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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 #9, FILED MAY 24,
2024; CERTIFICATE OF SERVICE**

Hearing:

Date: September 13, 2024

Time: 10:00 a.m.

Judge: Honorable Jeannette H. Castagnetti

**PROBATE SPECIAL MASTER'S
REPORT RE: PETITION FOR INSTRUCTIONS #9**

COMES NOW, EMILY H. KAWASHIMA, ESQ. ("Master"), duly appointed Probate Special Master to examine the Petition for Instructions #9, filed May 24, 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 #9, filed May 24, 2024, with Exhibits;
- Notice of Hearing published in the Star-Advertiser on June 26, 2024 and July 3, 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 #9 in the Honolulu Star-Advertiser on June 26, 2024 and July 3, 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) **PALANI VAUGHAN, JR.**

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Divorced.

Your Master reviewed the Letters of Administration, filed October 23, 2018. Exhibit "A" to Petition #9.

Paragraph 1-5.1(B)(2) of the QST instructs the Trustee to distribute the decedent's settlement to the heirs/ devisees of the deceased Class Member as "adjudicated in such deceased Class Member's 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 disbursed to **ALLISON KA'ILIHWA VAUGHAN-DARVAL, as Personal Representative of the Estate of Palani Vaughan, Jr.**¹

¹ Upon Petitioner's review of the probate record and in full transparency to this Honorable Court, it appears that creditors have submitted claims against

(B) BERNADETTE MALIA OLIVERA

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Herbert Eddie Olivera. 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, **HERBERT EDDIE OLIVERA**.

(C) JOSEPHINE KOU DELAURA-CROW

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow(er).

Your Master reviewed the Last Will and Testament and the Certification of Trust dated March 15, 2015. Exhibit "B" to Petition #9.

the deceased class member's estate. Petitioner therefore believes it would be prudent to distribute the deceased class member's share of the settlement proceeds to his probate estate in order to fairly address the creditors' claims.

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 **JOSEPHINE KOU DELAURA-ROGERS, Trustee of the Delaura Family Trust**, to be distributed in accordance with the terms of the Trust.

(D) MIU LAN AUKAI OKU

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Never Married.

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, PATRICK OKU, on or about August 8, 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 disbursed as follows:

JOHN KAIPO OKU – ONE-HALF (1/2)
PATRICK OKU – ONE-HALF (1/2)

(E) **WILLIAM K. DANA**

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Yolanda Elana Lobato, also known as Yolanda Dana.

Your Master also reviewed the Letters of Administration and Petition for Adjudication of Intestacy, Determination of Heirs, and Appointment of Personal Representative in Probate No. 3CLP-23-0000376. Exhibit "C" of Petition #9.

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."

Your Master agrees that based on the decedent's date of death, the applicable version of H.R.S. § 560:2-102(4), provides that the surviving spouse should be entitled to the first \$100,000, plus one-half of the balance of the estate.

Your Master spoke to counsel for Yolanda Dana to inquire whether the deceased class member's daughter, **MELELANI DANA**, had a surviving spouse or descendants. She confirmed that there were no surviving spouse or descendants. Yolanda Dana also emailed to confirm the same.

Pursuant to HRS §560:2-102, the surviving spouse is entitled to receive the first of a certain dollar amount. Your Master has confirmed that the settlement exceeds 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 as follows:

YOLANDA ELENA LOBATO DANA - \$100,000, plus ONE-HALF (1/2) of the balance

KANOELANI DANA – ONE-SIXTH (1/4) of the balance

KANANI DANA – ONE-SIXTH (1/4) of the balance

(F) VIRGINIA KANANI KAM

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Married to JOSEPH KAM. The surviving spouse is post-deceased and left descendants who are all children of the decedent and his surviving spouse.

Your Master also reviewed the Last Will and Testament of the decedent as well as the Will of Joseph Kam and the Acceptance of Appointment of Corinne K.S. Pokipala as Successor Trustee of the Joseph K.H. Kam, Sr. Revocable Living Trust, dated August 27, 2001, as amended. Exhibit “D” of Petition #9.

The Will of the decedent names her surviving spouse as the sole devisee. The Will of Joseph K. H. Kam directs the residue of his estate to be poured into the Joseph J. H. Kam, Sr. Revocable Living Trust, dated August 27, 2001.

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 **CORINNE K.S.L.K. POKIPALA, Trustee of the Joseph K.H. Kam, Sr. Revocable Living Trust dated August 27, 2001**, to be distributed in accordance with the terms of the Trust.

(G) **WILLIAM MANUEL MAHI**

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widower.

Your Master also reviewed the Last Will and Testament of the decedent as well as the William M. Mahi and Cecilia S. Mahi Revocable Trust, dated June 16, 1992. Exhibit "E" of Petition #9.

The Will of the decedent directs the residue of his estate to be poured into the above-named Trust.

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 **LAVERNE MATANANE and CECELIA SASAKI, Trustees under the Revocable Trust Agreement of William M. Mahi and Cecilia S. Mahi dated June 16, 1992**, to be distributed in accordance with the terms of the Trust.

(H) **ELIZABETH HAMMACK**

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to RONALD HAMMACK.

Your Master also reviewed the Last Will and Testament of the decedent as well as the Living Trust of Ronald Dale Hammack and Elizabeth Hammack, dated April 27, 1993. Exhibit “F” of Petition #9.

The Will of the decedent directs the residue of her estate to be poured into the above-named Trust.

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 **BRIDGET HAMMACK and MALINDA MAHI, Trustees of the Ronald Dale Hammack and Elizabeth Hammack Living Trust dated April 27, 1993**, to be distributed in accordance with the terms of the Trust.

(I) BERNICE MARY EMMSLEY

Your Master reviewed the facts contained in Petition #9 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 Last Will and Testament of the decedent as well as the Revocable Trust of Bernice M. Emmsley, dated December 6, 1996. Exhibit “G” of Petition #9.

The Will of the decedent directs the residue of her estate to be poured into the above-named Trust.

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 **LAVERNE LEILANI MATANANE and CECELIA J. SASAKI, Trustees of the Revocable Trust of Bernice M. Emmsley dated December 6, 1996**, to be distributed in accordance with the terms of the Trust.

(J) CLYDE J. EMMSLEY

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Never Married. There was no Will or Trust submitted. Your Master received an email from Cecelia Sasaki who confirmed that the decedent had no Will or Trust, was unmarried and had no children.

Pursuant to HRS §560:2-103(3), under the laws of intestacy, if there is no surviving spouse or descendants, the intestate share goes to the descendants of the decedent's parents, i.e. his siblings.

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:

**JAMES K. EMMSLEY – ONE-THIRD (1/3)
LAURIE ANN H. EMMSLEY – ONE-THIRD (1/3)
LIANE U. EMMSLEY – ONE-THIRD (1/3)**

(K) ELEANOR K. MIHAL

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow(er). It is being submitted under seal with this report.

Your Master also reviewed the Last Will and Testament of the decedent, dated June 5, 2015. Exhibit "H" of Petition #9.

The Will of the decedent directs the residue of her estate be distributed to Alna L. Mecham, Kekaha, Hawaii.

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 **ALNA L.**

MECHAM.

(L) ANGELINE KEALOHAPILI GARCES

Your Master reviewed the facts contained in Petition #9 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 Last Will and Testament of the decedent. Exhibit "I" of Petition #9. The Will is signed but undated.

The Will of the decedent directs the residue of her estate be distributed in equal shares to her three children.

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."

Although the Will was undated, the distribution is identical to that 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 disbursed to:

ZELDA-MAY K. KALILIKANE – ONE-THIRD (1/3)
PETRONILO M. GARCES – ONE-THIRD (1/3)
DAMIEN K. GARCES, SR. – ONE-THIRD (1/3)

(M) HERBERT SUN MUNG KALENA HEW LEN

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Beatrice Jun Chin Uilani Akau, also known as Beatrice Hew Len.

Your Master also reviewed the Last Will and Testament of the decedent as well as the Herbert and Beatrice Hew Len Trust, dated July 16, 1992. Exhibit "J" of Petition #9.

The Will directs the residue of the estate to be poured into the Herbert and Beatrice Hew Len Trust, dated July 16, 1992.

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 **BEATRICE J.C. HEW**

LEN, Trustee of the Herbert and Beatrice Hew Len Trust dated July 16, 1992, to be distributed in accordance with the terms of the Trust.

(N) **HOSEA APELE KALUA’U**

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Married to Roberta P. Abellana, also known as Roberta Kalua’u. Your Master also reviewed the Letters of Administration, filed on July 23, 2023, in P. No. 3CLP-23-0000244, in the Third Circuit, State of Hawai‘i. Exhibit “K” of Petition #9.

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 **ROBERTA P. KALUAU, Personal Representative of the Estate of Hosea Apele Kaluau, also known as Hosea Apela**, to be distributed in accordance with the laws of intestacy.

(O) **HANNAH LOUISA ANTONIO**

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Widow(er). There was no Will or Trust submitted. Your Master spoke to Hannah Carvalho-Antonio on or about August 12, 2024, and she confirmed that her mother did not have a Will or Trust and that the surviving descendants are accurately reflected below.

Pursuant to HRS §560:2-103(1), under the laws of intestacy, if there is no surviving spouse, the intestate share goes to the decedent's descendants by representation.

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:

NAOMI ARAKI – ONE-FIFTH (1/5)
NOELANI ALMEIDA – ONE-FIFTH (1/5)
CECILIA VISTA – ONE-FIFTH (1/5)
HANNAH CARVALHO-ANTONIO – ONE-FIFTH (1/5)
KENJI ENOMOTO
(Descendant of JUNE ENOMOTO) – ONE-FIFTH (1/5)

(P) DANIEL DUKE NICHOLAS

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Florence Lolena Niau, also known as Florence Nicholas. There was no Will or Trust submitted.

Pursuant to HRS §560:2-102(B)(3) under the laws of intestacy, the surviving spouse receives the first \$150,000, plus one-half of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse or reciprocal beneficiary and the surviving spouse or reciprocal beneficiary has one or more surviving descendants who are not descendants of the decedent. The surviving spouse has one child who is the descendant of the decedent and one child who is not the descendant of the decedent. The settlement amount does not exceed the first portion that the surviving spouse is entitled to receive.

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 **FLORENCE P. NICHOLAS**.

(Q) JOHN LANAKILA SPENCER

Your Master reviewed the facts contained in Petition #9 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 Approving Final Accounts and Distributing and Settling Estate, filed October 3, 1989, in Probate No. 86-0216. Exhibit “L” of Petition #9. The Order directs the estate to be distributed to the decedent’s four surviving children and two descendants of a predeceased child. As noted by Petitioner, there is now only one surviving descendant of the decedent and heirs of those deceased children.

Your Master reviewed the Letters of Administration, filed May 5, 2010, in the Estate of MERVIN ARNOLD SPENCER, as P. No. 10-1-0084, in the Circuit Court of the Third Circuit, State of Hawaii. Exhibit “M” to Petition #9. Letters of Administration were issued to his surviving spouse, CYNTHIA M. SPENCER on or about May 5, 2010, but have since expired.

Your Master reviewed the Order Approving Final Accounts and Distributing and Settling Estate filed on November 25, 1994, in the Estate of ULULANI BERYL SPENCER, P. No. 90-168, in the Circuit Court of the Third Circuit, State of Hawaii. The Order directs the distribution of the residuary estate to ULULANI BERYL SPENCER’s children, CULLEN KEPOIKAI SPENCER, KAU’I NOELANI SPENCER (now known as KAU’I NOELANI BURGESS), and ANUHEA KAMAILE LEWIS. Exhibit “N” to Petition #9.

Your Master reviewed the Last Will of STERLING MCFARLAND SPENCER, JR., which was not admitted to probate. The Will distributes the residuary estate of STERLING MCFARLAND SPENCER, JR. to his surviving spouse, PEARL TAUFANUA SPENCER. Exhibit "O" to Petition #9.

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:

LOUELLA NOELANI SPENCER SCHUTTE – ONE-FIFTH (1/5)
LORETTA LORRAINE SPENCER, as Trustee of the Loretta L. Spencer Trust, an unrecorded trust dated August 11, 1993, as amended – ONE-FIFTH (1/5)
CYNTHIA M. SPENCER – ONE-FIFTH (1/5)
ANUHEA KAMAILE LEWIS – ONE-FIFTEENTH (1/15)
CULLEN KEPOIKAI SPENCER – ONE-FIFTEENTH (1/15)
KAU'I NOELANI BURGESS – ONE-FIFTEENTH (1/15)
STERLENE MOKIHANA SPENCER PALMERTON – ONE-TENTH (1/10)
PEARL TAUFANUA SPENCER – ONE-TENTH (1/10)

(R) NOBLE LANAKILA SPENCER

Your Master reviewed the facts contained in Petition #9 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 Last Will and Testament, presented for probate on or about October 30, 1991 and the Order Approving Final Accounts and Distributing and Settling Estate, filed August 4, 1994, in P. No. 91-159, in the Circuit Court of the Third Circuit, State of Hawaii. Exhibit "P" of Petition #9. The Order directs the estate to be distributed to Loretta Lorraine Spencer, Trustee of the Loretta L. Spencer Trust, dated August 11, 1993, as amended.

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 **LORETTA LORRAINE SPENCER, as Trustee of the Loretta L. Spencer Trust, an unrecorded trust dated August 11, 1993, as amended.**

(S) FRANCES M.K.B. CAMP (formerly known as FRANCES McGOWAN)

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Robert Allen Camp. There was no Will or Trust submitted.

Pursuant to HRS §560:2-102, under the laws of intestacy, the surviving spouse would receive all or a portion of the decedent's intestate share. However, the decedent's surviving spouse has submitted a disclaimer. Exhibit "Q" to Petition #9.

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 **ADAM MANALO-CAMP.**

(T) **MAY SCHUTTE FERNANDEZ**

Your Master reviewed the facts contained in Petition #9 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 Last Will and Testament of the decedent, dated March 16, 1979. Exhibit "R" of Petition #9.

The Will of the decedent directs the residue of her estate to her spouse, unless he predeceases her, which he did. The Will further then directs that the residue goes to her children in equal shares per stirpes. On or about August 12, 2024, your Master spoke to William Fernandez, Jr. who confirmed that he and his brother are the only descendants of the decedent.

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:

WILLIAM S. FERNANDEZ JR. – ONE-HALF (1/2)
CLAUDE P.K. FERNANDEZ – ONE-HALF (1/2)

(U) **VIOLA KAUIHAI KAUWE**

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow(er). There was no Will or Trust submitted.

Your Master spoke to family representative, Kenna Kauwe, on August 9, 2024, who confirmed that the decedent did not have a Will or Trust and that her descendants are accurately reflected below.

Pursuant to HRS §560:2-103(1) under the laws of intestacy, the intestate estates goes to the decedent's descendants by representation.

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:

JAMES LLOYD KAUWE – ONE-FOURTH (1/4)
KENNETH D. KAUWE – ONE-FOURTH (1/4)
DONALD P.K. KAUWE – ONE-FOURTH (1/4)
YVONNE L.K. MAMARIL – ONE-FOURTH (1/4)

(V) ELSIE ULULANI VALENTE

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow(er). There was no Will or Trust submitted.

Your Master spoke to Meloney Mili Kai on August 12, 2024, who confirmed that the decedent did not have a Will or Trust and that her descendants are accurately reflected 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."

Pursuant to HRS §560:2-103, under the laws of intestacy, since there is no surviving spouse, all of the decedent's surviving descendants are entitled to the settlement funds. Your

Master finds and recommends that this deceased class member's share of the Kalima settlement proceeds should be disbursed as follows:

DENIS VALENTE, JR. – ONE-HALF (1/2)
MILI KAI – ONE-HALF (1/2)

(W) MYRTLE KUULEIALOHA PUNG

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Joseph Pung. The surviving spouse died after the decedent. There was no will or trust submitted for either the decedent or her spouse. Your Master spoke to Sammie Pung on August 12, 2024, who confirmed that the decedent did not have a Will or Trust and that her descendants are accurately reflected below.

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. In this instance, the decedent's settlement award would go to the estate of the surviving spouse.

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.

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 equal shares to the deceased class member's children or heirs:

SAMMIE J. PUNG – ONE-SEVENTH (1/7)
FIERRY V. PUNG – ONE-SEVENTH (1/7)
DARCY L. PUNG – ONE-SEVENTH (1/7)
RORY D. PUNG – ONE-SEVENTH (1/7)
CARMELA BOTEILHO – ONE-SEVENTH (1/7)
RICHARD W. PUNG – ONE-SEVENTH (1/7)
ELLDAN PUNG
(Descendant of Kelby K. Pung) – ONE-SEVENTH (1/7)

(X) ELEANOR BELL

Your Master reviewed the facts contained in Petition #9 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 Eleanor Bell, which appears to be properly executed. Exhibit "T" to Petition #9. The Will states that the decedent has one child and another who predeceased her.

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 accordance with his Last Will and Testament to **SANDRAANN L. PECKENPAUGH.**

(Y) **MONA LEIALOHA ESTEVEZ**

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Married to Ignacio Estevez. 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 **IGNACIO MACARIO ESTEVEZ**.

(Z) **ROSE PUAPIKAKE KARRATTI CHANG**

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow(er). There was no Will or Trust submitted.

Your Master spoke to Dallas Chang on August 12, 2024, who stated that the decedent did have a Will or Trust and he would send a copy of each to my attention. He also confirmed that the decedent's descendants are accurately reflected 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."

Pursuant to HRS §560:2-103, under the laws of intestacy, since there is no surviving spouse, all of the decedent's surviving descendants are entitled to the settlement funds. Unless additional documents are submitted prior to the hearing, your Master finds and recommends that this deceased class member's share of the Kalima settlement proceeds should be disbursed as follows:

DALLAS H. CHANG – ONE-FOURTH (1/4)
DAVID H. CHANG – ONE-FOURTH (1/4)
DOUGLAS H. CHANG, JR. – ONE-FOURTH (1/4)
DWIGHT H. CHANG – ONE-FOURTH (1/4)

(AA) LURLINE HINANO LEE

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow(er). There was no Will or Trust submitted. Your Master spoke to Mahalo Pocock on August 12, 2024, who confirmed that the decedent did not have a Will or Trust and that her surviving descendants are accurately reflected 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."

Pursuant to HRS §560:2-103, under the laws of intestacy, since there is no surviving spouse, all of the decedent's surviving descendants are entitled to the settlement funds. Your

Master finds and recommends that this deceased class member's share of the Kalima settlement proceeds should be disbursed as follows:

MAMO M. TABANGCURA – ONE-THIRD (1/3)
KALANI LEE – ONE-THIRD (1/3)
MAHALO POCOCK – ONE-THIRD (1/3)

(BB) HANNAH HEANU PURDY LEKELESA

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widow(er). 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 §560:2-103, under the laws of intestacy, since there is no surviving spouse, all of the decedent's surviving descendants are entitled to the settlement funds. Your Master finds and recommends that this deceased class member's share of the Kalima settlement proceeds should be disbursed as follows:

CELESTE K. KUMALAE – ONE-HALF (1/2)
LUANA L. OGI – ONE-HALF (1/2)

(CC) JIMMY FRANCIS MANNER

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent's death certificate lists marital status as Widowed. 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 §560:2-103, under the laws of intestacy, since there is no surviving spouse, all of the decedent's surviving descendants are entitled to the settlement funds. Your Master finds and recommends that this deceased class member’s share of the Kalima settlement proceeds should be disbursed as follows:

JENNIFER LYNN HOKULANI MANNER – ONE-EIGHTH (1/8)
DAWN K. MANNER – ONE-EIGHTH (1/8)
SHAD MANNER – ONE-EIGHTH (1/8)
CAROLINE MANNER – ONE-EIGHTH (1/8)
ARLENE MANNER – ONE-EIGHTH (1/8)
SERENA MANNER – ONE-EIGHTH (1/8)
LAURA MANNER – ONE-EIGHTH (1/8)
HILLARY MANNER – ONE-EIGHTH (1/8)

(DD) MARY KUNEWA SUE SIN PUA MURRAY

Your Master reviewed the facts contained in Petition #9 as well as the data provided in the Facilitator database. The decedent’s death certificate lists marital status as Widow(er). 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 §560:2-103, under the laws of intestacy, since there is no surviving spouse, all of the decedent's surviving descendants are entitled to the settlement funds. Your Master finds and recommends that this deceased class member’s share of the Kalima settlement proceeds should be disbursed to **PHILLIP C. MURRAY**.

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 #9;
- B. That the Court grant the Petition for Instructions #9, filed May 24, 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 August 13, 2024.

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

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, August 13, 2024.

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