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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 #11, FILED JULY 8,
2024; EXHIBITS "1" – "2";
CERTIFICATE OF SERVICE**

Hearing:

Date: October 4, 2024

Time: 10:00 a.m.

Judge: Honorable Jeannette H. Castagnetti

**PROBATE SPECIAL MASTER'S
REPORT RE: PETITION FOR INSTRUCTIONS #11**

COMES NOW, EMILY H. KAWASHIMA, ESQ. ("Master"), duly appointed Probate Special Master to examine the Petition for Instructions #11, filed July 8, 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.

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

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 now 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 #11, filed July 8, 2024, with Exhibits;
- Notice of Hearing published in the Star-Advertiser on July 24, 2024 and July 31, 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 #11 in the Honolulu Star-Advertiser on July 24, 2024 and July 31, 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) DOREEN D.P. CHOCK

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Hamilton Chock, Sr.

Your Master reviewed the Will of Doreen D. P. Chock, dated February 23, 2018, which has not been admitted to probate. The Will is a pour over will and directs the residuary estate to the Chock Family Trust, dated February 23, 2018.

The Trust indicates that Hamilton Chock, Sr. is the next-acting Trustee. Copies of the Will the Trust are attached as Exhibit "A" to Petition #11.

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 distributed to **HAMILTON M.S. CHOCK, Trustee of the Chock Family Trust dated February 23, 2018**, to be distributed in accordance with the terms of the Trust.

(B) **PETER KONOHA, JR.**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Margaret Fuata, also known as Margaret A. Konohia.

Your Master reviewed the Last Will and Testament of Peter Konohia, Jr., dated November 10, 1998, which has not been admitted to probate which directs the residue of the estate to be devised to his spouse. The Will is attached as Exhibit "B" to Petition #11.

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 distributed to **MARGARET A. KONOHA**.

(C) **HOWARD WENDELL KUHIA WILSON**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Coral A. Prince, also known as Coral Ann Prince-Wilson.

Your Master reviewed the Last Will and Testament of Howard Wendell Kuhia Wilson, dated July 19, 1990, which has not been admitted to probate. The Will is a pour over will and directs the residuary estate to the Howard Wendell Kuhia Wilson Trust, dated July 19, 1990. Copies of the Will and the First Amendment and Restatement of the Howard Wendell Kuhia Wilson Trust, dated July 19, 1990, as amended and restated, are attached as Exhibit "C" to Petition #11.

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 distributed to **CORAL ANN PRINCE-WILSON, Trustee of the Howard Wendell Kuhia Wilson Trust dated July 19, 1990**, to be distributed in accordance with the terms of the Trust.

(D) **LAWRENCE PAPAIANO KAOWILI**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Lynette Leialoha Hee, also known as Lynette Kaowili-Takayesu. She died after the decedent on March 9, 2014.

At the time of the decedent's death, the 1976 Hawaii Session Laws, Act 200, "Uniform Probate Code Article II, Intestate Succession and Wills" was controlling.

Under Act 200, Section 560:2-102, "The intestate share of the surviving spouse is...[i]f there is surviving issue or parent of the decedent ..., one-half of the intestate estate." There is no designated dollar amount that either should inherit before this provision applies. The surviving issue of the deceased child shall take by representation. Section 2-106. Your Master does not take any spousal or homestead elections into account due to the nature of the award and the date of death.

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 distributed to:

L. KAUILANI STANFIELD, Trustee of the Lynette L. Kaowili Grantor Trust dated August 18, 2011 – 1/2

LAUREEN K. STANFIELD – 1/10

OCEAN PAPAIANO KAOWILI – 1/10

LORNA MELE HAUOLI KOMETANI – 1/10

LAWRENCE KALANI KAOWILI – 1/10

KEENAN K. SANIATAN

(Descendant of LANCE WAIIOKEOLA KAOWILI) – 1/40

KELI-GRACE SANIATAN

(Descendant of LANCE WAIIOKEOLA KAOWILI) – 1/40

KAI K. SANIATAN

(Descendant of LANCE WAIIOKEOLA KAOWILI) – 1/40

KULIA SANIATAN

(Descendant of LANCE WAIIOKEOLA KAOWILI) – 1/40

(E) **LYNETTE L. KAOWILI-TAKAYESU**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The obituary states marital status as Widow.

Your Master reviewed the Last Will and Testament of Lynette L. Kaowili, dated August 18, 2011, which has not been admitted to probate. The Will is a pour over will and directs the residuary estate to the Lynette L. Kaowili Grantor Trust, dated August 18, 2011. Copies of the Will and the Short Form of the Trust are attached as Exhibit "E" to Petition #11.

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 distributed to **L. KAUILANI STANFIELD**, whose full legal name is **LAUREEN KAUILANI STANFIELD, Trustee of the Lynette L. Kaowili Grantor Trust dated August 18, 2011**, to be distributed in accordance with the terms of the Trust.

(F) **AMBROSE KAMAHEA POAHA**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Edna Jean Shiley, also known as Edna Jean Poaha. She also died later in 2009. Her death certificate is being filed under seal.

Family members provided a copy of the Last Will and Testament of Edna Jean Poaha, dated December 14, 2006, after the Petition was filed. It is attached here as Exhibit "1." This is

a pour over Will and directs the residuary estate to the Edna Jean Poaha Revocable Living Trust Agreement. Your master requested a copy of the trust from Ambrose N. Poaha but they did not have a copy.

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 **AGNES CHANTELL RIBORDY-POAHA, Successor Trustee of the Edna Jean Poaha Revocable Living Trust**, to be distributed in accordance with the terms of the Trust.

(G) **LEILANI LILAC PISONI**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow.

Your Master reviewed the Last Will and Testament of Leilani L. Pisoni, dated July 1, 1994, which has not been admitted to probate. Exhibit "F" to Petition #11. The Will devises the decedent's estate to her husband, but in the event that he predeceased her, the Will devises the entire estate to the decedent's son, Timothy R. Pisoni.

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 distributed to **TIMOTHY R.**

PISONI.

(H) **JOSEPHINE KAUIKAMEALOHAIPONOIA HILL**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Divorced. Your Master also reviewed the Letters of Administration, filed on May 6, 2024, in P. No. 1CLP-24-0000038, in the First Circuit, State of Hawai'i. Exhibit "G" of Petition #11.

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 **LESLIE GAEL**

KUUIPO HILL, Personal Representative of Estate of JOSEPHINE

KAUKAMEALOHAIPONOIA HILL.

(I) **JULIUS KALEIAHIHI KUHNS, JR.**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Divorced. No Will or Trust has been submitted. On or about August 30, 2024, your Master spoke to the decedent's daughter, Cecelia-Anuenue M. Kaleiahihi-Kuhns. She confirmed that her father did not have a Will or Trust and that she and her four siblings are the only descendants of the decedent.

Pursuant to HRS §560:2-103, under the laws of intestacy, when there is no surviving spouse, then the intestate share goes to the decedent's descendants.

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 distributed as follows:

CHANDRA WOLTERS – ONE-FIFTH (1/5)
JANICE K. KUHNS – ONE-FIFTH (1/5)
KEO KALEIAHIHI-KUHNS – ONE-FIFTH (1/5)
CECILIA-ANUENUE M. KALEIAHIHI-KUHNS – ONE-FIFTH (1/5)
ISAAC KALEIAHIHI-KUHNS – ONE-FIFTH (1/5)

(J) **ELAINE AH LEN NEEDHAM**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow.

Your Master reviewed the Last Will and Testament of Elaine Ah Len Needham, dated August 1, 1986, which has not been admitted to probate. Exhibit "J" to Petition #11. The Will devises the decedent's estate to her husband, but in the event that he predeceased her, the Will devises the entire estate to the decedent's children. The decedent and the spouse named in the Will were divorced in 1996 and he predeceased the decedent in 2008. His death certificate is being filed under seal.

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 distributed to:

KIMO W. NEEDHAM – ONE-THIRD (1/3)
K.K.H.N., A MINOR CHILD – ONE-THIRD (1/3)
H.Q.H.N., A MINOR CHILD – ONE-THIRD (1/3)

(K) **VIOLET KAPULANI SILVA**

Your Master reviewed the facts contained in Petition #11 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 August 10, 2023, in P. No. 1CLP-23-0000575, in the First Circuit, State of Hawai'i. Exhibit "K" of Petition #11.

Paragraph 1-5.1(B)(1) of the QST instructs the Trustee to distribute the decedent's settlement consistent with the open probate proceeding. However, the Letters limit the Personal Representative from possessing estate assets beyond what is necessary to confirm title in the successors to the estate. As the Probate Special Counsel indicated, this is an extensive lineage and it would be appropriate to allow the Personal Representative to determine the appropriate distribution in accordance with the laws of intestacy.

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 **LOUIS ANTONE SILVA, JR., Personal Representative of the Estate of Violet Kapulani Silva**, to completely administer in accordance with the applicable provisions of the Hawaii Uniform Probate Code, Chapter 560.

(L) **GWEN P. CUGAL**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widowed. No

Will or Trust has been submitted. On or about August 30, 2024, your Master spoke to the decedent's daughter, Wendy Namoca. She confirmed that her mother did not have a Will or Trust and that she is the only descendant.

Pursuant to HRS §560:2-103, under the laws of intestacy, when there is no surviving spouse, then the intestate share goes to the decedent's descendants.

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 distributed to **WENDY S.**

NAMOCA.

(M) **GENEVIEVE M. FRANCISCO**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's obituary does not identify a surviving spouse. No Will or Trust has been submitted. On or about August 30, 2024, your Master spoke to the decedent's daughter, Gerri-Ann Francisco. She confirmed that the decedent did not have a Will or Trust and that she is the sole descendant of the decedent.

Pursuant to HRS §560:2-103, under the laws of intestacy, when there is no surviving spouse, then the intestate share goes to the decedent's descendants.

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 distributed to **GERRI-ANN K. FRANCISCO.**

(N) **GEORGE HALEAKALA NIAU**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Married to Joycelyn Niau who died a few months after the decedent. No Will or Trust has been submitted. On or about September 3, 2024, your Master spoke to the decedent’s daughter, Angel Morales. She confirmed that neither of her parents had a Will or Trust and that she and her sister are the only children of their parents and that there are no other children of the decedent.

Pursuant to HRS §560:2-103, under the laws of intestacy, when there is no surviving spouse, then the intestate share goes to the decedent’s descendants.

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 distributed as follows:

ANGEL K. MORALES – ONE-HALF (1/2)
MELISSA K. NIAU-PULE – ONE-HALF (1/2)

(O) **HERMAN JOSEPH KILA**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widower.

Your Master reviewed the Last Will and Testament of Herman J. Kila, dated April 19, 1996, and First Codicil, dated October 1, 2004, but they have not been admitted to probate. The Will is a pour over will and directs the residuary estate to the Herman J. Kila Revocable Trust, dated April 19, 1996, as amended. Copies of the Will and the Third Amendment to the Trust, dated August 7, 2008, are attached as Exhibit "L" to Petition #11.

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 distributed to **LOVEE-ANN I. POLLACK, Trustee of the Herman J. Kila Revocable Trust dated April 19, 1996, as amended**, to be distributed in accordance with the terms of the Trust.

(P) **JACOB YOON ON CHUNG SR.**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widower.

Your Master reviewed the Last Will and Testament of Jacob Y. O. Chung, dated October 7, 1998, which has not been admitted to probate. The Will is a pour over will and directs the residuary estate to the Jacob Y. O. and Winifred J. Chung Revocable Trust, dated October 7, 1998. Exhibit "M" to Petition #11.

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 distributed to **JADE KAUIKEAOLANI RICHARDSON, Trustee of the Jacob Y.O. Chung and Winifred J. Chung Revocable Trust dated October 7, 1998**, to be distributed in accordance with the terms of the Trust.

(Q) **STANLEY ROGER ALAPA**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Shirley Joan Ross, also known as Shirley Joan Alapa, who died after the decedent.

Your Master reviewed the Affidavit of Collection, dated August 4, 2023. Exhibit "N" to Petition #11. Your Master agrees that the Affidavit does not reflect the proper distribution, as the decedent's spouse survived the decedent.

Your Master also reviewed the Last Will and Testament of Shirley Joan Alapa, dated August 29, 2018, which has not been admitted to probate. The Will is a pour over will and directs the residuary estate to the Shirley Joan Alapa Revocable Living Trust, dated August 29, 2018. Exhibit "O" to Petition #11.

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 distributed to **LAURA K.**

ALAPA-ESTERBROOK, Trustee of the Shirley Joan Alapa Revocable Living Trust dated August 29, 2018, to be distributed in accordance with the terms of the Trust.

(R) **RICHARD KANEHUNAMOKU AKUNA SR.**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Divorced.

After the filing of Petition #11, your Master received and reviewed the Last Will and Testament of Richard Kanehunamoka Akuna, Sr., dated January 15, 2009, which was not admitted to probate. The Will devises the residuary estate to Mei-Ling Frishkorn. It is attached here as 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 distributed to **MEI-LING FRISHKORN.**

(S) **HANDIE K. AH PUCK**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Married to Christine Kaiwalani Espritu, also known as Christine K. Ah Puck.

Your Master reviewed the Last Will and Testament of Handie K. Ah Puck, dated January 5, 2005, which has not been admitted to probate. The Will is a pour over will and directs the residuary estate to the Ah Puck Ohana Trust, January 5, 2005. Exhibit “P” to Petition #11.

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 distributed to **CHRISTINE K. AH PUCK, Trustee of the Ah Puck Ohana Trust dated January 5, 2005**, to be distributed in accordance with the terms of the Trust.

(T) **LEI WAIOLA DELUZE**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Married to Michael Deluze. There was no will or trust 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 distributed to **MICHAEL R. DELUZE**.

(U) **NELSON EDWARD GASPAR JR.**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Divorced. There have been no Wills or Trusts submitted.

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 the decedent's daughter, Tracey Denault, on or about August 30, 2024. She confirmed that her father did not have a Will or Trust and that she is the only heir 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 distributed to **TRACEY DENAULT**.

(V) **WARREN W. GASPAR SR.**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Andra Tejero, also known as Andra L. Tejero-Gaspar. 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."

Pursuant to HRS §560:2-102, since one or more of the decedent's surviving descendants are not descendants of the surviving spouse, the surviving spouse is entitled to receive the first of a certain dollar amount. Your Master has confirmed that the settlement award does not exceed that amount. 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 the decedent's surviving spouse, **ANDRA L. TEJERO-GASPAR.**

(W) **HENRY HULILANI GEORGE JR.**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Evonne Kaiulani Kauai, also known as Evonne George.

Your Master reviewed the Last Will and Testament of Henry H. George, Jr., dated August 16, 2000, which has not been admitted to probate. The Will is a pour over will and directs the residuary estate to the Henry H. George, Jr. Revocable Trust, August 16, 2000. A Removal of Trustee, Renunciation of Nomination and Acceptance of Appointment of Successor Trustee was also provided. Exhibit "Q" to Petition #11.

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 distributed to **DIANE L. TEXIDOR, Trustee of the Henry H. George, Jr. Revocable Trust Agreement dated August 16, 2000**, to be distributed in accordance with the terms of the Trust.¹

(X) **GAYLORD N. GLUSHENKO**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widower. No Will or Trust has been submitted. Your Master spoke with the decedent's daughter, Trisha Keanu-Lua, on or about August 30, 2024. She confirmed that her father did not have a Will or Trust and that she and her brother are the only heirs at law.

Pursuant to HRS §560:2-103, under the laws of intestacy, when there is no surviving spouse, then the intestate share goes to the decedent's descendants.

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 distributed as follows:

TRISHA KEANU-LUA – ONE HALF (1/2)
GAYLORD NALANI GLUSHENKO JR. – ONE HALF (1/2)

¹ Your Master previously represented Diane L. Texidor, in her capacity as Successor Trustee of the Henry H. George, Jr. Revocable Trust Agreement, dated August 16, 2000. On or about October 2, 2023, your Master formally withdrew as counsel.

(Y) **JOHN IVANIAGE GLUSHENKO**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Divorced. No Will or Trust has been submitted. On or about August 30, 2024, your Master spoke to the decedent's son, Ivan Glushenko. He confirmed that his father did not have a Will or Trust and that he and his sister are the decedent's only descendants.

Pursuant to HRS §560:2-103, under the laws of intestacy, when there is no surviving spouse, then the intestate share goes to the decedent's descendants.

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 distributed as follows:

IVAN C. GLUSHENKO – ONE HALF (1/2)
KAENA T. GLUSHENKO – ONE HALF (1/2)

(Z) **JAMES KAHANUI GOMARD**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Mary Lou Kahalewai, also known as Mary L. Gomard.

Your Master reviewed the Pour-Over Will of James Kahanui Gomard, dated July 11, 1996, which has not been admitted to probate. The Will is a pour over will and directs the residuary estate to the James Kahanui Gomard and Mary Louise Gomard Revocable Living Trust Agreement, date July 11, 1996. Exhibit "R" to Petition #11.

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 distributed to **MARY LOUISE GOMARD, Trustee of the James Kahanui Gomard and Mary Louise Gomard Revocable Living Trust Agreement dated July 11, 1996**, to be distributed in accordance with the terms of the Trust.

(AA) **ERMA GOMEZ**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Divorced.

Your Master reviewed the Last Will and Testament of Erma K. Gomez, dated September 12, 2002, which has not been admitted to probate. The Will is a pour over will and directs the residuary estate to the Erma K. Gomez Revocable Trust, dated September 12, 2002. The Will and Certification of Trust are Exhibit "S" to Petition #11.

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 distributed to **KIM K. CARNAHAN (formerly known as KIM K. BARNES) and YVONNE K. DE LUZE (formerly known as**

YVONNE K. SABOLBORO), Co-Trustees of the Erma K. Gomez Revocable Trust dated September 12, 2002, to be distributed in accordance with the terms of the Trust.

(BB) **JAMES LLOYD KAUWE**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Viola K. Kaipou, also known as Viola K. Kauwe. She also died in 2010. There have been no Wills or Trusts submitted.

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 the decedent's granddaughter, Kenna Kauwe, on or about August 30, 2024. She confirmed that her grandfather 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 distributed to:

JAMES L. KAUWE JR. – ONE-FOURTH (1/4)
KENNETH KAUWE – ONE-FOURTH (1/4)
DONALD KAUWE – ONE-FOURTH (1/4)
YVONNE MAMARIL – ONE-FOURTH (1/4)

(CC) **DERIAH WAHINEAUKAI DE MELLO**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widowed. There have been no Wills or Trusts submitted.

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 the decedent's daughter, Vanessa De Mello, on or about August 30, 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 distributed to:

DELBERT L. DE MELLO – ONE-FIFTH (1/5)
DERIAH K. AANA – ONE-FIFTH (1/5)
VANESSA DALE W. DE MELLO – ONE-FIFTH (1/5)
DARRELL DEAN K. DE MELLO – ONE-FIFTH (1/5)
DONNA L. DE MELLO – ONE-FIFTH (1/5)

(DD) **LEIMOMI PEARL JOHNSON**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Divorced. There have been no Wills or Trusts submitted.

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

the decedent's son, Derrin Johnson, on or about August 30, 2024. He confirmed that his 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 distributed to:

DERRIN A.K. JOHNSON – ONE-THIRD (1/3)
HEALOHA P. CARMICHAEL – ONE-THIRD (1/3)
MICHAEL L. JOHNSON – ONE-THIRD (1/3)

(EE) **VIRGIL EMMITT DAY JR.**

Your Master reviewed the facts contained in Petition #11 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Charmaine Melanie Kailipaka, also known as Charmaine Kailipaka-Day. There was no will or trust submitted. Your Master spoke to surviving spouse, Charmaine Kailipaka-Day, on or about September 3, 2024. She confirmed that her husband did not have a Will or Trust and that their son is the only descendant of hers and the decedent's.

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 distributed to **CHARMAINE KAILIPAKA-DAY**.

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 #11;
- B. That the Court grant the Petition for Instructions #11, filed July 8, 2024;
- C. That the Court find that jurisdictional requirements have been met and venue is proper;
- D. That the Court find 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 September 4, 2024.

/s/ Emily H. Kawashima
EMILY H. KAWASHIMA

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 persons.

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DATED: Honolulu, Hawaii, September 4, 2024.

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