikely that the IRS has the resources to implement and enforce this proposal. Scarce IRS resources would be better spent elsewhere.

• States Rights States have traditionally regulated tax-exempt organizations. This provision would usurp traditional state authority. Compliance with state law, which has historically regulated charities, will not protect tax-exempt organizations against intermediate sanctions.

• Uncertain Impact When this provision goes into effect, taxpayers will not know how to comply, will not know if they are in compliance and will not know if past actions were in compliance. This type of uncertainty undermines the philosophy of our tax system -- voluntary compliance. Confusion over how to comply will be widespread in the tax exempt community.

• Contradicts Congressional Efforts to Control IRS Power Intermediate sanctions dramatically expands IRS discretionary power (to define -- types of compensation, types of property transfers, types of benefits and whether to abate penalties). This proposal contradicts concurrent Congressional efforts to reign in discretionary powers of the IRS as exemplified by the "Taxpayers Bill of Rights," which is included in the same bill. It gives the IRS unfettered discretion to set standards of compliance without statutory criteria.

• Millions in Compliance Costs for All Charities This proposal imposes a new regulatory burden -- additional book keeping and accounting requirements on all charitable organizations. It will saddle charities with an Accountants and Lawyers Relief Act. Compliance costs for charities will run into millions and must be balanced against raising a mere $33 million for the Treasury.

• Reverses Congressional Efforts to Expand Charities Role in Social Welfare The Congress is encouraging private charities to play a greater role in providing social welfare programs. The proposal would undermine (through compliance burdens) charities' ability to do so.

• Intent Not Achieved The proposal is so vague, overreaching, burdensome, costly and complex, that it's intent is not achieved.

September 24, 1995

To: Governor
From: Norma
Re: STATUS OF KSBE TAX ISSUE PROJECT

Team

Team leaders are Sue Temkin and Denis Dwyer. Suzanne Cartwright is coordinating assignments among firm members. Since the strategy is to find allies and target key senators, the composition of the team is relatively large to take advantage of individual contacts on committees, with lobbyists and senators, etc. At present: Jim Miller, Andrew Eskin, Colin Dowling, Lawrence Cooper, Marty Mendelsohn, Mike Neilson, myself, Harry McPherson and Berl Bernhard. Linda Taylor coordinating info gathering from KSBE-Hawaii. Plus non-firm Fred Malek, Mark McConaghey, and Mike Rader (sp?) from Price Waterhouse. Berl suggests we consult with Mitchell and Bentsen on Monday. Mitchell cannot approach Congress, but can help with strategy. Bentsen is free to contact members.

Strategy

The general strategy is to:

(1) target key senators on the Finance Committee to ensure that the Senate version has no interim sanctions language in the bill.

(2) Prepare the way for a fight in conference committee by:

(a) Keeping the votes "no" in the Senate;

(b) Softening up the House members to the extent possible so that they are ready to deal;

(c) Preparing an acceptable fall back position if it becomes politically necessary for Congress to pass some sort of interim sanctions language dealing with private inurement.

The strategy hopes to place Bishop Estate among others that will be affected. In this regard, ongoing efforts are summarized on the attached assignment worksheet.

Deposition Exhibit No. 61
Deposition of R Wong
Date 10-21-99

K031730

EXHIBIT 61

Status

Coalition building is top priority for the next week since we have not yet found solid allies willing to come forward.

Gil Ishikawa reports that the people he is meeting with in Boston are mostly the real estate folks; he has started to place calls to Stanford, Harvard, etc. and is following up on a lead that the University of Washington is concerned about the amendment. Dickie suggested that we send a letter (signed by Gil on KSBE stationary) to the 100+ affiliated schools/foundations to see what we can stir up. I will discuss with team members, and if it is a "go", will draft letter and ask Ernella to send KSBE stationary airport-to-airport. Gil will be in D.C. on Wednesday, and we will coordinate activities with him.

Background papers have been sent to Bramhall for additional review by the Mormons. Although they are receptive to assisting, it is important to convince them that they may be detrimentally affected. Intelligence is that Senator Hatch will be more receptive to a direct plea for help from the Mormons, than he would be to the Mormons opening the door for us to meet with him. I will call Bramhall and Bud Scruggs on Monday to try to convince them; helpful if you are available for the call.

Marty Mendelsohn and Andrew Eskin hope to follow up with ACE (association of colleges) to get them interested in taking a formal position. Reportedly, their ranks are divided.

A cover note and background papers were faxed to Larry Landry of the MacArthur Foundation today, asking if Larry would give Dickie a call. Even if the Foundation is not affected - (don't know if they are a (c)(4) or a private foundation without (c)(4) status in which case they are not covered by this provision) - Landry may have connections with others who will be impacted.

Reconnaisance results among Senate Finance staff and Finance members staff is cautiously encouraging. Finance members do not appear inclined to include the provision, i.e., there is no champion. A key opponent to a similar provision in past years is now on the Finance committee staff. He is not directly responsible for this section, so Jim Miller (who knows him) will work on getting him connected with the staffer who is responsible. On the other hand, former Rep. and proponent Pickle has called Finance members Moynihan and Roth in the last two weeks, urging them to pass the measure and not to use the excuse used last year - no hearings.

In terms of paper, we have finished a discussion paper and a bulleted description of the measure. In draft (and to be finalized

K031731

by Monday) are a white paper suitable for distribution, and a fall back position in case passage is inevitable and we are in the amendment mode. "Dear Colleague" letters were prepared for Akaka and Inouye, OKd by Dickie, and will be delivered to them on Monday along with a fact sheet on The Schools.

Dickie will schedule a conference call with trustees o/a 4:00 p.m. D.C. time on Monday to review the fall back position. He says the trustees have left the decision-making in his hands, but he would prefer to keep them in the loop and move with consensus.

On Monday, we will need you to place calls to Gov. Carper (to get to Roth), former Gov. Walters (to see if he has connections with Oral Roberts University), and to assist in briefing Mitchell and Bentsen. Dickie wants to brief Stu Spencer and Tim Hecht, and I suggested that you and him take on that assignment. A briefing for Harry McPherson is scheduled for 10:00, as Harry is the best person to get to Moynihan. Mink's meeting with Dickie is scheduled for 2:00 p.m.

In terms of departure from D.C., we are awaiting scheduling of a meeting with Moynihan. Dickie would be the right person to lobby Moynihan, and make the plea "on behalf of the children." Hopefully, this can happen on Monday so that you and Dickie can leave on Tuesday. My departure depends on where I would be most effective through the balance of the week.

REDACTED PURSUANT TO ATTORNEY-CLIENT PRIVILEGE

September 27, 1995

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

To: KSBE Trustees

From: John Waihee
Denis Dwyer
Norma Wong

Re: **STATUS OF THE INTERIM SANCTIONS LEGISLATIVE PROPOSAL**

Status

As you know, the interim sanctions amendments are part of the House tax bill that has been reported out of the House Ways and Means Committee. There is no opportunity to kill the measure in the House, primarily due to procedural requirements that any floor amendment on a reconciliation measure requires an off-setting revenue enhancer that surpasses the provision's revenue-raising estimate. There is also widespread support for the concept of interim sanctions in the House, which has had extensive hearings in the past -- though we believe that the Committee and other House members are not aware of the far-reaching impacts of the proposed language.

The Senate bill has not yet begun its "mark up", and the whole time table has slipped till after Columbus Day (Oct. 9). We have essentially gained one week.

We may need to have Dickie Wong return in about two weeks to ensure that KSBE is present "on the ground" should there be a need for personal calls, and for rapid decision-making.

Strategy

The strategy remains:

VLDC01-64133.1

Deposition Exhibit No. 62
Deposition of R. Wong
Date 10-21-99

EXHIBIT 62

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

(1) Build a coalition of affected organizations, to ensure that the KSBE is one of many affected entities;

(2) Target key senators on the Finance Committee to ensure that the Senate version has no interim sanctions language in the Reconciliation bill;

(3) Prepare the way for a fight in conference committee by:

 (a) Keeping the votes "no" in the Senate;

 (b) Softening up the House members to the extent possible so that they are ready to deal; and

 (c) Preparing an acceptable fall back position if it becomes politically necessary for Congress to pass some sort of interim sanctions language. However, our position is that, given the complexity of the tax code generally and this issue specifically, a measure cannot be thoughtfully crafted this session.

Progress

Our work to date has concentrated on identifying targets, and preparing the paper and message necessary to hit those targets.

Paper: Given the scope of this problem, a wide net has been case for both allies and messengers. Therefore, we needed paper for both lay men as well as "experts". Current products are in this binder. Other papers being drafted include:

(1) State by state sampling of covered organizations (for states represented on the Finance Committee).

(2) Sample letters for organizations to send to Committee members.

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

(3) "Sanitized" speaking points that can be distributed. The speaking points we have now are for in-house use only.

(4) Side-by-side comparison of the four major interim sanctions measures (in Health Care Reform bill, in GATT bill, the Stark-Houghton measure, and the current proposal).

(5) A comparison of the sanctions to private foundations, versus the sanctions proposed in this legislation. The foundations have made a point of saying that this legislation just brings the 501(c)(3)s and 501(c)(4)s in synch with the foundations. That is not so. These provisions are more draconian, and this side-by-side is intended to point out the major differences.

(6) A fall back position that would be acceptable to KSBE, which is being closely coordinated with Mark McConaghy and Mike Repass at Price Waterhouse. As soon as there is a readable draft, we will want to have a conference call with all of you to ensure that it is moving in the right direction.

Targets: In terms of coalition-building, we are concentrating on those organizations that are in the states or dear to the hearts of key Senate Finance Committee Members. There are also categories of organizations that it would be useful to mobilize.

Jim Miller from the firm met this afternoon with Doug Fisher, the staff person on Senate Finance that will be responsible for this issue. Fisher confirmed that there is no Committee member focused on championing this issue. Fisher didn't know what was in the provision, and asked for help in summarizing -- provided by Sue Temkin of our tax group. Fisher said this is the kind of measure that the committee would be inclined to oppose, but needs a reason to do so. We are the first to see him. Fisher says Roth needs to hear the bad news from as many groups as possible.

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

Given this information, we have doubled efforts to identify and activate allies.

Contacts, or assignments, as follows:

Harvard [by Jim Miller from the firm] -- Harvard not yet working the issue. Inclined to follow ACE (association of colleges) lead. Calling back to prompt. McConaghey to call. Ishikawa to call.

ACE [Marty Mendelsohn, Harry McPherson from the firm] -- ACE is just starting to be interested, so we're double-teaming the president and the general counsel. The large colleges, at the moment, are more worried about the lobbying provisions in the same bill.

Oral Roberts University [J. Waihee] -- Call made by the Governor to former Governor Walters, who in turn called Richard Roberts, son of Oral Roberts. May be interested. Paper sent to Richard Roberts last night. Denis to follow-up.

BYU and other Mormon Organizations [Lokelani Lindsey, J. Waihee, N. Wong] -- Several conversations have occurred with the Utah connections set up by Lokelani and the Governor. They are willing to help open doors as friends, and meetings have been set up by them with Hatch's staff, and Mormon Congressman Orton. But we need them to make a direct appeal to Hatch on their own behalf. Our latest analysis shows that BYU and others would be directly impacted, <u>even if their salaries are nominal.</u> There is extensive record-keeping and reporting, and broad definitions that rope in the in-kind services and goods that are common in church-affiliated organizations. Frankly speaking, their attorney Eugene Bramhall needs to be re-focused from home. Jim Miller will call Rex Lee of BYU Utah. WE ALSO RECOMMEND THAT ANOTHER CALL BE PLACED FROM HAWAII.

GW University [M. Mendelsohn] -- Their president Trachtenberg

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

is exercised, and we are asking Trachtenberg to make calls to Columbia University and others that he may have personal relationships with.

Winterthur Museum in Delaware, Chairman Roth's state [Berl Bernhard of the firm] -- Berl called Harry Corliss, former chairman of Winterthur. Corliss did not know about the provision, but was outraged by the description. Corliss is also on the boards of several other Delaware organizations, and on Roth's campaign finance committee. Corliss will call Roth, and we have drafted a letter for him to send as well. We will also ask Corliss to alert other organizations.

Memorial Sloan-Kettering Cancer Center, in New York for contact with Senator D'Amato [Mike Neilson and H. McPherson of the firm] -- Mike will hit the counsel; Harry will hit the CEO.

Rainbow Coalition [J. Waihee] -- The Governor called Jesse Jackson, who is in Brussels, and he wants to be helpful. A meeting is set with Jesse Jackson himself on Friday, he will be briefed by Denis and Robert Mallett of the firm. The Coalition and other Jackson organizations, such as PUSH, would be directly impacted.

Syracuse [M. Mendelsohn and D. Dwyer] -- Marty will contact directly; Denis to contact Syracuse's lobbyist, Larry Levinson

Whitney Museum [B. Bernhard]

United Negro College [B. Bernhard]

Museum of Metropolitan Art and New York Opera [H. McPherson]

NYU [Sue Temkin]

U Penn [Sue Temkin]

Texas organizations generally [Ann Richards and Jane Hickie]

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

Other coalition-building efforts:

(1) Coordinating efforts with Mark McConaghy who has started calls to organizations he has contacts with.

(2) We will ask Fred Malek to speak with Jack Kemp, of Empower America. Empower America is 501(c)(4) and covered under the provisions; Kemp had a working relationship with Roth.

<u>Targets, in terms of Senate Finance Committee Members and Staff:</u>

The primary targets are: Chairman Roth, Members Dole, Hatch, D'Amato, and Moynihan. Secondary tier targets are Members Nickles, Graham, Murkowski. Other members to be contacted if time and circumstances permit (i.e., an organization in their state).

Jim Miller has scheduled meetings for us with the staffs of Roth and Hatch. Meeting with Dole's staff to be scheduled. Marty Mendelsohn will speak with D'Amato directly; Harry McPherson with Moynihan directly. Berl Bernhard has spoken once with Graham and will follow-up (since we didn't know at the time that the state university would be impacted). We are targeting bonafide GOPers and organizations to contact all. Tim Hecht mentioned this at a fundraiser, and will follow up with D'Amato, Nickles and Murkowski.

Senators Inouye and Akaka are sending separate, targeted "Dear Colleague" letters, which we drafted. Once final copies are available, we will send them to you.

October 2, 1995

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

To: KSBE Trustees

From: John Waihee
Denis Dwyer
Norma Wong

Re: **STATUS OF INTERIM SANCTIONS LEGISLATIVE PROPOSAL – OCTOBER 2, 1995**

This report reflects developments on Intermediate Sanctions Legislation since our last status report of September 29, 1995. We continue to have numerous meetings and have made more telephone contacts with a variety of interest groups, Congressional staff members and Members of Congress over the course of the weekend. A summary of these contacts are listed below as well as the status of the current situation.

NATIONAL ORGANIZATIONS

Rainbow Coalition - Jessie Jackson
Citizen Education Fund

Denis Dwyer and Robert Mallett met today with Rev. Jackson's staff to develop a strategy to activate the resources of the Rainbow Coalition. A strategy was designed which will involve letters from the Rev. Jackson to Senator Carol Moseley-Braun, and Senators Roth, Hatch, D'Amato, Moynihan, Bradley, Rockefeller, Breaux, Conrad and Graham (FL). Additionally, an alert will be sent out in a weekly (JacksFax) which is sent to a variety of coalitions, interest

Deposition Exhibit No. 63
Deposition of R Wong
Date 10-21-99

EXHIBIT 63

groups and other social welfare organizations that are a part of the Rainbow Coalition. Lastly, Robert Mallett of the firm is contacting the Leadership Conference on Civil Rights which is the umbrella organization for all of the national and local civil rights entities. We hope to have all of these communications done before mid-day tomorrow.

American Council on Education

Marty Mendelsohn of our office spoke again with Shelly Steinbeck, the General Counsel of the American Council on Education (ACE). Shelly indicated that a number of contacts had come in from various universities expressing concern about the provisions (incidentally, many of these universities are ones which we have contacted). Shelly stated that ACE is now actively involved in opposition to the provisions.He agreed to keep us advised of developments and perhaps identify areas where we could be helpful where ACE was encountering resistance.

Heritage Foundation, Citizens for a Sound Economy, Citizens for Tax Justice

At their request, we have completed a draft letter for each of these conservative organizations. The letter is expected to be sent to the House and Senate Leadership, and the Leadership of the Ways and Means and Finance Committees in opposition to the proposed intermediate sanctions and in support of our position that no provisions will be included in the bill.

MEDICAL CENTERS

University of Texas Board of Regents

We have been told that the intermediate sanctions provision was to be a topic for discussion at today's meeting of the Texas Board of Regents. Because of the schedule of the Board of Regents, we are not likely to have a report on the meeting before tomorrow.

Blue Cross Blue Shield of Maryland

We have contacted the Counsel to Blue Cross-Blue Shield of Maryland to describe the proposed effects of the intermediate sanctions provision. BCBS of Maryland is a 501(c)(3) organization which is actively, and publicly considering the possibility of becoming for-profit. We have described the provisions of the bill and sent information to BCBS's Maryland Counsel. We will follow-up on this communication on Wednesday.

UNIVERSITIES

Syracuse University

We have contacted the Washington, DC representative to Syracuse University in addition to the letter sent by Larry Levinson to the Vice Chancellor of the University last Friday. We hope to have the full support of the University in place in the next day or two. (Syracuse's opposition is critical because it is Senator D'Amato's alma mater.)

Brigham Young University

Sue Temkin and Norma Wong spoke again with Eugene Bramhall, counsel to BYU-Utah. Due to BYU's modest compensation packages, their interest lies primarily with the record keeping and disclosure provisions of the measure. Bramhall has agreed to advise Senator Hatch's office of BYU's concern on these two issues, and that "they are continuing to look at other provisions of the bill." Bramhall has just started his analysis of whether the Polynesian Cultural Center is affected. Both Bramhall and Bud Scruggs pointed us in the direction of the University of Utah, which is making decisions about its medical center's institutional status, which could be jeopardized by the exit tax provision. Sue Temkin will call their general counsel. We agreed to keep in touch as the bill progresses.

CONGRESSIONAL CONTACTS

On Wednesday, October 4, 1995 we have a meeting scheduled with Evan Liddiard, Senator Hatch's tax staff. On Thursday, October 5, we have a meeting scheduled with Nathan Muyskens, Senator Dole's tax staff.

SUMMARY

As we reported on Friday, we continue to have indications, based in part on the basic philosophy that the Senate Finance Committee will be following in its reconciliation mark-up as well as information we have been providing to the Senate Committee that it will not include intermediate sanctions provisions in the Chairman's Mark. We continue to spread our net wider to contact more and more potentially affected organizations to have them lead the opposition to these provisions. Thus far we have been successful in limiting discussion of KSBE in this issue.

Please let us know should you have any questions or comments on our activities.

October 4, 1995

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

To: KSBE Trustees

From: John Waihee
Denis Dwyer
Norma Wong

Re: BACK UP POSITION

Denis! Is it postemptive for proposal?

Our efforts in opposition to the interim sanctions legislation have thus far concentrated on the short-term; that is, removing the interim sanctions in their entirety from the proposed legislation. At this time, we are cautiously optimistic that we will be successful in the Senate. Whether or not this objective will prevail in conference remains to be seen. In addition, there are similar proposals that could advance this session if it appears that the current proposal won't pass, such as the Stark-Houghton bill, which are even more objectionable in their impacts. Should we prevail this session, it is unlikely that Congress will dismiss the matter in entirety. A reprieve for the moment may be just that - a reprieve.

It cannot be over-emphasized that our first objective is to remove the interim sanctions in their entirety from the proposed legislation. If this objective cannot be accomplished in entirety, and Congress is compelled politically to address the general issue of interim sanctions, we must consider ways to amend the current proposal in a way that will minimize adverse impacts to the institution.

Attached is a draft outline of proposed backup positions for those elements of the interim sanctions proposal that are the most agregious, which were developed in concert with Mark McConaghey and Mike Repass of Price Waterhouse.

Deposition Exhibit No. 64
Deposition of R. Wong
Date 10-21-99

EXHIBIT 64

BACKUP POSITIONS IN THE EVENT THE INTERIM SANCTIONS PROPOSAL SURVIVES

Introduction

The first objective is to remove the interim sanction provision in its entirety from the proposed legislation. If this objective cannot be accomplished and Congress is compelled politically to address the general issue of interim sanctions, we must consider ways to amend the current proposal. The following are suggestions of alternative positions for consideration.

"Safe Harbor"

Modify the scope, operational rules and contents of safe harbors.

- Change the standards that the IRS must meet to establish that the compensation determined in compliance with the safe harbor is nonetheless unreasonable:
    - Require that the presumption of compensatory reasonableness created by the safe harbor can only be negated by the IRS proving by of clear and convincing evidence (the highest standard of evidence necessary to rebut a presumption) that the compensation was unreasonable
- Create additional or alternative safe harbor provisions:
    - Create a safe harbor that is based upon compliance with the conditions of a state statute (See section below entitled "State or Judicial Action Creating Presumption of Reasonableness)
- Modify or replace existing safe harbor language
    - Make clear that compensation is reasonable if the compensation package is comparable to <u>either</u> tax-exempt or for-profit taxable organizations
    - Use of a "Business Judgment Rule" in determining reasonableness of compensation. For example, compensation would be considered reasonable if paid in good faith belief that it was reasonable and that the payment of such amounts was consistent with ordinary business care and

prudence. Such a standard is presently used in determining the reasonableness of compensation for purposes of certain private foundation provisions regarding taxable expenditures

- Expand which parties may provide independent review to include:
    - An Independent Committee
    - A Court of Competent Jurisdiction

- Specify the weight of factors in the safe harbor:
    - Use of nationally recognized compensation experts increases presumption of correctness
    - Use of two independent professional studies creates presumption of reasonableness of compensation
    - Insert affirmative statement that potential for exposure to liability for fiduciaries is a factor to be considered when determining the extent of "services" provided and therefore in turn the reasonableness of compensation

Penalties

- Lower from 25% to 5% the penalty imposed upon a disqualified person upon receipt of an excess benefit; the penalty then would be equal to 5% of the amount of the excess benefit
- Lower from 200% to 100% the penalty imposed if the person who receives the excess benefit does not return it or take corrective action; the penalty would then be equal to 100% of the amount of the excess benefit

State or Judicial Action Creating Presumption of Reasonableness

Background

The Joint Committee on Taxation's description of the legislative proposal on Intermediate Sanctions contains a footnote which assumes that a State or local legislative body or court of competent jurisdiction authorized or approved a particular compensation package paid to a disqualified person would not be determinative of the reasonableness of compensation paid for purposes of the penalties provided by the interim sanctions proposal.

- Modify Statutory and/or Committee Language:
    - Modify the legislative language and the description of the proposal to provide an affirmative statement that any amount paid up to or within the state formula is conclusively presumed reasonable compensation. The legislature should be considered an independent body.
    - As an alternative, footnote language should be excluded from any Senate Report language and the Conference Report should explain that the footnote was removed because the state law should be determinative (or be given substantial weight) as to the reasonableness of the compensation.

Create Exemption for Educational Institutions

- Exempt all educational institutions (schools, colleges and universities) from the interim sanctions proposals

Exit Tax

- Remove the "exit tax"
- Limit the application of the "exit tax" to terminations of exempt status that result from either willful, repeated excess benefit transactions or a willful and flagrant excess benefit transaction

Transition Period

- The interim sanction provisions shall only be effective for payments for services in cash, services and/or property or for investments entered into after January 1, 1996
- Make the effective date for the application of the intermediate sanctions to tax-exempt organizations the date that the Secretary issues final regulations or January 1, 1998, whichever is later
- Make the effective date until January 1, 1998 for the application of the interim sanctions provisions for organizations that have made a good faith effort to comply with the provisions of the safe harbor as of the date of the proposal's enactment.
- Include a binding contract exception, effective for contracts binding and entered into on or before the date that the Secretary issues final regulations or January 1, 1998, whichever is later

Disclosure, Reporting and Substantiation Requirements

- Remove the increased disclosure, reporting and substantiation requirements
- Alternatively, provide for less burdensome disclosure, reporting and substantiation requirements. For example, with respect to the substantiation of

compensation that was not reported on Form W-2, language could be added that would provide that a failure to include compensation benefits on Form W-2 would not result in treatment of such benefits as prohibited excess benefits if the failure was inadvertent or the amount involved was no more than than some minimal amount.

Disclosure to States

- Prohibit any information transferred to the State and its representatives from being publicly disclosed and provide stiff penalties on individuals, personally, who violate this rule.

- Alternatively, prohibit any information transferred to the State and its representatives from being publicly disclosed and provide such officials would be required to comply with the same nondisclosure rules applicable to the IRS personnel or be subject to the same individual liability.

Advance Ruling

- Develop an advance ruling mechanism, by which the IRS would have to rule in advance on the reasonableness of the methodology used in determining compensation, the reasonableness of the compensation and the applicability of the safe harbor provision.

Appendix A

The factors and information that would be considered in determining the reasonableness of compensation turn on comparisons to individuals in comparable positions.

- geographic location
- required skills (technical, managerial, interpersonal)
- education and experience of candidate
- educational and experience requirements for the position
- scope of duties (investment, management, planning, etc.)
- time commitment requirements of position
- statutory standards
- consistency with ordinary business care and prudence standards
- compliance with statutory compensation formula limitations
- other relevant factors

October 5, 1995

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

To: KSBE Trustees

From: John Waihee
Denis Dwyer
Norma Wong

Re: **STATUS OF INTERIM SANCTIONS LEGISLATION - OCTOBER 5, 1995**

Today we had a number of very positive breaks which are detailed below. We are aware that the staff is drafting a "Chairman's mark" today and tomorrow. As of 7:30 p.m. today (EST) we anticipate that the Senate Finance Committee will begin its mark-up of the tax component of Reconciliation on Wednesday, October 11, 1995. This date may slip, but that is the day that we have been hearing with increasing regularity during visits today.

NATIONAL ORGANIZATIONS

Rainbow Coalition - Jesse Jackson Citizen Education Fund

On Wednesday, October 4, the Rainbow Coalition sent a letter signed by the Rev. Jesse Jackson to each of the Members of the Senate Finance Committee in opposition to the inclusion of intermediate sanctions for 501(c)(3) organizations. Additionally, Rev. Jackson has placed a call to Senator Moseley-Braun who is traveling (a Black Member of the Senate Finance Committee). Two return calls have been made; they have not yet connected.

Deposition Exhibit No. 65
Deposition of R Wong
Date 10-21-97

EXHIBIT 65

A document which we prepared will be included in the Rainbow Coalition Newsletter to be sent tomorrow. We believe this development with the Rainbow Coalition is very important because it raises a whole separate perspective on the interim sanction issue.

American Council on Education

By virtue of a variety of telephone calls, we have been able to discourage some members of the American Council on Education such as Harvard University and Stanford from pursuing a compromise with respect to the interim sanctions in the Senate bill. To the extent that a compromise may be sought, there is now agreement to wait until a House-Senate Conference.

We continue to believe that the discussion of a compromise at this point in time is premature. Deciding when the proper time for discussion of a compromise will be critical, but that time has not yet arrived.

Heritage Foundation, Citizens for a Sound Economy, Citizens for Tax Justice

We continue to try and get the Heritage Foundation and associated organizations to execute the letter we have drafted for them. Due to the press of other major issues in the bill and the focussing of attention on broader budgetary issues, we have not yet accomplished our goal with them.

MEDICAL CENTERS

University of Texas Board of Regents

The University of Texas Board of Regents has decided that it will not be directly affected by the proposed legislation. The Board has received counsel that because it is organized under state laws and, with one exception, is not registered as a 501(c)(3) organization, it will not be affected by the legislation. The other half of the Texas Medical Center at Houston is wholly covered by the proposal. Baylor University, the Baylor Medical Center and other foundations associated with Baylor are at risk. We have identified a former chairman of the Board of Directors of Baylor to focus the University's attention. Those contacts are in the process of being executed.

Syracuse University

We have followed-up with the Washington, DC representative of Syracuse University. He acknowledged that the University is seriously concerned about the provision and is meeting this afternoon with Senator D'Amato's staff to express their opposition. This is an important development. Syracuse is Senator D'Amato's alma mater for both undergraduate and law school. He has a strong affinity with the school and has been helpful to it on issues of concern in the past.

University of Utah

Sue Temkin spoke today with Tom Anderson, Assistant Attorney General for the State of Utah responsible for the University of Utah's activities. He expressed great concern about the proposed legislation and stated that he would have the Commissioner of Education of the State of Utah call Senator Hatch personally to express her opposition on behalf of the State to the inclusion of any measure affecting 501(c)(3) organizations. We have provided substantial documentation and background information to the Assistant Attorney General and also to the Commissioner of Education. We will attempt to ensure that this action is executed by mid-day tomorrow.

CONGRESSIONAL CONTACTS

Senator Orrin Hatch

On Wednesday, October 4, 1995, we met with Evan Liddiard, Tax Counsel to Senator Orrin Hatch. We carefully outlined the issues of concern to organizations like Brigham Young University and the University of Utah. Evan listened politely but gave no indication that the Senator would be strongly swayed by our arguments. (Please note that this meeting took place before our discussions with the Assistant Attorney General of Utah. We have asked the Assistant Attorney General to contact Evan directly to strongly express the concern of the State on this issue.)

Denis Dwyer spoke with Fred Malek today, who is in Europe and advised him of the development with respect to the University of Utah. He urged him to renew his efforts to reach Senator Hatch. Malek said he would do so.

Senator Robert Dole

Today we met with Nathan Muyskens, Senator Dole's tax staff. Nathan indicated that he had been contacted by others on this issue, but it appears that the contacts were from those who support the House Ways and Means provision. We carefully explained the implications and the possible unintended consequences of the provisions to Nathan. He clearly understood them and was not fully conversant on the implications of the House Ways and Means provision. Obviously, Senator Dole has much greater concerns with the larger package and the major issues in it. We would be surprised if Dole would take an active role to either oppose or support this provision. Nevertheless, we are working to try and generate grassroots support from Kansas to Senator Dole's office.

OTHER CONTACTS

Governor Tom Carper (D-DE)

We followed up on our initial contacts with Governor Carper both yesterday and today. Governor Carper's staff acknowledged that the Governor, while initially reviewing the documents we provided, has not taken time to focus on the issue. They assured us that they would attempt to refocus his effort and if the Governor determines that the issue is of sufficient concern to the State of Delaware, urge that Carper contact Senator Roth, the Chairman of the Senate Finance Committee.

Senator Roth

Berl Bernhard followed-up on the letter he sent to Harry Corless, the Chairman of the Medical Center of Delaware and the former Chairman of Winterthur Museum. Harry told Berl that he has spoken personally with Senator Roth earlier this week and that Roth confessed to not knowing anything about the specific provision, but assured Corless that he would consult his staff. Corless is also obtaining letters from Winterthur and the Medical Center to be sent to Senator Roth.

Additionally, we met with Senator Roth's staff and Ways and Means Committee staff today to advise them of the discussions with Mr. Corless. The staff was noncommittal, but clearly concerned that their might be a direct impact on organizations in Delaware.

Senator Phil Gramm (TX)

Yesterday afternoon we met with Senator Gramm's staff, Mike Solon. He too, acknowledged that they did not know anything about this provision. We explained it to them and provided them with background information. They acknowledged that philosophically Senator Gramm would be concerned about this provision, but also indicated that they believed they would not be a major player in this tax bill. The reason they took this view is that Senator

Gramm will not be formally appointed to the Tax Committee until Tuesday. With a scheduled mark-up on Wednesday, Steve believed it unlikely that they will have any great influence on the bill. (We're not sure that we agree with this view. If he wants to be, Gramm can be as disruptive to this process as he chooses, particularly as he tries to undermine the leadership efforts of Majority Leader Bob Dole, his Republican Presidential nomination opponent.)

Senator David Pryor

We met today with Senator Pryor's staff and explained the effect of the provision on various Arkansas organizations. Staff indicated great concern about the provisions and a willingness to talk to Senator Pryor about it. Upon our departure, we met with Senator Pryor and very briefly explained the issues of concern. He said that he would consult with his staff and looked forward to working with us on the issue.

SUMMARY

We continue to have indications that the Senate Finance Committee will not include intermediate sanctions provision in the Chairman's mark. Key decisions will be made by the Finance Committee staff tomorrow and through the weekend. We have made substantial progress in securing the opposition of Senators D'Amato and Hatch and the Finance Committee staff. While the support of the Finance Committee staff is important, it is not dispositive of the issue. We are continuing to energize other grassroots support from States that are represented on the Finance Committee.

Please let us know if you have any questions or comments on our activities.

October 12, 1995

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

To: KSBE Trustees

From: John Waihee
Denis Dwyer
Norma Wong

Re: **STATUS OF INTERIM SANCTIONS LEGISLATION-OCTOBER 12, 1995**

We continue to have encouraging signs that the Senate Finance Committee and their staff are not inclined to include interim sanctions measures in its mark-up of the tax component of the Reconciliation bill. As of 4:00 p.m. today, we anticipate that the Senate Finance Committee will mark-up in the middle of next week. As you know, this date has slipped considerably, which gave us additional opportunities to execute key contacts.

While continuing efforts to ensure that there is no provision in the Senate version, we're also turning our attention to formulating a conference strategy. In this regard, we had received information that Chairman Archer (R, TX) feels very strongly about the necessity for intermediate sanctions. This information is verified by a letter received by Senator Inouye from Archer. (See attached.) The letter emphasizes that intermediate sanctions have been proposed in the past, that the House has supported this on a bipartisan basis, and the Treasury Department is also supportive.

Furthermore, Ways and Means Committee member Rep. Pete Stark (D, CA) is a co-sponsor of the even more draconian Stark-Houghton measure. Stark is reportedly satisfied with the sanctions in the House Reconciliation measure, and therefore willing to set aside the separate bill until the final outcome of the Reconciliation bill is delivered.

Deposition Exhibit No. 66
Deposition of R Wong
Date 10-21-99

EXHIBIT 66

October 12, 1995

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

NATIONAL ORGANIZATIONS

Rainbow Coalition - Jesse Jackson Citizen Education Fund

On Tuesday, October 10, the Rainbow Coalition's staff director accompanied Denis Dwyer and Robert Mallett to brief Senator Carol Moseley-Braun's staff. Rev. Jesse Jackson had spoken earlier with Senator Moseley-Braun and secured her opposition to the measure. The Coalition remains committed in their opposition, believing that this proposal will hurt the various charities and community organizations that belong to the Coalition.

Group Health Association of America (GHAA)

Based on information provided by Jim Miller, GHAA has taken a position against the measure. GHAA member Kaiser Permanente placed a call to that effect to Finance Committee staff on October 10.

Other National Medical Groups

GHAA is attempting to interest the "blues" (Blue Cross-Blue Shield organizations) in this issue. The Medical Center of Delaware is seeking the support and interest of the American Hospital Association. We are also working on the Federation of American Health Systems.

UNIVERSITIES

The Medical Center of Delaware

Harry Corless, Chairman of the Medical Center of Delaware told Berl that he has instructed the Center to contact all other medical centers in Delaware with instructions to contact Senator Roth and the Finance Committee. (Corless spoke to Roth personally last week.)

University of Utah

Tom Anderson, Assistant Attorney General for the State of Utah remains extremely concerned about the proposed legislation. Anderson is attempting to reach Senator Hatch's staff, and Finance Committee staff. Cece Foxely, Utah State Commissioner for Education, is attempting to reach Senator Hatch personally.

Brown University

Ann Richards sought the assistance of Vartian Gregorian, President of Brown University. Gregorian spoke with Senator Chaffee's Chief of Staff, who indicated that they had "received lots of calls", and that the proposal is not likely to be in the Senate bill.

CONGRESSIONAL CONTACTS

Senator Roth

Senator Roth has now received personal calls and follow up letters from organizations in his own state. We met with his staff Lori Peterson, who was responsive to the argument of need for further hearings. Senator Inouye has written to Senator Roth. Senator Akaka met with Roth on the Senate floor late yesterday to secure his interest and support.

Senator Moynihan

Both Sue Temkin and Harry McPherson have spoken several times with Joe Gale, chief minority counsel for the Finance Committee. Gale acknowledged that Moynihan had previously opposed similar provisions in last year's GATT bill and remains sympathetic. However, he also cautioned that Moynihan understands that the environment has shifted, and that all parties ought to expect some form of intermediate sanctions legislation in the near future.

Senator Pryor

Whitney Williams sent information to Pryor on Arkansas organizations that would be impacted. Trustee Lokelani Lindsey's subsequent call to Pryor yielded a message back of: he is "impassioned" about the organizations affected in his state; he will "work very hard" to keep the measure out; and "don't worry".

Senator Hatch

In addition to personal contact attempts by the State of Utah, Senator Inouye will send a personal letter. Fred Malek has returned to D.C., and will renew efforts to reach Senator Hatch.

Senator Chafee

In addition to the contact by the Brown University board member, materials were left for Chafee's staff.

Senator Grassley

Jim Miller spoke with staff member Matt Hennigan, who was sympathetic and indicated that he would speak to the Senator.

Senator Breaux

Senator Breaux was spoken to by Whitney Williams of the firm, and said he will oppose the measure if it comes up.

CONFERENCE PREPARATIONS

We are preparing strategy, materials and messengers for the conference deliberations.

Our concentration is on softening the positions of those House Ways and Means members that we would expect to be named to the conference committee. However, we are fully cognizant that the environment is different in the House, which has considered similar measures and has had several hearings. There will be considerable determination on the part of some members to deal with this issue in some manner.

To avoid an organized attempt by House members to lobby Senators, direct contact with House members will begin after the Senate position is firm.

Since Chairman Archer has gone on record to personally support the provision, we are ferreting out Texan, and particularly Houston, organizations that would not only be detrimentally impacted, but would aggressively lobby the issue. In that regard, both Ann Richards and Lloyd Bentsen have made recommendations and asked for additional information that would assist them in making the pitch to directors and board members that they know. Early possibilities include Baylor, Baylor Texas Medical Center, Texas Christian University (TCU), Texas A&M. This information will also be given to former GOP Congressman Jack MacDonald, who is willing to speak directly to Archer.

MacDonald is also prepared to speak to Rep. Philip Crane (R, Illinois), Rep. E. Clay Shaw, Jr. (R, Florida), Rep. William M. Thomas (R, California).

Fred Malek is also prepared to speak to Chairman Archer, and Rep. Nancy Johnson (R, Connecticut). Malek has also suggested that he speak with Rep. Tom DeLay (R, Texas), who is a House Majority Whip.

Crane, Shaw, Thomas, and Johnson are likely majority conferees.

Congressman Abercrombie is prepared to speak to Rep. Gibbons, the ranking minority member, Charles B. Rangel (D, New York), and Andrew Jacobs, Jr., (D, Indiana), as well as GOP Rep. Nancy Johnson. Abercrombie can reach other Democrats, but we have asked him to concentrate on probable conferees.

Senator Inouye is prepared to personally speak to key Senate and House members, at our determination.

VERNER, LIIPFERT, BERNHARD, MCPHERSON AND HAND

CHARTERED

901-15TH STREET, N.W.
WASHINGTON, D.C. 20005-2301
(202) 371-6000
TELECOPIER: (202) 371-6279

MEMORANDUM

TO: The Trustees

FROM: John Waihee
Denis Dwyer
Norma Wong

RE: Senate Finance Committee Republican Draft of Tax Provisions

DATE: October 16, 1995

Late on Friday, the Senate Finance Committee (Roth, R-DE) approved a four page outline of what will ultimately become the "Chairman's Mark" for consideration by the Full Senate Finance Committee on Tuesday or Wednesday this week. As expected, the outline DOES NOT INCLUDE INTERMEDIATE SANCTIONS PROVISIONS. This document was being fleshed out over the weekend and must still be scored by the Joint Tax Committee. Thus, we must continue to be vigilant that a revenue shortfall or other development does not result in a the provision ending up in the draft nonetheless.

We will continue to keep you informed throughout the week on substantive developments. Late today or tomorrow we will update you on contacts with allied groups, members of Congress, etc. as we prepare for the Senate Finance Committee markup, Senate Floor action, and Conference.

Please feel free to call should you have questions.

VLDC01-67500.1

Deposition Exhibit No. 67
Deposition of R Wong
Date 10-21-99

EXHIBIT 67

CONFIDENTIAL -- NOT FOR DISTRIBUTION

MEMORANDUM

TO: Senator Akaka

FROM: Dickie Wong

RE: Intermediate Sanctions

DATE: November 13, 1995

We understand that the Intermediate Sanctions provision was included in the tax portion of the Reconciliation Bill. I am very disappointed that it was included, but now need help in trying to shape the text of the provision. Essentially, the House bill, with only technical modifications, was agreed to.

The attached documents suggest ways which could substantially enhance the provision from KSBE's perspective. Each of the provisions are intended to be statutory (bill) language, and not report language. The provisions would do the following:

- Require that when determining if compensation benefits are reasonable, that the test used by the IRS for taxable organizations shall apply to tax-exempt organizations;

VLDC01-73596.1

Deposition Exhibit No. 68
Deposition of R Wong
Date 10-21-99

EXHIBIT 68

- We propose to place the safe harbor described in the House bill into bill language as drafted on the second sheet of this proposal. It would provide that if a person covered by the bill complies with the three standards enumerated in the proposal, the IRS must show by clear and convincing evidence that the benefit is unreasonable; and

- We propose that the so-called "exit tax" be applied against an exempt organization only if there are willful and repeated or willful and flagrant excess benefit transactions.

I would ask you to urge Senator Roth in the strongest possible way to direct his staff to include these three proposals in the bill as they draft the Intermediate Sanctions section.

Mahalo for your help.

VLDC01-73596.1

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT WORK PRODUCT

MEMORANDUM

TO: The Trustees

FROM: John Waihee
Denis Dwyer
Sue Temkin
Norma Wong

RE: Initial Analysis of Changes to the Intermediate Sanctions Provision Included in the Budget Reconciliation Conference Report

DATE: November 21, 1995

Late Wednesday, November 15, 1995, the Conference Report to accompany H.R. 2491, the Seven-Year Balanced Budget Reconciliation Act of 1995 was reported to the House. On Friday, November 17, 1995, the House of Representatives passed the measure by a vote of 237-189 and sent it on to the Senate where the Senate passed the measure by a vote of 52-47 on the same day, but included amendments which required the bill to be returned to the House for final passage. The House voted on the bill as modified by the Senate amendment on Monday, November 20. The bill is not expected to be sent to the White House until next week. The president's promised veto of the measure is expected soon thereafter.

Our initial review of the Conference Report provisions, both those included in the Statement of Managers and in the text of

Deposition Exhibit No. 69
Deposition of R Wong
Date 10-21-99

EXHIBIT 69

the bill indicate that certain improvements to the bill occurred during the deliberations of the conferees. Further analysis is needed to review the impact of the total conference report on KSBE's situation.

Specifically, the bill no longer includes the "exit tax" which would have virtually prohibited the termination of an organization's tax-exempt status by requiring that the lesser of the aggregate tax benefits received by an organization during its tax-exempt tenure be returned to the Treasury, or the value of the net assets of the exempt organization be paid over to the Treasury in the form of a tax.

The second improvement to the bill includes more explicit language in the Statement of Managers with respect to one of the elements of the rebuttable presumption of reasonableness defined in the bill. The House bill included language that said one of the criteria that an independent board should rely upon to determine reasonableness of compensation is comparable compensation data paid by "similarly situated organizations, both taxable and tax-exempt, for functionally comparable positions; . . ." The Conference Report Statement of Managers may provide improvement to the reasonableness test. The Report language states that the conferees intend that the applicable tax law standards of Section 162 will apply in determining whether compensation is reasonable. The specific reference to Section

162 for purposes of establishing standards of reasonableness is an improvement. The question at hand is whether it is a sufficient improvement for KSBE purposes.

A third improvement is explicit language included in the Statement of Managers which makes clear that the conferees expect that certain revenue sharing arrangements that have heretofore been determined not to be private inurement would continue to the be case and that not all revenue sharing arrangements would be in proper private inurement.

A fourth improvement to the Conference report consists of the removal of the original House bill provisions which would have imposed requirements with regard to:

-- furnishing copies of organization documents;
-- electronic dissemination of information;
-- penalties for failure to allow public inspection of certain organization documents;
-- information disclosure as a part of advertisements and solicitations; and
-- the Treasury Department studies.

These provisions were removed primarily due to "Byrd Rule" violations which bar the inclusion on extraneous matter in a reconciliation measure.

Mark McConaghy and Price Waterhouse are in the process of reviewing the impact of the Conference Report on KSBE's situation. Before proceeding with continued legislative efforts (other than an outright elimination of the provision) we will need to determine what additional modifications to the bill may be necessary.

Please do not hesitate to call us with any questions.

cc: Mark McConaghy

PRIVILEGED & CONFIDENTIAL
ATTORNEY-CLIENT WORK PRODUCT

POST-VETO INTERMEDIATE SANCTIONS STRATEGY

With the passage of the Seven Year Balanced Budget Reconciliation Act of 1996 and the anticipated veto of the measure by President Clinton, a post-veto strategy on intermediate sanctions is needed. Each of the elements of this proposed strategy will be undertaken concurrently.

The President's veto of the measure will result in him becoming a true negotiator in the final resolution of the Budget Reconciliation Bill. For this reason, we have now broadened our strategy to include the White House and other elements of the Executive Branch. Heretofore, the negotiation of the provisions of the Reconciliation Bill have occurred solely among Republican Members of Congress.

The objectives of the strategy are as follows:

(1) Identify a member of Congress who is willing to challenge the current position of the House Ways and Means Committee on intermediate sanctions;

(2) Now that the White House will play an affirmative role in the final disposition of the Reconcilliation Bill, develop support for our position within the Administration so that the Congress cannot deflect its responsibility for the provision;

(3) Soften the GOP Leadership in the Congress (or at least in the Senate) to the acceptance of a resolution favorable to us;

VLDC01-74306.1

Deposition Exhibit No. 70
Deposition of R Wong
Date 10-21-99

EXHIBIT 70

(4) Develop bipartisan advocates to counter the current bipartisan opposition (in the House) to deleting or modifying the intermediate sanctions provisions;

(5) Seize any opportunity to delete the provision; and

(6) If deletion is not possible, equip our advocates -- White House, Congressional, and others -- with the tools to successfully modify the intermediate sanctions provision.

Each of the elements of this strategy are outlined below:

I. White House and Administration

Contacts	Message
Leon Panetta, Chief of Staff to the President (George Mitchell) Harold Ickes, Assistant to the President and Deputy Chief of Staff for Policy and Political Affairs (Beri Bernhard and John Waihee) Erskine Bowles, Assistant to the President and Deputy Chief of Staff (John Waihee) Doug Sosnick, Assistant to the President and Director for Political Affairs (John Waihee)	The intermediate sanctions provisions in the Reconciliation Bill are conceptually reasonable. The proposed implementation of the provisions are complex, burdensome and have potentially discriminatory impact. The proposal is counter to the President's own theme of reinventing government, reducing government regulation and promoting greater involvement of the private sector in what, heretofore, have been government services. The message is intended to join the issue of fair and equal treatment of similarly situated entities.

VLDC01-74306.1

Contacts	Message
Leslie B. Samuels, Assistant Secretary for Tax Policy, Treasury Department (Mark McConaghy and Sue Temkin)	The Treasury Department has supported the concept of intermediate sanctions in a September, 1995 letter to House Ways and Means Committee Chairman Bill Archer. The endorsement of that provision was general in nature. It is hoped that pointing out the discriminatory treatment among tax-exempt organizations under the provisions of the bill and the difficulty that tax-exempt charitable trusts will have in complying with the provisions of the Reconciliation Bill will earn the support of the Treasury Department to substantively revise and clarify the provision.

II. United States Congress

Contact	Message
Robert Dole (R-KS), Senate Majority Leader and a member of the Finance Committee (Stu Spencer, Jim Miller, Judd Summers; Senator D'Amato, Senator Inouye)	The intermediate sanctions provision is a reasonable concept to be pursued. However, the provision in the Reconciliation Bill creates inequitable treatment of persons subject to the tax-exempt provisions of the IRS Code. Many public charities will be able to comply with the safe harbor provision that compensation be set by an outside board, but many charitable trusts that do not have outside boards, will not be able to meet this safe harbor provision and will be subject to substantial risk.
Senator William Roth (R-DE) (Senator Akaka, Senator Pryor, Senator Breaux, Delaware Medical Center)	We will continue to work with the Delaware Medical Center in an effort to successfully gain Roth's attention to this issue. We are continuing to have discussions with them. Also, continued efforts will be undertaken with the Senate Finance Committee staff to make them aware of broader concerns of Delaware constituency as well as other potentially affected organizations described in section three of this strategy document.

Contact	Message
David Pryor (D-AK) (Lokelani Lindsey, Whitney Williams) Senator John Breaux (D-LA) (Whitney Williams)	Although Democrats were effectively shut out of the negotiations regarding the first Reconciliation Bill, the President's veto will likely result in Democratic votes being needed by Republicans in order to pass a Reconciliation Bill that is acceptable to President Clinton. Therefore, Democratic members of the Finance Committee will play a stronger role than they played during consideration of the first bill. We know from direct communication to Trustee Lindsey and to Whitney Williams of VLBMH that Senator Pryor felt very strongly about the intermediate sanctions provision. We intend to recontact both the Senators to energize them again on the issue and ask them to oppose or seek modifications to the intermediate sanctions. Additionally we will ask them to seek the support of the White House.
Senator Alfonse D'Amato (R-NY) (Marty Mendelsohn, Judd Sommer)	While a number of contacts were made to Senator D'Amato and we have had confirmation from Goldman Sachs that D'Amato spoke with Dole on this issue, we need to continue to seek D'Amato's direct interest and intervention in this issue. Although we attracted expressions of "concern" from a variety of New York entities, we need to refocus our efforts to seek stronger levels of support from one or more such institutions. Additionally, Goldman Sachs needs to redouble their efforts.
Senator Pete Domenici (R-NM) (Neil Payne)	Although Domenici is not a member of the Senate Finance Committee, he is Chairman of the Senate Budget Committee. Thus, he has an important role in the shape of the overall Budget Reconciliation measure. VLBMH is examining tax-exempt organizations in New Mexico which may be able to lend some support to the cause.
Representative Richard Gephardt (D-MO), House Minority Leader (Representative Abercrombie)	Although we would counsel that it would not be particularly productive to turn around the House Leadership, it would be important to demonstrate that the House does not have uniform bipartisan support for intermediate sanctions. (Rep. Abercrombie has also offered to lobby John Kasich (R-OH).)

VLDC01-74306.1

Contact	Message
Steve Arkin, Joint Tax Committee Staff Annette Garusco and Sheila Burke, Senator Dole's Staff Doug Fisher, Finance Committee Staff (Mark McConaghy, Jim Miller, Nathan Aipa and Gilbert Ishikawa)	The proposed "fixes" were received by the staff without the benefit of anyone making arguments on their behalf. Although the strategy calls for identifying principal advocates, the issue may, at the end of the day, rely on the understanding and sympathy of key staff persons. This will also be an opportunity for any misconceptions to be answered and put to rest.
House of Representatives Leadership Dick Armey, House Majority Leader	There are currently letters from House Ways and Means Committee Chairman Bill Archer (R-TX), House Ways and Means Committee Ranking Minority Member Sam Gibbons (D-FL) strongly supporting the intermediate sanctions in the House bill. Additionally, one of the very few things that House Republicans and Democrats agreed to in the original House bill was the intermediate sanctions provision. Nevertheless, we will pose as strong a policy argument as possible with the House Majority Leader and his staff.

III. Other Organizations

Contact	Message
Republican National Committee - Haley Barbour (Fred Malek) Heritage Foundation (Jim Miller) Empower America (Fred Malek) New Freedom Foundation (Fred Malek) Citizens for Tax Justice (Jim Miller) Citizens for Tax Reform (Jim Miller)	Although contacts were initially made with these organizations and there were varying levels of support for the KSBE position, a final effort will be made to try and engage these organizations more actively. In the case of Heritage Foundation and Empower America, a focus will be placed on the actual compensation of inside members of their respective boards of these organizations. These individuals are well compensated and may in fact be in precisely the same position as we are.

VLDC01-74306.1

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT WORK PRODUCT

MEMORANDUM

TO: Berl Bernhard
Harry McPherson
Mike Roberts
John Waihee
Lloyd Bentsen
Marty Mendelsohn
Sue Temkin
Jim Miller
Norma Wong
Suzanne Cartwright

FROM: Denis Dwyer

RE: U.S. News and World Report Story on Kamehameha Schools Bishop Estate

DATE: November 22, 1995

Today Rosemary Freeman received a call from Ed Pound, a reporter for U.S. News and World Report, who, as each of you know, has been making inquiries about the Firm's activities on behalf of KSBE. In Rosemary's absence, Steve Kearney returned the telephone call.

Mr. Pound told Steve that he was writing a "short story" that would say that KSBE was the only organization actively and strongly opposing the intermediate sanctions provision included in the Budget Reconciliation bill. Pound said that the story will note that Senator Bentsen contacted universities in Texas, that Governor Waihee was involved in the effort and that others

VLDC01-75282.1

Deposition Exhibit No. 71
Deposition of R Wong
Date 10-21-99

EXHIBIT 71

in the Firm, perhaps Marty Mendelsohn, Jim Miller or Sue Temkin have been actively involved in lobbying on behalf of the Schools.

The article will also indicate that Fred Malek has made contact with the Congress on this issue too.

As you know, Rosemary Freeman has been talking with Mr. Pound over the course of the last few weeks to try and direct the story and limit its content. It is our collective judgment that we will probably not be able to do anything further to limit the story and that further discussions with Mr. Pound will only provide the opportunity to expand the story.

The article should appear in next Monday's U.S. News and World Report. Each of you has known about these inquiries, but I wanted to let you know of the story's publication date. Please call me should you have any questions.

VLDC01-75282.1

Hecht, Spencer & Associates
499 South Capitol Street, SW, #507
Washington, D.C. 20003
202/554-2881
Fax: 202/554-0463

Stuart K. Spencer
Chairman
William H. Hecht
President
W. Timothy Locke
Vice President

Timothy P. Hecht
Vice President
Bronwyn Bachrach
Senior Associate
Carol Browning
Senior Associate

Fred Panzer
Consultant

fax transmittal

to: Dickie Wong

fax:

from: Stu Spencer

date: 27 Nov '95

re: Balanced Budget Reconciliation

pages: 2, including cover sheet.

NOTES:

Deposition Exhibit No. 72
Deposition of R Wong
Date 10-20-99

EXHIBIT 72

Novemeber 27, 1995

MEMORANDUM FOR DICKIE WONG

FROM: STU SPENCER

RE: Balanced Budget Reconciliation Act

In preparation for my meeting with Senator Dole during the first week in December, I want to make sure that I am going to present the message that the Trustees want me to carry. Following will be my understanding of where we are in the process and what I believe that the Trustees would like to see accomplished.

The Reconciliation Act has passed both the Senate and the House and is expected to be sent to the President sometime this week. Obviously, there is significant correlation between this Act and the CR and Debt Ceiling fight that is currently occurring, which could cause delay in this language being sent to the President. Nevertheless, it is almost a certainty that the President will veto the Reconciliation Bill for political reasons (Clinton has to continue to frame this debate as the Republicans trying to give the rich a tax break). The likelihood is then that discussions between the Administration and the Congress will produce an agreed upon budget. If consensus cannot be reached in these areas however, they may produce a series of Cr's which could carry us all the way through the 96 election (Bishop's concerns would not likely be taken up in any kind of CR). This would probably work in Bishop's favor because it would be difficult to pass any kind of tax bill but it is still very unlikely that this would occur because of Presidential political reasons.

Bishop's number one goal is elimination of the interim sanctions provision. This will be my mission with Senator Dole. The reasons I will give him for elimination are fairness, extreme powers for the IRS and the Republican philosophy of states rights. This may be a very difficult if not impossible task. Along these lines I believe it is very important that we continue to pressure the Administration as much as possible. If Dole were to buy off on elimination he would likely need some cover from the Administration. What I mean by this is that if Dole gets some sort of message from the Administration that the interim sanctions provision is not essential to them then it will be much easier for Dole to eliminate it from the Congressional package as an easier way to reach consensus.

I don't believe there is much question to this point on the different scenarios. Where I am really looking for some guidance is if Dole holds firm to including some interim sanctions provision intact. I am aware that some language has already been changed that works in our favor and that Price Waterhouse is currently doing an analysis on the latest language. Furthermore, it is my understanding that our lawyers have put together some alternative language (statutory language on <u>TAXABLE STANDARD</u> and <u>SAFE HARBORS</u>). Is this still what we see as the best possible alternative to elimination? Do we have anything new? If Dole takes this tack should I ask for a follow-up meeting between our staff and his staff to iron out acceptable alternatives? These are the areas where I am looking for guidance.

Please review and let me know if this is consistent with how the Trustees feel.

Aigner An Avery International Company

TO	DATE	TIME
DW	1/22	11:42 AM

FROM: Larry
OF:
AREA CODE / NO.: 537-5938
EXT.:

MESSAGE: Going back to Big Island this afternoon (537-5529)

SIGNED: Ek

PHONED ☑ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO	DATE	TIME
DW	1/22	12:17 PM

FROM: Larry
OF:
AREA CODE / NO.:
EXT.:

MESSAGE: Thinks they have the notes to stop appointment. Would like to meet next week someplace private. Will call to let you know time and date.

SIGNED: Ek

PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO	DATE	TIME
DW	1/22	12:28 PM

FROM: Haunani
OF: Sen. Matsuura's
AREA CODE / NO.: 586-6827
EXT.:

MESSAGE: Senator Matsuura would like a lunch appointment w/you sometime next week. Also, to be present will be Sen. Hanabusa

SIGNED: Ek

PHONED ☑ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO	DATE	TIME
DW	1/25	11:25 AM

FROM: Mr Chas Lumking
OF:
AREA CODE / NO.: 235-5492
EXT.:

MESSAGE: Wants a response to his ltr. sent Nov or Dec. 98 asking for a hearing before the Board or to meet w/you personally on the case at school

SIGNED: Ek

PHONED ☑ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

REORDER NO. 50-176

Aigner® Professional Line™

Printed in U.S.A. ©1986 Aigner

sage,

SIGN HERE

412 610 717 610 401 803 605 615 615 901 615 915 806 512 214 915 817 409 713 210 903 817 801 802 703 804 804 804 703 206 206 509 360 509 304 [redacted] 204 506 807 905 705 613 416 519 514 418 819 81 52 34 41 44

Deposition Exhibit No. 74
Deposition of R Wong
Date 10-20-99

EXHIBIT 74

TO DW	DATE 1/25	TIME 11:45 AM	
FROM Joe Waihee	AREA CODE	NO. 535-4105	EXT.
OF			

MESSAGE

SIGNED

PHONED ☐ CALL BACK ☑ RETURNED CALL ☑ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Dw	DATE 1/25	TIME 1:17 PM	
FROM Mr. Lum King	AREA CODE	NO. new phone # 235-4095	EXT.
OF			

MESSAGE
Call above number instead
one given earlier.
re message left earlier

SIGNED

PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Emalia	DATE 1/25	TIME 1:27 PM	
FROM Auntie Myrtle	AREA CODE	NO.	EXT.
OF			

MESSAGE
Important! Call her
when you're "pau hana".

SIGNED

PHONED ☑ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO DW	DATE 1/25	TIME 1:20 PM	
FROM Haunani	AREA CODE	NO. 586-6827	EXT.
OF Sen. Matsuura's			

MESSAGE
Wednesday for Breakfast –
Jonathan Chun
Colleen Hanabusa, Jan Buen
David Matsuura & Larry
What time & where?
Also mtg w/H Tajiri set for
2:30pm. Wed. afternoon - Okay?

SIGNED

PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

Aligner An Avery International Company

REORDER NO. 50-176

Aligner® Professional Line™

REORDER NO. 50-176

Printed in U.S.A. ©1986 Aligner

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

To: Trustee Richard Wong

From: Norma Wong

Re: INTERMEDIATE SANCTIONS AND THE TAXPAYER BILL OF RIGHTS

Date: April 15, 1996

Post Primetime Conversation

On the day following the "Primetime Live" show, Tim Hanford had a discussion with a Democratic staffer. In the course of the conversation, Hanford said that he expected heavy response from the "Primetime" show. He also said that the Committee was prepared to say that the problem is being remedied in the Taxpayer Bill of Rights, and that the intermediate sanctions section was aimed directly at Bishop Estate.

Taxpayer Bill of Rights Vote in the House

This morning, the House considered the Taxpayers' Bill of Rights 2 on the Suspension Calendar. As a measure with overwhelming bipartisan support, discussion was limited to 1 hour, equally divided between Democrats and Republicans. We provided Rep. Abercrombie with talking points, and he was prepared to take the floor should there be any mention of KSBE. All of the discussion and speeches were on the main measure, and there was only passing mention of the intermediate sanctions as a revenue offset provision. There was no mention of KSBE, "Primetime Live" or tax-exempts generally.

The actual vote took place this evening without further debate, and passed 425-0.

Deposition Exhibit No. 75
Deposition of R Wong
Date 10-21-99

EXHIBIT 75

Congressional Hearings

A hearing focused on the impact of fundamental tax reform on State and local governments and tax-exempt entities is scheduled for May 1. The hearing is strictly limited to the advantages and disadvantages of the proposed tax systems: income tax with one or more rates, flat tax, national sales tax, value added tax, and income tax with unlimited savings deduction.

Tim Hanford says that the Ways and Means Committee has an interest in examining the level of business activity of nonprofits and whether this activity "swamped" the charitable purpose of the nonprofit. Whether or not this interest will result in a hearing is problematic for two reasons. First, the Committee is already planning on ten tax reform hearings, and there are less than fifty days left in the legislative calendar. Second, the issue of charitable activity which can "justify" nonprofit status is a difficult question to legislate.

At this point we are cautiously optimistic and will get back to you within a few days to discuss appropriate next steps.