

In response to recent interest in reports filed by Special Masters in conjunction with annual reviews of the Kamehameha Schools and Bishop Estate, set forth below are summaries of reports filed between 2000 and 2005 by Special Masters Matsumoto, Matsubara, and Fairbanks. Following each summary are excerpts and a link to the full report.

**Masters' Consolidated Report for the 109<sup>th</sup> to 111<sup>th</sup> Through the 112<sup>th</sup> to 114<sup>th</sup> Annual Accounts of the Trustees (Oct. 6, 2000).**

In October 2000, Special Masters Matsumoto and Matsubara jointly filed a Consolidated Report for the 109<sup>th</sup> to 111<sup>th</sup> through the 112<sup>th</sup> to 114<sup>th</sup> Annual Accounts of the Trustees. The Report covers the time period between July 1, 1996, and June 30, 1999. This period includes the transition from the Former Trustees to the Interim Trustees. Because Master Matsumoto had already documented the acts of the Former Trustees in previous Reports, the October 2000 filing focuses on the Trust's compliance with conditions and requirements imposed by court orders and stipulations following removal of the Former Trustees.

As the Report notes, this was a time of unprecedented change for KS. Upon their appointment, the Interim Trustees defended the Trust against claims by the State Attorney General and worked to preserve the Trust's tax-exempt status. Perhaps most importantly, the Interim Trustees were tasked with repairing the culture and image of Kamehameha.

The Masters specifically reviewed the Trust's Investment and Governance Policies, recognizing that much of the criticism of the Former Trustees had been because of improprieties in these areas. With respect to Investments, the Masters noted greater transparency and documentation in investments than under the Former Trustees. The Masters also noted the adoption of a C.E.O. based Governance Policy that vested control over day-to-day functions of the Trust in a Chief Executive Officer, rather than in the Trustees. The Masters requested that

“[f]uture court-appointed masters . . . monitor the transition to the new C.E.O. based management system and . . . implementation of the Governance Policy so as to ensure that the new management structure matures in a fashion that best fosters the attainment of Pauahi’s goals and objectives.”

Selected Quotes:

“The Interim Trustees were appointed on May 7, 1999 and unprecedented changes have occurred from their appointment to the present.”

“Without exception, the Staff diligently addressed your Master’s requests despite conflicting demands placed upon them for information b other agencies. The staff’s dedication of purpose is reflective of their devotion to the legacy of Ke Ali’i Pauahi.”

“Finally, your Masters wish to commend Interim Trustees David Coon, Francis Keala, Ronald Libkuman, Constance Lau, and Robert Kihune, as well as CEO Hamilton McCubbin for their openness, candor and cooperation which set the positive tone by which the Trust Estate participated in the review process.”

“Your Masters have been kept apprised of various aspects of the strategic planning process. The strategic planning process was assisted by the professional planning consultant, KPMG Consulting, LLC, and the Trust Estate’s Staff, teaching professionals, and members of the community who have given freely and extensively of their time. In following this process, your Masters have witnessed the enthusiasm of the participants and their commitment to the education of Hawaiian children.”

“Your Masters note that the Strategic Plan is broad in scope and ambitious in its goals. It is laudable that the architects of the Strategic Plan have considered the most current educational research and knowledge to develop a Strategic Plan that is holistic in its approach to education.”

“In summary, the significant accomplishments of the Interim Trustees include:

- Negotiation of a Closing Agreement with the IRS which preserves the Trust Estate’s tax-exempt status and settlement of tax liabilities;
- Petition to the Court for establishment of a procedure to select future trustees;
- Initiation of the Strategic Planning process;
- Adoption of a Governance Policy for the Trust Estate;

- Adoption of a CEO-based management system and the selection of Hamilton McCubbin as the Trust Estate’s first CEO; and
- Re-implementation of the Internal Audit function.”

“Reviewing the Interim Trustee’s accomplishments during their short tenure need not await a historical perspective to be fully appreciated. Throughout this period of transition, the Interim Trustees have worked tirelessly in preserving and protecting the Trust Estate amidst all the activity surrounding the Former Trustees. In this regard, the Interim Trustees should also be commended for bringing peace to the separate interests of the Kamehameha Ohana.”

### **Master’s Report for the 115<sup>th</sup> Annual Account of the Trustees (Jan. 18, 2002)**

The Master’s Report for the 115<sup>th</sup> Annual Account covers the period beginning July 1, 1999, and ending June 30, 2000. As the Report notes, it was a period that began in turmoil for the trust, with on-going investigations by the State Attorney General and the Internal Revenue Service.

The Master noted with approval the negotiation of a Closing Agreement with the IRS that preserved the Trust’s tax-exempt status, and the implementation of an internal audit function to ensure compliance with that Closing Agreement. The Master also noted that the CEO Governance structure was now in place and that the Trustees had created other executive positions, including a Chief Education Officer, to assist the CEO. The Master also found that the Trust was in compliance with all Court Orders and Stipulations, including provisions relating to investments, spending, and accounting.

#### Selected Quotes:

“Although this Account Period began in turmoil, positive fundamental changes began emerging in regard to the management structure of the Trust Estate, refocusing on the educational mission as the prime purpose of the Trust Estate and renewing efforts to improve the integrity of its processes and its accountability to its beneficiaries.”

“As the Account Period began, the Trust Estate faced unprecedented challenges that threatened its very existence as a tax-exempt entity. Controversy and conflicts, which had

surfaced publicly and in the courtroom, continued to plague the Trust Estate -- The State Attorney General's Office was continuing its ongoing investigation of the Trust Estate and was pursuing claims against the Former Trustees; protracted litigation among the Former Trustees was still unresolved and, most significantly, the tax-exempt status of the Trust Estate was being challenged by the Internal Revenue Service (the "IRS")."

"Under the guidance of the Interim Trustees, the Trust Estate made considerable progress in addressing and resolving its most serious challenges and began strategically planning for its future -- entered into a settlement agreement with the IRS, thereby allowing the Estate to maintain its tax-exempt status; it adopted and implemented a Chief Executive Officer ("CEO")-based management structure; a name change from Bishop Estate to "Kamehameha Schools" was undertaken to emphasize the Trust Estate's focus on its primary educational purpose."

"Upon completion of their term, this Court commended and thanked the Interim Trustees for their valuable services and accomplishments during a time of considerable uncertainty and turmoil."

"The Interim Trustees and Interim Trustees/Trustees who were extremely open to discussions with the Master during their tenure continued to be so even after their stewardship ended to discuss the significant occurrences of the Account Period. Your Master telephonically interviewed Interim Trustee Rev. David Paul Coon and personally interviewed Interim Trustees Francis Ahloy Keala and Ronald Dale Libkuman and Interim Trustees/Trustees Robert Kalani Uichi Kihune and Constance Hee Lau. All of them continued to express their desire to see that the legacy of Ke Ali'i Pauahi continued and the scope of her presence expanded. The theme of continued vigilance, openness and commitment were reinforced during the interviews with the acknowledgement that the path ahead still provides tremendous challenges."

"Your Master shares the sentiment of the Court regarding the performance of the Interim Trustees during their tenure (May 1999 to December 2000) and is personally aware of the fact that this Account Period was a period of dramatic changes. The results of the Interim Trustees efforts were positive and beneficial to the Trust Estate but continuing vigilance and review remains necessary to insure that the positive measures initiated by the Interim Trustees continue. It is your Master's intent by this report to assist the process and spirit of positive change. It is your Master's opinion that during this Account Period, the "renewed" foundation for "Kamehameha Schools" was positively set, and it is your Master's desire to assist the Court and the Trustees by maximizing the return, both educationally and financially for the beneficiaries of the Trust Estate."

**Master's Report for the 116<sup>th</sup> Annual Account of the Trustees (Mar. 4, 2003)**

The 116<sup>th</sup> Account period covers the time between July 1, 2000, and June 30, 2001.

During this period, Permanent Trustees, selected through new procedures, replaced the Interim Trustees.

The Master begins by noting that “the Interim Trustees were credited with laying the foundation for a new, more responsive and accountable KS by (1) reaffirming education as KS’ primary purpose, (2) establishing a new governance structure which upholds the trustee’s fiduciary and policy-making role while delegating day-to-day operations to a CEO-based management structure, (3) initiating a comprehensive strategic planning process, (4) initiating this Courts assistance and guidance in establishing an objective trustee selection process with term and compensation limits, and (5) extending the reach of the Hawaii and Maui campuses to full kindergarten to grade 12 facilities.” The Master again noted that KS appeared to be in compliance with the both the IRS Closing Agreement and all court orders.

The Master also specifically commented on the information provided in KS’ Annual Report, stating, “The information complied and provided in KS’ Annual Report for the 116<sup>th</sup> Annual Account is a testament to KS achieving greater accountability and transparency through providing useful and meaningful information for users of the Report.”

Selected Quotes:

“The “open door” policy of the Trustees continues to expedite the annual review process. During this Master’s tenure, the Trustees have continued to express, by their actions and words that the review by the Court and its Master is and should continue to be an integral part of the process necessary to continually improve KS’s operations to fulfill the educational goals of Ke Ali’i Pauahi under her Will.”

“During their short tenure, the Interim Trustees were credited with laying the foundation for a new, more responsive and accountable KS by (1) reaffirming education as KS’s primary purpose, (2) establishing a new governance structure which upholds the trustee’s fiduciary and policy-making role while delegating day-to-day operations to a CEO-based management structure, (3) initiating a comprehensive strategic planning process, (4) initiating the Courts assistance and guidance in establishing an objective trustee

selection process with term and compensation limits, and (5) extending the reach of the Hawaii and Maui companies to full kindergarten to grade 12 facilities.”

“Since the Interim Trustees were appointed on May 7, 1999, “a number of significant policy and procedural changes [were] implemented at KS to provide safeguards” against any abuse of power by the Trustees, the Chief Executives or staff of KS and the KS Organization and to provide “an adequate system of checks, balances and affirmative disclosure requirements.”

“The information compiled and provided in KS’ Annual Report for the 116<sup>th</sup> Annual Account is a testament to KS achieving greater accountability and transparency through providing useful and meaningful information for users of the Report. As an example, the presentations and discussions regarding strategic planning process, endowment overview, asset allocation, investment performance and financial initiatives for the 2001 fiscal year provided udders of the Report with a clear, concise and comprehensive disclosure of KS’ Strategic Plan, Investment Policy, Spending Policy, and Debt Policy, including the progress made in evaluating the current allocation of financial resources and cost structure in order to meet the objectives of the Strategic plan, Five-Year Strategic Plan (SIP II), and policies in the future.”

“The reinstatement of the Internal Audit function in February 2000 has proved to be a valuable tool for both KS and the Court’s Master. The commitment by the Trustees, CEO and upper management to the process is unquestioned by your Master. When viewed in a historical context in terms of where KS came from, where they currently are and where they are headed, it can be described as ‘they have come a long way but still have a long way to go’ as descriptive.”

### **Master’s Report for the 117<sup>th</sup> Annual Account of the Trustees (Mar. 31, 2004)**

The Report for the 117<sup>th</sup> Annual Accounting covers the period beginning July 1, 2001, and ending June 30, 2002. This was a period of extraordinary growth for KS, with increased enrollment at the Maui and Hawaii campuses, as well as the expansion of KS’s Early Childhood Education programs at 72 classrooms statewide. The Ke Alii Pauahi Foundation also began its first full year of operations, granting over 21 Million dollars in financial aid.

The Report notes that the Trust continues to make positive advancements in all areas, including Government, Investments, and Spending. The Trust continues to satisfy its obligations and is in compliance with all court orders and the IRS Closing Agreement.

Selected Quote:

“As previously noted by your Master in the 116<sup>th</sup> Master’s Report, the annual trust expert presentation is a positive step in ensuring that the Estate is properly governed, and commends the Trustees for instituting it as a regular and continuing program.”

**Master’s Report for the 118<sup>th</sup> Annual Account of the Trustees (July 1, 2005)**

The 118<sup>th</sup> Annual Account covers the period from July 1, 2002, to June 30, 2003. This period saw the resignations of several key executive management personnel, including CEO Hamilton McCubbin. During this period, the Maui and Hawaii campuses continued to grow, and KS began collaboration with Ho`okako`o, a non-profit organization supporting selected public charter schools.

The Master noted that the Trust had complied with the court orders and requirements in all areas, including investment and governance. The Master also noted the hiring of Dee Jay Mailer, a KS alumna, as CEO. Although this event occurred outside of the Account Period, the Master included her hiring in the Report because “she has made remarkable progress in further developing the CEO-Based Management System at KS.” Noting the Trust’s considerable strides in compliance, the Master stated in conclusion, “The management of the Trust Estate has progressed a long way from the times which gave rise to many, if not most, of the Court-approved or imposed conditions and requirements. Indeed, the progress by the management of the Trust Estate has been dramatic in the last year to year-and-one-half. Consequently, a number of the conditions and requirements may no longer be necessary.”

Selected Quotes:

“The management of the Trust Estate has progressed a long way from the times which gave rise to many, if not most, of the Court-approved or imposed conditions and requirements. Indeed, the progress by the management of the Trust Estate has been dramatic in the last year to year-and-one-half.”

“Your Master agrees with former Master Benjamin M. Matsubara’s commendation of KS’ efforts and practices of having trust experts make presentations to the Trustees and executive management on trust issues, fiduciary responsibilities and fiduciary duties of trustees of charitable trusts. KS should continue this practice.”

“It should be noted that in January 2004, Dee Jay Mailer, a KS alumna, was appointed as the CEO by the Trustees of KS. Prior to joining KS, she served as: the chief operating officer for The Global Fund, an independent, public-private partnership and multi-billion-dollar trust; chief administrative officer for Health Net, a California network model health plan; and the chief executive officer of Kaiser Permanente Hawaii. As will be detailed in future reports, she has made remarkable progress in further developing the CEO-Based Management System at KS.”

“Your Master concurs with the conclusion reached by the prior Master . . . that the Trust Estate’s transition to the new CEO-based management system from a trustee based management system is well on its way since being mandated in late 1999. The interim and current Trustees and current management are to be commended.”

“The Trustees were accessible at virtually any time and very open in their discussions with your master. No topic was “off limits.” They invited your Master to attend Audit Committee meetings and other appropriate meetings at which your Master gained valuable insights into how KS functions and how the CEO-Based Management System is developing and maturing. In addition, the Trustees permitted your Master to have direct and open access to the KS management team. Such unfettered access and opportunities to have direct, candid, in-depth discussions with the key members of the management team not only facilitated your Master’s (and his consultants’) review of KS’ operations, but also provided a realistic appraisal of the steady progress being made by KS in streamlining the operations of the Trust Estate. Your Master thanks the Trustees for their cooperation, candor and continued “open-door” policy.”

“Your master also thanks CEO Dee Jay Mailer for her “open-door policy” with respect to meeting with your Master (and his consultant) and direct access to her Management Team. Like the Trustees, the CEO was always available and extremely open and candid in her discussions with your Master. This greatly assisted your Master in learning about the day-to-day operations and the on-going development of strategic plans for all areas of the operations of the Trust Estate.”