



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

August 19, 1999

Admiral Robert K. U. Kihune, USN (Ret.)  
Interim Trustee  
Kamehameha Schools/ Bernice Pauahi Bishop Estate  
Kawaiahao Plaza  
Honolulu, Hawaii

Dear Admiral Kihune:

This is in response to your letter dated August 16, 1999, in which you requested information regarding our position on the permanent removal of the Incumbent Trustees.

Pursuant to IRC Section 7121, the Internal Revenue Service (Service) may enter into a Closing Agreement with a taxpayer. A Closing Agreement is an option for the Service to pursue in lieu of revocation in this case. The Service is willing to consider this option. However, as stated in IRM 7.9 EP/EO Procedural Matters Handbook, Chapter 3, Exempt Organizations Closing Agreement Handbook, in situations where "an organization has engaged in flagrant or continuous acts compelling revocation or imposition of tax, a closing agreement may not be appropriate unless future compliance can be assured." Accordingly, the Service has the discretion to decide whether and under what conditions a Closing Agreement will be agreed to and executed, and a duty to ensure future compliance once the Closing Agreement option is chosen.

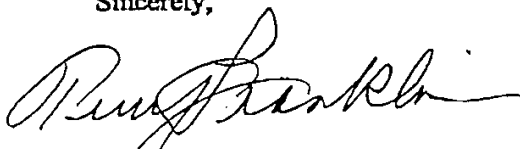
Due to fundamental concerns about whether the Incumbent Trustees would effectively implement any agreement that would be entered into between the Service and Kamehameha Schools Bishop Estate (KSBE), the Service required, as a precondition to entering into Closing Agreement negotiations with KSBE and as an alternative to continuing with administrative revocation procedures, that steps be taken to permanently remove the Incumbent Trustees from their positions as Trustees of KSBE. In coming to this decision, we have relied upon evidence in our administrative files that indicates that the Incumbent Trustees have a history of ignoring Probate Court Orders, Master Report recommendations, Probate Court Stipulations, and the advice of independent experts whose opinions were sought out by KSBE at great expense to KSBE, relating to activities which impact KSBE's exempt status. In addition, we have relied upon evidence that indicates the Incumbent Trustees have a history of pursuing activities which are inconsistent with furthering KSBE's exempt purpose.

Admiral Robert K.U.Kihune, USN (Ret.)

To date, we have relied upon the steps taken by the Interim Trustees regarding permanent removal of the Incumbent Trustees, and have entered into negotiations with KSBE representatives on a Closing Agreement in lieu of revocation, and have reached agreement, subject to the approval of the Probate Court, on the terms of a Closing Agreement that would preserve KSBE's tax exempt status for past periods and going forward. For the reasons stated above, however, it remains the position of the Service that the Incumbent Trustees must be permanently removed from their positions as Trustees of the Bishop Estate in order for the Service to finalize the Closing Agreement that has been negotiated with the Interim Trustees.

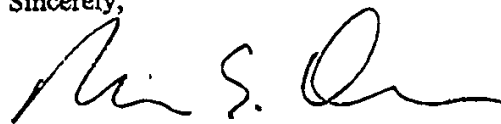
Thank you for your cooperation in this matter.

Sincerely,



Terry Franklin  
Chief, EP/EO Division  
Western Key District  
Internal Revenue Service

Sincerely,



Marcus S. Owens  
Director  
Exempt Organizations Division  
Internal Revenue Service