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PROBATE SPECIAL MASTER

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

IN THE MATTER

OF

THE KALIMA CLASS ACTION
SETTLEMENT TRUST DATED JUNE 23,
2023.

T. No. 1CTR-23-0000142
(Trust)

**PROBATE SPECIAL MASTER'S
REPORT RE: PETITION FOR
INSTRUCTIONS #5, FILED ON MARCH
1, 2024; EXHIBITS "1" – "4";
CERTIFICATE OF SERVICE**

Hearing:

Date: June 7, 2024

Time: 10:00 a.m.

Judge: Honorable Jeannette H. Castagnetti

**PROBATE SPECIAL MASTER'S
REPORT RE: PETITION FOR INSTRUCTIONS #5**

COMES NOW, EMILY H. KAWASHIMA, ESQ. ("Master"), duly appointed Probate Special Master to examine the Petition for Instructions #5, filed March 1, 2024 (the "Petition"), and respectfully submits this Report.

I. INTRODUCTION

This Master was appointed by *Joint Order Adopting Settlement Special Master's Findings and Recommendations and Appointing Probate Special Master* (the "Appointment Order") [Dkt. 1617], filed on March 3, 2023, in *Kalima v. Hawaii*, Civ. No. 99-4771-12 LWC

(“Kalima”), for the purposes set forth in the Appointment Order, as well as by the *Omnibus Order Re: Kalima Class Qualified Settlement Trust Proceedings*, filed on December 29, 2023 [Dkt.12] (“Omnibus Order”), entered herein to examine and report on the Petitions for Instructions filed in this proceeding. The Omnibus Order requests that your Master: (1) examine and report findings and recommendations to the Court on all Petitions and any other relevant matters in this Trust proceeding as deemed appropriate by the Master or the Court; (2) provide periodic status reports to the Court; and (3) address any outstanding issues contained in the Petitions or other pleadings filed in this proceeding.

This Report is filed pursuant to Rules 28 and 29 of the Hawai‘i Probate Rules.

Those appearing in these proceedings are Probate Special Counsel Scott C. Suzuki, Esq. and the proposed beneficiaries of the Trust Petitioners, as noted below.

Your Master has examined the pleadings and their respective exhibits, in addition to other documents, most of which are listed below. Your Master has corresponded with some individuals and provides the following findings and recommendations.

II. DOCUMENTS EXAMINED AND OTHER RESEARCH

Your Master examined, among other things, the following pleadings and documents:

- Petition for Instructions #5, filed March 1, 2024, with Exhibits;
- Notice of Hearing published in the Star-Advertiser on March 18, 2024, March 25, 2024, and April 1, 2024;
- Omnibus Order Re: Kalima Class Qualified Settlement Trust Proceedings, filed on December 29, 2023;
- Kalima Qualified Settlement Trust, attached to the Omnibus Order (“QST”);
- Probate Plan, attached to the Omnibus Order;

- Facilitator database, Epic Claims Administrator; and
- Exhibits and objections submitted to the Claims Administrator.

A. Interviews

Your Master corresponded with a few individuals related to each Deceased Class Member, as fully outlined below.

B. Efforts to Locate Wills

Several of the deceased Class Members died intestate. In a typical probate proceeding seeking adjudication of intestacy, the Court will inquire about the efforts to locate a Will. As this is not a typical probate proceeding, the Claims Administrator Representative, Robert Coomes, filed a declaration on December 21, 2023, detailing all of the efforts they have made to give notice to Class Members and the deceased Class Members' families. [Dkt. 3]. They were asked to provide all relevant estate planning information and documents to the Claims Administrator. The same information is posted on the Kalima Lawsuit website that is available to the public. There is a toll-free phone number to contact the Claims Administrator. Given the number of notices and efforts made by the Claims Administrator, your Master believes that deceased Class Members' families have had ample notice to provide a Will or Trust for their decedent if one exists.

Furthermore, the family will receive a copy of this Petition. If the decedent is noted to be intestate, but there actually is a Will, your Master expects the family to contact the Claims Administrator, your Master, Probate Special Counsel, or to appear at the Court hearing.

III. BACKGROUND

As the Court is aware, the purpose of these Petitions for Instructions is to provide an efficient and cost-effective yet accurate procedure to identify the proper heirs and devisees of

those Kalima Class Members who are no longer living. Probate Special Counsel has researched each Deceased Class Member's family background based on self-reporting, database information, court records, and oral history. Probate Special Counsel has also provided notice of the Probate Plan, Qualified Settlement Trust, and notice of this hearing by U.S. Postal mail, publication of notice in the Honolulu Star-Advertiser, and links to the documents on the kalima-lawsuit.com website.

Probate Special Counsel published Notice of the hearing on this Petition #5 in the Honolulu Star-Advertiser on March 1, 2024, March 8, 2024, and March 15, 2024. Your Master is satisfied that all interested parties were provided adequate notice of this hearing and that jurisdiction and venue are proper pursuant to HRS §554D-201-203.

(A) DAVID KAIWI

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Jerilyn K. Botelho, also known as Jerilyn K. Kaiwi. No Will or Trust has been submitted.

Pursuant to HRS §560:2-102(1), under the laws of intestacy, when all of the decedent's surviving descendants are also descendants of the surviving spouse, and there is no other descendant of the surviving spouse, then the intestate share goes to the decedent's surviving spouse.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in its entirety to the surviving spouse, **JERILYN K. KAIWI**.

(B) EVELYN ILIMA ALANI HEGENT

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow(er).

Pursuant to HRS §560:2-103, under the laws of intestacy, if there is no surviving spouse, the intestate share goes to the decedent's descendants by representation. Your Master spoke with ALLAN K. HEGENT on or about April 23, 2024. He confirmed that his mother did not have a Will or Trust, confirmed the names of the surviving heirs at law, and corrected the addresses for both heirs below.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in two equal shares to:

IVAN K. HEGENT
2828 Pulima Drive
Hilo, Hawai'i 96720

ALLAN K. HEGENT
14-3455 Maui Road #2426
Pahoa, Hawai'i 96778

(C) DAVID GORDON KAKALIA

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow(er).

After Petition #5 was filed, a family member submitted a Pour-Over Will dated October 10, 2016, directing the residuary estate to be distributed to the Trustee of the David G. Kakalia and Rose G. Kakalia Revocable Living Trust, dated November 1, 1993, as amended. Exhibit “1.” Your Master contacted family representative Roselee Kepoo on April 5, 2024 and she provided a copy of the Short Form Trust. Exhibit “2.”

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent’s settlement to the heirs/ devisees of the deceased Class Member as “established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees.”

On the basis of the foregoing, your Master finds and recommends that this deceased class member’s share of the *Kalima* settlement proceeds should be disbursed to **GORDEAN K. KAKALIA, as the Successor Trustee of the David G. Kakalia and Rose G. Kakalia Revocable Living Trust, dated November 1, 1993, as amended**, for distribution consistent with the Trust terms.

(D) MAYNON LILOA JOAQUIN

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Divorced.

Pursuant to HRS §560:2-103, under the laws of intestacy, if there is no surviving spouse, the intestate share goes to the decedent’s descendants by representation. No Will or Trust was submitted. Your Master located an obituary for the decedent, which confirms that there is one surviving descendant, Haaheo Joaquin. See Exhibit “3.”

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent’s settlement to the heirs/ devisees of the deceased Class Member as “established by clear and

convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees.”

On the basis of the foregoing, your Master finds and recommends that this deceased class member’s share of the *Kalima* settlement proceeds should be disbursed to **HAAHEO JOAQUIN**.

(E) SMILEY KAUALO KAIWI

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Widow(er). Your Master also reviewed the Order Granting Petition for Adjudication of Intestacy and Appointment of Personal Representative and Letters of Administration, both filed on November 6, 2023, in P. No. 2CLP-23-0000184 in the Second Circuit, State of Hawai‘i. Exhibit “A” of Petition #5.

As stated by the Petitioner, Paragraph 1-5.1(B)(1) of the QST instructs the Trustee to distribute the decedent’s settlement consistent with the open probate proceeding. As this was an intestacy proceeding, your Master agrees that the distribution should be made in accordance with the intestacy statutes as determined by the Personal Representative of the Estate.

On the basis of the foregoing, your Master finds and recommends that this deceased class member’s share of the *Kalima* settlement proceeds should be distributed to **LORNA MAE K. NISHIHARA**, as Personal Representative of the Estate of **SMILEY KAUALO KAIWI**.

(F) JULIA LADISLA JOHNSON

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Divorced.

Pursuant to HRS §560:2-103, under the laws of intestacy, if there is no surviving spouse, the intestate share goes to the decedent’s descendants by representation. Your Master spoke with family representative Harvey D. Johnson on or about April 24, 2024. He confirmed that his

mother did not have a Will and confirmed the names of the surviving heirs at law. He also confirmed that his brother, Jonathan B. Johnson, predeceased their mother.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in three equal shares to **VERNON D. JOHNSON, HARVEY D. JOHNSON, and VIRGIL D. JOHNSON.**

(G) LINDA MILANI JOHNSON

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Ned K. Johnson. No Will or Trust has been submitted.

Pursuant to HRS §560:2-102(1), under the laws of intestacy, when all of the decedent's surviving descendants are also descendants of the surviving spouse, and there is no other descendant of the surviving spouse, then the intestate share goes to the decedent's surviving spouse.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in its entirety to the surviving spouse, **NED K. JOHNSON.**

(H) MARGARET HANAKEAWE JOHNSTON

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widowed.

Pursuant to Act 200, section 2-103, under the laws of intestacy in 1996, if there is no surviving spouse, the intestate share goes to the decedent's descendants by representation. Your Master spoke with Olivia Perry and Joyce Farias, the decedent's daughters, on or about April 23, 2024. They confirmed that their mother did not have a Will and confirmed the names of the surviving heirs at law. However, they also informed your Master that their sister, Odella P. Nakanelua, died sometime last year. An obituary attached as Exhibit "4", shows that she was survived by her husband, Gordon Nakanelua.

They also shared that there is another sibling, Richard Gaudia, who died on August 30, 2005. His death certificate was sent to the Claims Administrator in January 2024 and will be filed concurrently under seal. Richard is survived by his five children named below.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in the following shares:

JOYCE OLGA L. FARIAS – 1/7

OLIVIA M. PERRY – 1/7

OLINDA A.K. KAMAKAHI – 1/7

GORDON NAKANELUA – 1/7
Surviving Spouse of ODELLA P. NAKANELUA

REUBEN H. GAUDIA – 1/7

FRANCINE L.K. PESTANA -1/7

**Richard Keoni Gaudia – 1/35
45-086 Waikalua Rd
Kaneohe, Hawai‘i 96744
Descendant of RICHARD SIMIONA GUADIA**

**Ryan Joseph Ikaika Gaudia – 1/35
45-086 Waikalua Rd
Kaneohe, Hawai‘i 96744
Descendant of RICHARD SIMIONA GUADIA**

**Bernice Brandy Marie Leilani Faria-Gaudia – 1/35
45-265 William Henry Rd, #H9
Kaneohe, Hawai‘i 96744
Descendant of RICHARD SIMIONA GUADIA**

**Gerald John Kimo Gaudia – 1/35
89-144 Kawao Ave
Waianae, Hawai‘i HI 96792
Descendant of RICHARD SIMIONA GUADIA**

**Alexis Aurora Lokelani Leialoha Keliikoa – 1/35
45-265 William Henry Rd., #H9
Kaneohe, Hawai‘i 96744
Descendant of RICHARD SIMIONA GUADIA**

(I) JEWEL K. KAAHANUI

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Widow(er).

Pursuant to HRS §560:2-103, under the laws of intestacy, if there is no surviving spouse, the intestate share goes to the decedent’s descendants by representation. There was no Will or Trust submitted.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent’s settlement to the heirs/ devisees of the deceased Class Member as “established by clear and

convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees.”

On the basis of the foregoing, your Master finds and recommends that this deceased class member’s share of the *Kalima* settlement proceeds should be disbursed as follows:

CHARLOTTE N. LOPEZ – 1/7

MURPHY K. KAAHANUI – 1/7

TERRY N. KAAHANUI 1/7

FRANK I. KAAHANUI, JR. – 1/7

RENA K. CHU – 1/7

FRANCINE M. PACTOL – 1/7

**CLEVE K. KAAHANUI – 1/21
(Descendant of Lillian Ishii)**

**MISA LEE LEILANI ISHII – 1/21
(Descendant of Lillian Ishii)**

**GEORGE MINEYOSHI ISHII – 1/21
(Descendant of Lillian Ishii)**

(J) SAMUEL LAWRENCE KAAHANUI, SR.

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Widow(er). Your Master also reviewed the Amended Letters of Administration, filed on September 8, 2023, in P. No. 17-1-0175 in the First Circuit, State of Hawai’i. Exhibit “B” of Petition #5.

As stated by the Petitioner, Paragraph 1-5.1(B)(1) of the QST instructs the Trustee to distribute the decedent’s settlement consistent with the open probate proceeding. As this was an intestacy proceeding, your Master agrees that the distribution should be made in accordance with the intestacy statutes as determined by the Personal Representative of the Estate.

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be distributed to **LAURENE KAAHANUI, Personal Representative of the Estate of SAMUEL LAWRENCE KAAHANUI, SR.**

(K) CHARLES KULA KAMAKA

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married. However, **CHARLOTTE P. KAMAKA** died on or about October 19, 2017.

Your Master also reviewed the Order Granting in Part Petition for Probate of Will and Appointment of Personal Representative and Letters Testamentary, filed on October 10, 2023, in P. No. 1CLP-23-0000399, in the First Circuit, State of Hawai'i. Exhibit "C" of Petition #5. **CINDY KANANI FREITAS** was appointed to serve as Personal Representative in Probate No. 1CLP-23-0000399. Pursuant to the Last Will that was admitted to probate and the Order Granting in Part Petition for Probate of Will and Appointment of Personal Representative, the deceased class member's estate is to be distributed to **CINDY KANANI FREITAS, Trustee of the Charles K. Kamaka, Sr. Trust dated December 18, 1995.**

As stated by the Petitioner, Paragraph 1-5.1(B)(1) of the QST instructs the Trustee to distribute the decedent's settlement consistent with the open probate proceeding. On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be distributed to **CINDY KANANI FREITAS, Trustee of the Charles K. Kamaka, Sr. Trust dated December 18, 1995.**

(L) **CHARLOTTE PUANANI DIAS KAMAHA**

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widowed.

Your Master also reviewed the Order Granting in Part Petition for Probate of Will and Appointment of Personal Representative and Letters Testamentary, filed on October 10, 2023, in P. No. 1CLP-23-0000400, in the First Circuit, State of Hawai'i. Exhibit "D" of Petition #5.

CINDY KANANI FREITAS was appointed to serve as Personal Representative in Probate No. 1CLP-23-0000400. Pursuant to the Last Will that was admitted to probate and the Order Granting in Part Petition for Probate of Will and Appointment of Personal Representative, the deceased class member's estate is to be distributed to **CINDY KANANI FREITAS, Trustee of the Charlotte P. Kamaha Trust dated December 18, 1995.**

As stated by the Petitioner, Paragraph 1-5.1(B)(1) of the QST instructs the Trustee to distribute the decedent's settlement consistent with the open probate proceeding. On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be distributed to **CINDY KANANI FREITAS, Trustee of the Charlotte P. Kamaha Trust dated December 18, 1995.**

(M) **CHARLES KAAIAI**

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Minnie Yuki Yamashita, also known as Minnie Y. Kaaiai. No Will or Trust has been submitted.

Pursuant to HRS §560:2-102(1), under the laws of intestacy, when all of the decedent's surviving descendants are also descendants of the surviving spouse, and there is no other

descendant of the surviving spouse, then the intestate share goes to the decedent's surviving spouse.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in its entirety to the surviving spouse, **MINNIE Y. KAAIAI**.

(N) **IRENE MOKIHANA AKIONA**

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widowed.

Your Master also reviewed the Letters of Administration, filed on July 19, 2023, in P. No. 1CLP-23-0000592, in the First Circuit, State of Hawai'i. Exhibit "E" of Petition #5.

BERNADINE K. KALUHIWA was appointed to serve as Personal Representative in Probate No. 1CLP-23-0000592. Pursuant to the Letters of Administration, the Personal Representative has no right to possess estate assets as provided in H.R.S. § 560:3-709 beyond that necessary to confirm title thereto in the successors to the estate.

As stated by the Petitioner, Paragraph 1-5.1(B)(1) of the QST instructs the Trustee to distribute the decedent's settlement consistent with the open probate proceeding. On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be distributed to **BERNADINE K. KALUHIWA**, as

Personal Representative of the Estate of Irene Mokihana Akiona, aka Irene M. Akiona, aka Irene Akiona.

(O) JOSLYN LEIALOHA BERNARD

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to John P. Bernard.

Your Master also reviewed the Letters of Administration, filed on January 6, 2023, in P. No. 1CLP-23-0000013, in the First Circuit, State of Hawai'i. Exhibit "F" of Petition #5. **JOHN P. BERNARD, JR.**, was appointed to serve as Personal Representative in Probate No. 1CLP-23-0000013. Pursuant to the Letters of Administration, the Personal Representative has no right to possess estate assets as provided in H.R.S. § 560:3-709 beyond that necessary to confirm title thereto in the successors to the estate.

As stated by the Petitioner, Paragraph 1-5.1(B)(1) of the QST instructs the Trustee to distribute the decedent's settlement consistent with the open probate proceeding. On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be distributed to **JOHN P. BERNARD, JR.**, as Personal Representative of the Estate of Joslyn Leialoha Bernard, aka Joslyn L. Bernard and Joslyn Bernard.

(P) JOSEPH KUAANA ANGAY

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Divorced.

Pursuant to HRS §560:2-103, under the laws of intestacy, if there is no surviving spouse, the intestate share goes to the decedent's descendants by representation. Your Master spoke with

Loretta Okamoto on or about April 23, 2024. She confirmed that her mother did not have a Will or Trust and confirmed the names of the surviving heirs at law.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in four equal shares to:

MALIA A. ANGAY-KONANUI – ONE-FOURTH (1/4)

LORETTA L. OKAMOTO – ONE-FOURTH (1/4)

LEHUANANI A. ANGAY – ONE-FOURTH (1/4)

MOKE K. ANGAY – ONE-FOURTH (1/4)

(Q) JACOB ANGAY

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. No death certificate has been provided, but an obituary was attached to Petition #5.

Pursuant to HRS §560:2-103, under the laws of intestacy, if there is no surviving spouse, the intestate share goes to the decedent's descendants by representation. There was no Will or Trust submitted.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in two equal shares to:

JACOB KALEI ANGAY – ONE-HALF (1/2)

JEANA GOMES – ONE-HALF (1/2)

(R) LORRAINE MAHIAI ENTERLINE

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widowed.

Pursuant to HRS §560:2-103, under the laws of intestacy, if there is no surviving spouse, the intestate share goes to the decedent's descendants by representation. There was no Will or Trust submitted.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in three equal shares to:

BRYAN K. ENTERLINE – ONE-THIRD (1/3)

ROBERT CARL ENTERLINE JR. – ONE-THIRD (1/3)

KALEI K. ENTERLINE – ONE-THIRD (1/3)

(S) SHELDON R. ENTERLINE

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Diane M. S. Enterline. No Will or Trust has been submitted.

Pursuant to HRS §560:2-102(1), under the laws of intestacy, when the decedent and the surviving spouse have no descendants, and there are no surviving parents of the decedent, then the intestate share goes to the decedent's surviving spouse.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in its entirety to the surviving spouse, **DIANE M.S. ENTERLINE**.

(T) HENRY KALEOLANI BORDEN

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Felicidad Maluenda, also known as Felicidad Maluenda Borden. No Will or Trust has been submitted.

Pursuant to HRS §560:2-102(1), under the laws of intestacy, when all of the decedent's surviving descendants are also descendants of the surviving spouse, and there is no other descendant of the surviving spouse, then the intestate share goes to the decedent's surviving spouse.

Paragraph 1-5.1(B)(3) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "established by clear and convincing evidence as ordered by the Probate Court... following service of appropriate notice to the heirs and purported devisees."

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be disbursed in its entirety to the surviving spouse, **FELICIDAD MALUENDA BORDEN**.

(U) LOVELL KEIKIOEWA KAOPUA SR.

Your Master reviewed the facts contained in Petition #5 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Emogene Henoheanepuaonaani Kaonohi, also known as Emogene H. Kaopua. Your Master also reviewed the Letters Testamentary, filed on August 1, 2023, in P. No. 1CLP-23-0000628, in the First Circuit, State of Hawai'i. Exhibit "G" of Petition #5.

As stated by the Petitioner, Paragraph 1-5.1(B)(1) of the QST instructs the Trustee to distribute the decedent's settlement consistent with the open probate proceeding.

On the basis of the foregoing, your Master finds and recommends that this deceased class member's share of the *Kalima* settlement proceeds should be distributed to **EMOGENE H. KAOPUA**, as Personal Representative of the Estate of **LOVELL KEIKIOEWA KAOPUA SR.**

IV. CONCLUSION

WHEREFORE, your Master recommends and prays as follows:

- A. That the Court approve and adopt this Master's Report Re: Petition for Instructions #5;
- B. That the Court grant the Petition for Instructions #5, filed March 3, 2024;
- C. That the Court find that jurisdictional requirements have been met and the venue is proper;

D. That the Court finds that, as far as known, all persons necessary to an adjudication of this matter are parties hereto and shall be bound by all orders arising from this Petition, and the Court finds that there is no need to appoint a guardian ad litem to represent the interests of unknown or unascertained contingent remainder beneficiaries;

E. That the Court authorize and Order the Claims Administrator to follow the distributions as outlined in this Report;

F. That the Court award the Petitioner's reasonable attorneys' fees and costs to be paid by the Trust and deducted from the above beneficiaries' distributions on a pro-rata basis, subject to the filing of an affidavit or declaration;

G. That the Court grant reasonable Master's fees and costs, to be paid by the Trust and deducted from the above beneficiaries' distributions on a pro-rata basis, subject to the filing of an affidavit or declaration;

H. That the Court enter judgment as to this Petition pursuant to Hawai'i Probate Rule 34(a) accordingly; and

I. Grant such other and further relief as this Court may deem just and equitable.

DATED: Honolulu, Hawai'i, on May 8, 2024.

/s/ Emily H. Kawashima
EMILY H. KAWASHIMA
PROBATE SPECIAL MASTER

LAST WILL AND TESTAMENT

OF

DAVID G. KAKALIA

KNOW ALL MEN BY THESE PRESENTS:

That I, **DAVID G. KAKALIA**, widower, of Pukalani, Island and County of Maui, State of Hawaii, being of sound and disposing mind and memory, and not acting under the duress, menace, fraud or undue influence of any person whomsoever, do hereby make, publish and declare this my Last Will and Testament, hereby revoking all other Wills and Codicils by me heretofore made:

FIRST: I direct that there be paid out of my residuary estate and out of funds received from the Trustee under my Revocable Living Trust Agreement, my funeral and administration expenses, the expenses incurred in transferring and delivering to the legatees at their residences all bequests made hereby, and all estate, inheritance, succession and other death taxes (including interest and penalties thereon) imposed by any state, territory or possession of the United States because of my death, whether or not measured by property passing under this Will. I further direct that there be paid out of my residuary estate and out of funds received from said Trustee any estate tax (including interest and penalties thereon) imposed by the United States because of my death, whether or not measured by property passing under this Will. My said trust agreement provides that there be paid to my personal representative, from certain types of assets which may be included in the trust estate which is subject to that agreement, such amount as my personal representative shall certify to be necessary for the payment of the aforesaid expenses and taxes (after exhausting my residuary estate), and I direct my personal representative to deliver an appropriate certificate to said Trustee within two (2) years after the date of my death if funds shall be necessary for any of the aforesaid purposes. Estate taxes shall not be apportioned, and no estate, inheritance, succession or other death taxes shall be recovered from any person who receives property by which such taxes shall have been measured.

SECOND: After the payment of my funeral and administration expenses, just debts, etc., I give, devise and bequeath the remainder of my estate, real, personal and mixed of every kind and nature whatsoever and wheresoever situated, to the **DAVID G. KAKALIA AND ROSE G. KAKALIA REVOCABLE LIVING TRUST DATED NOVEMBER 1, 1993**, as amended, to be held in accordance with and governed by the

David G. Kakalia

terms and provisions of said trust agreement, said trust agreement and the terms and provisions thereof being hereby expressly incorporated herein by this reference and made applicable to the trust estate created hereby.

While the above bequests are absolute, it is my wish that in the event I shall leave a writing which provides for disposition of any or all items of tangible personal property which I may own at the time of my death, I give the items described therein to the beneficiaries named, if they shall survive me, incorporating such writing, and any amendments thereto, into this Will pursuant to the provisions of H.R.S. Sections 560-2:510 and 560-2:513.

THIRD: I hereby nominate and appoint my daughter, **GORDEAN K. KAKALIA**, of Pukalani, Maui, Hawaii, as Personal Representative of this my Last Will and Testament and I direct that no bond shall be required of her as said Personal Representative, and from time to time and whenever in her sole discretion such action shall be deemed advisable, without first selling personal property and without securing either the prior or subsequent approval of any court or judge, to sell and convey any or all of the real and personal property forming a part of my estate, other than property specifically devised or bequeathed by this Will or by any codicil hereto, at either private or public sale, at such prices and on such terms, including provisions for the postponement of payment and the securing of balances by mortgage or otherwise, as she shall determine, to borrow money and to mortgage, pledge or otherwise hypothecate to secure the same any of the said property, in such amounts, at such rates of interest and upon such terms and conditions as she shall determine, and to hold, manage and operate any property and any business belonging to my estate at the risk of my estate, the profits and losses therefrom to inure or be chargeable to my estate as a whole. No person buying property from or loaning money to my Personal Representative shall be bound to see to the application of the money paid to my Personal Representative or to inquire into the validity, expediency or propriety of any such sale or borrowing by my Personal Representative. In the event my said daughter predeceases me or shall die simultaneously with me or shall for any reason be unable or fail to accept said appointment or to qualify as Personal Representative or if after accepting and qualifying as Personal Representative she shall resign, die or become incapable of continuing to act as Personal Representative then and thereafter, I nominate and appoint my daughter, **ROSELEE L. KEPO'O**, of Kamuela, Hawaii, as Personal Representative of this my Last Will and Testament, likewise to serve without bond.

David M. Kakalia

IN WITNESS WHEREOF, I, **DAVID G. KAKALIA**, have hereunto set my hand on OCT 10 2016, at Wailuku, Island and County of Maui, State of Hawaii.

David G. Kakalia
DAVID G. KAKALIA

Signed, published and declared by the said testator, as and for testator's Last Will and Testament, in the presence of us, all being present at the same time, who at testator's request, in testator's presence, and in the presence of each other, have hereunto signed our names as witnesses on OCT 10 2016, and we certify that the said testator is, in our opinion and belief, of sound and disposing mind and memory.

Harold J. Jorg

2145 Wells Street, Suite 204
Wailuku, Maui, Hawaii

Heath H. Symons

2145 Wells Street, Suite 204
Wailuku, Maui, Hawaii

STATE OF HAWAII

)
) SS.
)

COUNTY OF MAUI

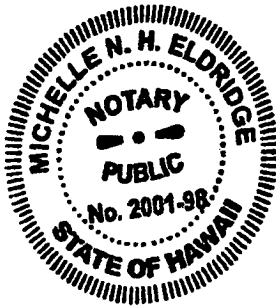
We, DAVID G. KAKALIA, LAWRENCE N. C. ING and LEAH K. SYMONDS, the testator and the witnesses, respectively, whose names are signed to the foregoing instrument, being first duly sworn, declare to the undersigned authority that: the testator signed and executed the instrument as testator's last will; testator signed willingly; testator executed it as testator's free and voluntary act for the purposes therein expressed; each of the witnesses, in the presence and hearing of the testator, signed the will as witnesses and to the best of the witnesses' knowledge, the testator was at the time eighteen or more years of age, of sound mind, and under no constraint or undue influence.

David G. Kakalia
Testator

Lawrence N. C. Ing
Witness

Leah K. Symonds
Witness

This 4-page LAST WILL AND TESTAMENT OF DAVID G. KAKALIA, dated OCT 10 2016, was subscribed, sworn to, and acknowledged before me, MICHELLE N.H. ELDRIDGE, on OCT 10 2016, by DAVID G. KAKALIA, the testator, and subscribed and sworn to before me by LAWRENCE N. C. ING and LEAH K. SYMONDS, witnesses, in the Second Circuit of the State of Hawaii.



[Signature]
(notary's signature)

MICHELLE N.H. ELDRIDGE
(print name of notary)
Notary Public, in and for said
County and State.

My commission expires: APR 01 2017

ORIGINAL

SHORT FORM TRUST AGREEMENT

THIS AGREEMENT made and entered into on OCT 10 2016, between **DAVID G. KAKALIA**, widower, of Pukalani, Maui, Hawaii, sole surviving Settlor, herein designated as Settlor, and **DAVID G. KAKALIA**, widower, of Pukalani, Maui, Hawaii, sole surviving Co-Trustee, herein designated as Trustee. The name of the trust is the **DAVID G. KAKALIA AND ROSE G. KAKALIA REVOCABLE LIVING TRUST DATED NOVEMBER 1, 1993**.

IT IS AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

Description of Trust: The parties hereto desire to confirm the establishment of a revocable living trust on November 1, 1993, and amendments thereto, for the benefit of the Settlor and containing inter alia the following provisions:

1. **DAVID G. KAKALIA** and **ROSE G. KAKALIA** are designated as Co-Trustees to serve until their death, resignation or incompetency.
2. In the event both **DAVID G. KAKALIA** and **ROSE G. KAKALIA** shall resign, die or become incapable of serving as Trustees, the Successor Trustee is designated as Settlor's daughter, **GORDEAN K. KAKALIA**, of Pukalani, Maui, Hawaii, to serve without bond. In the event said **GORDEAN K. KAKALIA** shall resign, die or become incapable of serving as Successor Trustee, Settlor then nominate and appoint Settlor's daughter, **ROSELEE L. KEPO'O**, of Kamuela, Hawaii, as Successor Trustee, likewise to serve without bond.
3. Upon the death of both Settlor's the trust becomes irrevocable.
4. The trust terminates upon the death of the last surviving Settlor.
5. The Settlor's or the survivor of them retain the unlimited right to withdraw income and principal from the trust.
6. The Trustees, or any Successor Trustee, shall have the power and authority to manage and control the trust property in such manner as the Trustees or Successor Trustee may deem advisable, and such Trustee shall have, enjoy and exercise all powers and rights over and concerning said property and the proceeds thereof as fully and amply as though said Trustee were the absolute and unqualified owner of same, including the power to grant, bargain, sell and convey, borrow, mortgage and encumber and hypothecate, real and personal property, and the power to invest in corporate obligations of every kind, stocks, preferred or common and to buy stocks, bonds and similar investments on margin or other leverage accounts, to sell short such accounts, and to buy, sell and write stock and other security options, save some restrictions to prevent possible taxability of certain assets in the estate of a Successor Trustee, and the power to employ and compensate accountants, brokers, attorneys, etc.

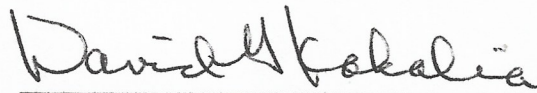
EXHIBIT "2"

Either **DAVID G. KAKALIA** or **ROSE G. KAKALIA** as Trustees is hereby authorized to execute any and all documents, checks, etc. on behalf of the Trust relating to bank accounts.

7. Either **DAVID G. KAKALIA** or **ROSE G. KAKALIA** as Trustee shall have all the rights, powers, and privileges of an owner with respect to the securities held in trust, including, but not limited to, the powers to buy, sell, vote, give proxies, and pay assessments; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and incident to such participation to deposit securities with and transfer title to any protective or other committee on such terms as the Trustee may deem advisable; to exercise or sell stock subscription or conversion rights; and to pledge securities or other assets held in trust in connection with the securing of any loan or guarantee hereunder and are hereby authorized to execute alone any and all documents, including checks, deposits and withdrawals and other documents regarding savings accounts, checking accounts and other financial transactions, etc. on behalf of the Trust and which shall be binding on said Trust.

8. The use of this Short Form Trust Agreement is for convenience only. The Trust Agreement is solely controlling as to provisions and interpretations, and any conflict between this Short Form and the Trust Agreement shall be decided in favor of the Trust Agreement.

IN WITNESS WHEREOF, the Settlor and the Trustee have signed this instrument as of the day and year first above written.

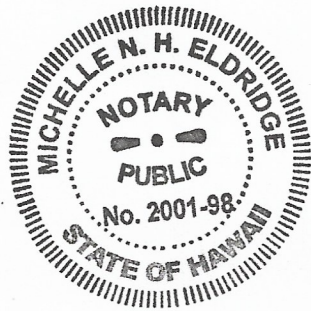



DAVID G. KAKALIA

SETTLOR and TRUSTEE

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

This 3-page SHORT FORM TRUST AGREEMENT dated OCT 10 2016, was subscribed and sworn to before me, MICHELLE N.H. ELDRIDGE, on OCT 10 2016, in the Second Circuit of the State of Hawaii, by **DAVID G. KAKALIA**, in his individual capacity, as Settlor, who is the same person as **DAVID G. KAKALIA**, as *Trustee aforesaid*, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed in his individual capacity as Settlor and as Trustee.





(notary's signature)
MICHELLE N.H. ELDRIDGE

(print/type name of notary)
Notary Public, in and for said County and State.

My commission expires: APR 01 2017

IN MEMORY OF
MAYNON
LILOA
JOAQUIN

Obituary for Maynon Liloa Joaquin

Maynon Liloa Joaquin, 96, daughter of John Lee Kwai and Ida Ha'aheo Merseberg of Honolulu, passed away Sunday, April 23, 2017 at Arcadia.

She was a paternal great-granddaughter of High Chiefess Keali'imakanoanoa and William Merseberg Sr. . He was the founder of the Royal Hawaiian Band.

She was also a maternal great-great-granddaughter of High Chiefess Kaumakaokane Papali'ai'aina and Thomas Cummins, who were the parents of High Chief John Adams Kuakini Cummins, one of the wealthiest and most influential nobles under the reign of the Kalakaua dynasty and the owner of the Waimanalo Sugar Plantation.

Survivors include her daughter, Ha'aheo Joaquin. Grandchildren, Tasha Liloa Wong, Caleb Keawe'u'a Richards & Brian Haruo Kurihara, Jr. 7 great-grandchildren, Ululani, Ke'alohilani, Kananiokanai'a, Keawenui, Kia'i, Kaiea & Kuakini. She was also pre-deceased by her daughter, Helen Edyth Lee Kwai.

A memorial service will be held at 11:00 am, Saturday, June 3, 2017 at the Kahala Stake Center (Kaimuki Ward) of the Church of Jesus Christ of Latter-day Saints, located at 4847 Kilauea Ave.

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Ballard Family Moanalua Mortuary

[Print](#)

EXHIBIT "3"



Heart (1)

Comment (16)

Share



About



Memories



Give



Flowers

IN MEMORY OF

Mrs. Odella "Della" Pi'ilani Nakanelua

PASSED
March 12, 2023

BORN
[REDACTED]

RESIDED
Honolulu, HI

Share your condolences...

Photo

In lieu of flowers

Please consider a donation to In loving memory of Della Nakanelua.

\$3,735.00 of \$10,000 goal

EXHIBIT "4"

[Learn more & give](#)

How you can help

Over the past two weeks, our mom, Della, fought and battled various illnesses in the hospital. Staff from the hospital may have updated us by phone once daily, but we were not allowed to visit or see her during her stay. On March 12, 2023, our family received a tough phone call that she was succumbing to various illnesses. This strong and courageous woman that fought for so long was losing a battle we could not help her through. We were used to her being such a strong fighter. Her strength was unmatched. How can this be happening right now? This turn of events happened so quickly, so unexpectedly. We all thought and wanted to believe we had more time. We felt we would have been able to say and do everything we hadn't spoken about yet. However, that Sunday afternoon, we had to say our last goodbye. With a heavy heart, our family is now preparing to lay her to rest.

A woman of great faith and generosity, our family remembers Della as the most giving and thoughtful person. She was always giving but never asking. At this time, we now hope with all our hearts to give her everything she deserves as we lay her to rest. We decided that sharing this with our family and friends would make it possible to offset as much funeral cost as possible. Any donations beyond our goal will be to assist our dad [Gordon](#) with any unexpected expenses. If you knew Della in any way, we would love for you to share any memory of her. We will utilize this platform to update all funeral arrangements as soon as possible. Thank you so much to everyone in advance for your love and support.

[Contribute](#)

Send flowers

Share your sympathy. Send flowers from a local florist to Della's family or funeral.

[Browse sympathy flowers](#)

Event details

Funeral service

- 🕒 Started on Monday, July 3, 2023 at 10 a.m. HST
- 📅 Ended on Monday, July 3, 2023 at 1 p.m. HST
- 📍 Mililani Memorial Park & Mortuary
Mililani Memorial Park Road at, Ka Uka Blvd, Waipahu, HI 96797, USA

[See additional details](#)

Burial

- 🕒 Started on Monday, July 3, 2023 at 2 p.m. HST
- 📍 Hawaiian Memorial Park Cemetery & Funeral Services
45-425 Kamehameha Hwy, Kaneohe, HI 96744, USA

[See additional details](#)

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YOUR EMAIL

[Subscribe to memorial website](#)

Memories & condolences





IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

IN THE MATTER

OF

THE KALIMA CLASS ACTION
SETTLEMENT TRUST DATED JUNE
23, 2023.

T. No. 1CTR-23-0000142
(Trust Proceeding)

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a file-marked copy of the foregoing document will be duly served by depositing the same in the United States Mail, postage prepaid, on the following identified interested person(s) immediately after filing.

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Honolulu, Hawaii 96815

DATED: Honolulu, Hawaii, May 8, 2024.

/s/ Emily H. Kawashima
EMILY H. KAWASHIMA
Probate Special Master