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9
 10 Counsel for Plaintiff and
 Counter-Defendant ERIC GRANT

ERIC GRANT, ATTORNEY AT LAW
 8001 Folsom Boulevard, Suite 100
 Sacramento, California 95826
 Telephone: (916) 388-0833

11
 12 UNITED STATES DISTRICT COURT
 13 EASTERN DISTRICT OF CALIFORNIA

14 ERIC GRANT,
 15 Plaintiff,
 16 v.
 17 KAMEHAMEHA SCHOOLS/BERNICE
 PAUahi BISHOP ESTATE; J. DOUGLAS
 18 ING, NAINOA THOMPSON, DIANE J.
 PLOTTS, ROBERT K.U. KIHUNE, and
 19 CORBETT A.K KALAMA, in their
 capacities as Trustees of the Kamehameha
 20 Schools/Bernice Pauahi Bishop Estate;
 JOHN DOE; and JANE DOE,
 21 Defendants.

) No. 2:08-cv-00672-FCD-KJM
)
)
) **DECLARATION OF PLAINTIFF AND**
) **COUNTER-DEFENDANT ERIC GRANT**
) **IN SUPPORT OF HIS OPPOSITION TO**
) **KSBE DEFENDANTS' MOTION TO**
) **TRANSFER TO DISTRICT OF HAWAII**
) **PURSUANT TO 28 U.S.C. § 1404**
)
)
) Hearing Date: Oct. 31, 2008
) Time: 10:00 a.m.
) Courtroom: 2
) Judge: Hon. Frank C. Damrell, Jr.

22 _____)
 23 JOHN DOE and JANE DOE,)
 24 Counter-Claimants,)
 25 v.)
 26 KAMEHAMEHA SCHOOLS/BERNICE)
 PAUahi BISHOP ESTATE, et al.,)
 27 Counter-Defendants.)
 28 _____)

1 I, Eric Grant, declare as follows:

2 1. I am the Plaintiff and co-counsel for Plaintiff and Counter-Defendant Eric Grant in
3 the above-entitled case. I make this declaration in support of my opposition to the Kamehameha
4 Schools Defendants and Cross-Claim Defendants' Motion to Transfer to District of Hawaii Pursu-
5 ant to 28 U.S.C. § 1404 (doc. 77, filed Aug. 22, 2008). I make the statements of fact in this declar-
6 ation of my own personal knowledge. If called as a witness in this proceeding, I could and would
7 competently testify to the facts set forth herein.

8 2. In the following paragraphs, I refer to Defendants Kamehameha Schools/Bernice
9 Pauahi Bishop Estate, J. Douglas Ing, Nainoa Thompson, Diane J. Plotts, Robert K.U. Kihune, and
10 Corbett A.K. Kalama collectively as "KSBE." I refer to Defendants John Doe and Jane Doe, two
11 individuals whose true identities are known to me, using their "Doe" pseudonyms.

12 3. On July 17, 2007, my counsel filed on my behalf an amended complaint in a case in
13 this Court styled *Grant v. Doe*, No. 2:07-cv-01087-GEB-EFB. Attached as Exhibit A to that com-
14 plaint was a redacted version of the "Attorney-Client Engagement Agreement" between my former
15 law firm and Jane Doe (on behalf of John Doe). Paragraph 15 of that agreement states in full:

16 **Venue and Applicable Law.** This Agreement shall be deemed to have been
17 entered into in Sacramento County, California. and all questions regarding the valid-
18 ity, interpretation, or performance of any of its terms or provisions or of any rights
or obligations of the parties, shall be governed by the internal law, and not the law
pertaining to choice or conflict of law, of the State of California.

19 A true and correct copy of the redacted agreement as previously filed in this Court, with the quoted
20 passage highlighted on Page 4 thereof, is attached hereto as Exhibit 1.

21 4. The settlement of the *Grant v. Doe* litigation was memorialized in a document titled
22 "Settlement and Mutual Release Agreement" and executed in September of 2007. Exhibit 23 to
23 the Declaration of Paul Alston (doc. 72, filed under seal July 14, 2008) is a true and correct copy
24 of a redacted version of that agreement. Paragraph 16 of that agreement provides in full:

25 **California Law.**

26 The settlement, this Settlement Agreement, and the documents referred to
27 herein, shall be interpreted in accordance with the laws of the State of California
28 and venue for any legal proceeding commenced to adjudicate any dispute arising
hereunder shall be the United States District Court for the Eastern District of Cal-
ifornia if that court then has subject matter jurisdiction of the dispute. Otherwise,
venue for such proceeding shall be the Sacramento County Superior Court.

1 5. In my action against John Goemans in Sacramento County Superior Court styled
2 *Grant v. Goemans*, No. 07AS04172, my counsel received a discovery response entitled “Second
3 Supplemental Response to Request for Production of Documents, Set One” and executed by Goe-
4 mans’ then-counsel John Gardner Hayes on May 9, 2008. The final paragraph of such response
5 states in full: “After a diligent search and reasonable inquiry, no documents to this request will be
6 produced because all documents responsive to said request have either been destroyed or lost.” A
7 true and correct copy of the response, with the quoted passage highlighted on Page 2 thereof, is at-
8 tached hereto as Exhibit 2.

9 6. On June 19, 2008, Jerry Stein, one of the Does’ counsel, sent an e-mail message to
10 all other counsel in this case, including me. Attached to that message were “three documents that
11 [his] clients agreed to produce in response to the questions raised in Paul Alston and Louise Ing’s
12 May 6, 2008 letter.” A true and correct copy of a printout Mr. Stein’s June 19th e-mail message
13 (without the referenced attachments) is attached hereto as Exhibit 3.

14 7. In a letter signed by Paul Alston and dated June 19, 2008, KSBE responded to dis-
15 covery that I had propounded. As indicated in Item *t* on Page 12 of Mr. Alston’s letter, my final
16 question and KSBE’s corresponding answer were as follows:

17 If KSBE intends to file a motion to transfer venue pursuant to 28 U.S.C. § 1404(a)
18 based in any manner on “the convenience of . . . witnesses,” please identify those
19 witnesses whose convenience is the bases for the motion, together with the general
20 subject matter of their expected testimony.

21 [KSBE] objects to this request on the grounds that it is outside the scope of
22 agreed-upon discovery and seeks information that is irrelevant to this action.

23 A true and correct copy of such letter, with the quoted passage highlighted on Page 12 thereof, is
24 attached hereto as Exhibit 4.

25 8. On October 4, 2008, I visited a page on the website of the Beachcomber Motel, i.e.,
26 <http://www.thebeachcombermotel.com/new/contact.html>. That page indicated that the motel’s fac-
27 simile number is (707) 964-8925. A true and correct copy of a printout of that webpage, with the
28 motel’s facsimile number highlighted, is attached hereto as Exhibit 5.

///

///

Exhibit 1

**Attorney-Client Engagement Agreement
Sweeney & Grant LLP**

This Attorney-Client Engagement Agreement (“Agreement”) is entered into between the law firm of Sweeney & Grant LLP (“Firm”), a California limited liability partnership and [REDACTED] (“Client”). The Agreement is intended to satisfy the requirements of California Business & Professions Code §§ 6147-6148.

1. **Conditions.** This Agreement will not take effect, and the Firm will have no obligation to provide legal services, until Client returns a signed copy of this Agreement.

2. **Scope of Services.** Client engages the Firm to represent Client in connection with Client’s anticipated lawsuit, as next friend for her [REDACTED] against Kamehameha Schools/ Bishop Estate (“KSBE”) in the United States District Court for the District of Hawaii. The lawsuit would seek a declaration that KSBE’s self-described preference for applicants of Native Hawaiian ancestry constitutes discrimination on the basis of race in violation of federal civil rights law. The lawsuit would also seek an injunction ordering KSBE to admit applicants without regard to their race or ancestry and, in particular, to admit [REDACTED] to a KSBE campus. Finally, the lawsuit would seek money damages from KSBE.

If the lawsuit is filed, the Firm will represent Client until settlement or judgment is reached. The Firm will further represent Client in prosecuting or defending an appeal in the United States Court of Appeals for the Ninth Circuit and in representing Client as respondent before the United States Supreme Court. The Firm may represent client as petitioner before that Court if, in the sole judgment of the Firm, there is a reasonable chance that the Court would grant Client’s petition for writ of certiorari. The Firm will not represent Client in any other proceeding, including a proceeding designed to execute on the judgment, without such additional compensation as may be agreed upon between the Firm and Client in a separate Agreement.

3. **Responsibilities of the Parties.** The Firm will provide those legal services reasonably required to represent Client in prosecuting the claims described in Paragraph 2 above and will take reasonable steps to keep Client informed of significant developments and to respond promptly to Client’s inquiries and communications. Client agrees to be truthful with the Firm, to keep the Firm informed of any developments that come to Client’s attention, to abide by this Agreement, and to keep the Firm advised of Client’s address, telephone number(s), and whereabouts. Client agrees to appear at all legal proceedings the Firm deems necessary and to cooperate fully with the Firm on all matters related to the investigation, preparation, and presentation of Client’s claims.

4. **Local Counsel.** The parties contemplate that John Goemans of Kamuela, Hawaii, will be associated with the Firm as local counsel for this lawsuit. Client agrees, however, that the Firm rather than Mr. Goemans will have final responsibility for the conduct of the lawsuit. Client further agrees that Mr. Goemans may, to the extent of his active participation, share in the payment or award described in Paragraph 5 below. The Firm warrants that Client’s liability for fees will not be increased by reason of Mr. Goeman’s participation.

5. **Legal Fees.** If Client does not obtain an award of money damages from KSBE, the Firm will be compensated for legal services only to the extent that the Firm obtains, through settlement or judgment, a payment or award of attorney's fees from KSBE or other parties. Any such payment or award will belong to the Firm alone.

If Client does obtain an award of money damages, the Firm will receive, *in addition* to the payment or award set forth immediately above, 40% of Client's "net recovery" of damages. The term "net recovery" means (a) the total amounts received by settlement or judgment, *not* including any payment or award of attorney's fees and costs; (b) minus all costs and disbursements set forth in Paragraph 7 below.

In the event of the Firm's discharge or withdrawal as provided for in Paragraph 9 below, Client will cooperate with the Firm, and will direct Client's new attorneys to cooperate with the Firm, in seeking a payment or award of attorney's fees for the Firm's work. Client further agrees that, upon payment of any settlement or judgment in Client's favor in this matter, including but not limited to any payment or award of attorney's fees and costs, the Firm shall be entitled to be paid a reasonable fee for the legal services it has rendered. Such fee shall be determined by considering the following factors:

- (a) the actual number of hours expended by the Firm in performing legal services for Client;
- (b) the hourly rate of the Firm's lawyers who expended time;
- (c) the extent to which the Firm's services have contributed to the result obtained;
- (d) the amount of the fee in proportion to the value of the services performed;
- (e) the amount of recovery obtained;
- (f) the time limitations imposed on the Firm by Client or by the circumstances; and
- (g) the experience, reputation, and ability of personnel performing the services.

Any monetary sanctions awarded to the Firm by a court during the course of this engagement will not be considered part of the Client's recovery and will belong to the Firm as additional compensation for extraordinary time and effort.

6. **Negotiability of Fees.** The fee arrangement set forth above is not set by law, but is negotiated between attorney and client.

7. **Costs and Litigation Expenses.** The Firm will incur various costs and expenses in performing legal services under this Agreement. The Firm agrees to advance all reasonable costs and expenses on behalf of Client in this matter. Client will *not* be responsible for reimbursing such costs and expenses except to the extent that client obtains an award of money damages as set forth in Paragraph 5 above. If the Firm obtains, through settlement or judgment, a payment or award of costs or expenses from the opposing parties, such payment or award will belong to the Firm alone.

Client is aware that [REDACTED] which is interested in the outcome of Client's lawsuit against KSBE, has agreed to reimburse the Firm for some or all of the costs and expenses incurred by the Firm in this matter. Client agrees that such reimbursements from [REDACTED] will have no bearing on Client's responsibility, if any, to reimburse the Firm for costs and expenses as set forth above. The attorney-client relationship will only exist between the Firm and Client, and [REDACTED] will have no right to information regarding the representation of Client by the Firm and have no right to control or direct the Firm in providing the services under this Agreement, unless specifically approved by Client.

Client acknowledges that Client may be required by the courts to pay fees or costs or both to other parties in the lawsuit. Any such award shall be entirely Client's responsibility.

8. **Settlement.** The Firm will make no settlement or compromise of Client's claims without Client's prior approval. Client retains the right to accept or reject any settlement offer by KSBE. Client agrees to make no settlement or compromise of Client's claims without prior notice to the Firm. Should it appear that settlement is advisable or potentially available, Client authorizes the Firm to negotiate the terms of the settlement simultaneously with the negotiation of the amount of attorney's fees and costs, if any, that the settling parties would pay to the Firm.

9. **Discharge and Withdrawal.** Client may discharge the Firm at any time on written notice to the Firm. The Firm may withdraw from representation of Client (a) with Client's consent, (b) upon court approval, or (c) if no lawsuit is filed, for good cause on reasonable notice to Client. Good cause includes Client's breach of this Agreement, Client's refusal to cooperate with the Firm or to follow the Firm's advice on a material matter, or any other fact or circumstance that would render the Firm's continuing representation unlawful or unethical. If a lawsuit has been filed on behalf of Client, Client shall promptly deliver to the Firm a signed substitution of counsel form at the Firm's request.

10. **Conclusion of Services.** When the Firm's services conclude, whether by completing the terms of this Agreement or by discharge or withdrawal under Paragraph 10 above, the Firm will deliver Client's file and property to Client upon request. If Client does not request the return of Client's file, the Firm will retain Client's file for a period of five years, after which time the Firm may have the file destroyed. If Client desires to have Client's file maintained beyond the five years after Client's matter has concluded, separate arrangements with the Firm must be made.

11. **Lien.** Client hereby grants the Firm a lien on any and all claims or causes of action that are the subject of the Firm's representation under this Agreement. The Firm's lien will be for any sums owing to the Firm at the conclusion of the Firm's services. Such lien will attach to any recovery Client may obtain, whether by judgment, settlement, or otherwise.

12. **Disclaimer of Guarantee.** Nothing in the Agreement and nothing in any statement by the Firm to Client maybe construed as a promise or guarantee about the outcome of this matter. Indeed, the Firm makes no such promises or guarantees. There can be no assurance that Client will recover any money in this matter or that [REDACTED] will gain admission to a KSBE school. The Firm's comments about the outcome of this matter are expressions of opinion only, and Client acknowledges that the Firm has made no promise or guarantee about the outcome of this matter.

13. **Arbitration.** By initialing this arbitration provision, Client and the Firm are agreeing to have any and all disputes (except where Client may request arbitration of a fee dispute by the California State Bar or a local bar association as provided by California Business and Professions Code §§ 6200, et seq.), that arise out of, or relate to this Agreement, including but not limited to claims of negligence or malpractice arising out of or relating to the legal services provided by the Firm to Client, decided only by binding arbitration in Sacramento, California, in accordance with the then-existing rules of the American Arbitration Association and not by court action, except as provided by California law for judicial review of arbitration proceedings. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The Firm and Client shall each have the right of discovery in connection with an arbitration proceeding in accordance with California Code of Civil Procedure § 1283.05.

In agreeing to this arbitration provision, THE PARTIES ARE SPECIFICALLY GIVING UP:

(1) ALL RIGHTS THEY MAY POSSESS TO HAVE SUCH DISPUTES DECIDED IN A COURT OR JURY TRIAL; AND

(2) ALL JUDICIAL RIGHTS, INCLUDING THE RIGHT TO APPEAL FROM THE DECISION OF THE ARBITRATOR(S).

IF EITHER PARTY SHOULD REFUSE TO SUBMIT TO ARBITRATION, THAT PARTY MAY BE COMPELLED TO ARBITRATE UNDER CALIFORNIA LAW. THE PARTIES HEREBY ACKNOWLEDGE THE ABOVE AND THAT THIS MUTUAL AGREEMENT FOR BINDING ARBITRATION IS VOLUNTARY.

By initialing below, Client confirms that Client has read and understands this provision and voluntarily agrees to binding arbitration. In doing so, Client voluntarily gives up important constitutional rights to trial by judge or jury, as well as rights to appeal. Client is advised that Client has the right to have an independent attorney review this arbitration provision (and this entire Agreement) prior to initialing this provision or signing this Agreement.



(Client Initial Here)

EG

(Attorney Initial Here)

14. **Entire Agreement.** This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties. This Agreement may be modified by subsequent agreement of the parties as expressed only in an instrument in writing signed by both of them.

15. **Venue and Applicable Law.** This Agreement shall be deemed to have been entered into in Sacramento County, California, and all questions regarding the validity, interpretation, or performance of any of its terms or provisions or of any rights or obligations of the parties, shall be governed by the internal law, and not the law pertaining to choice or conflict of law, of the State of California.


16. **Attorney's Fees.** The prevailing party in any action or proceeding arising out of or to enforce any provision of this Agreement—with the exception of a fee arbitration or mediation under California Business and Professions Code §§ 6200-6206—will be awarded reasonable attorney's fees and costs incurred in that action or proceeding, or in the enforcement of any judgment or award rendered thereon.

THE PARTIES HAVE READ AND UNDERSTAND THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE THE FIRM FIRST PROVIDED SERVICES. CLIENT SHALL RECEIVE A FULLY EXECUTED DUPLICATE OF THIS AGREEMENT.

SWEENEY & GRANT LLP

Date: June 12, 2003

By:


Eric Grant

Date: June 17, 2003

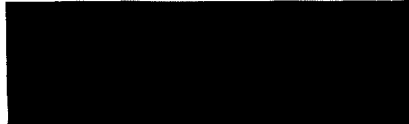


Exhibit 2

1 **JOHN GARDNER HAYES, SB #41391**
2 **LAW OFFICES JOHN GARDNER HAYES**
3 **A Professional Corporation**
4 **11150 Olympic Boulevard, Suite 1050**
5 **Los Angeles, California 90064**
6 **Telephone: (310) 478-4711**

7 **Attorneys for Defendant**
8 **JOHN GOEMANS**

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF SACRAMENTO**

11 **ERIC GRANT,**) **CASE NO. 07AS04172**
12)
13 **Plaintiff,**) **SECOND SUPPLEMENTAL**
14 **vs.**) **RESPONSE TO REQUEST FOR**
15) **PRODUCTION OF DOCUMENTS, SET**
16 **JOHN GOEMANS and DOES 1-10,**) **ONE**
17 **Inclusive,**)
18)
19 **Defendants.**)
20 _____)

21 **PROPOUNDING PARTY: Plaintiff ERIC GRANT**

22 **RESPONDING PARTY: Defendant JOHN GOEMANS**

23 **SET NUMBER: ONE**

24 **Defendant JOHN GOEMANS hereby supplements his responses to Plaintiff ERIC**
25 **GRANT's Request for Production of Documents,, Set One, as follows:**

26 **PRELIMINARY STATEMENT**

27 **Investigation and discovery by this party are continuing. As discovery proceeds**
28 **witnesses, facts and evidence may be discovered which are not set forth herein, but which**
may have been responsive to the discovery. Facts and evidence not known may be

1 imperfectly understood, or the relevance or consequences of such facts and evidence may, in
2 good faith, not be included in the following responses. This party reserves all rights to refer
3 to, conduct discovery with reference to, or offer into evidence at the time of trial any and all
4 such witnesses, facts and evidence, notwithstanding the absence of reference to such
5 witnesses, facts and evidence in these responses. In addition, this party assumes no
6 obligation to voluntarily supplement or amend these responses to reflect witnesses, facts and
7 evidence discovered following the filing of these responses. Finally, because some of these
8 responses may have been ascertained by said party's attorneys and investigators, this party
9 may not have personal knowledge of the information from which these responses are
10 derived.
11
12

13 In regard to any objections made or failure or refusal of responding party to respond
14 to any of the requests, responding party's counsel states its willingness to correspond or meet
15 and confer to avoid needless discovery motions.
16

17 **4. After a diligent search and reasonable inquiry, no documents to this request**
18 **will be produced because all documents responsive to said request have either been**
19 **destroyed or lost.**

20 DATED: May 9, 2008

LAW OFFICES OF JOHN GARDNER HAYES

21
22 By: 

JOHN GARDNER HAYES

Attorneys for Defendant JOHN GOEMANS

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PROOF OF SERVICE
BY MAIL DELIVERY - CIVIL

I, EDEN MAMAAT, am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 11400 Olympic Boulevard, Suite 600, Los Angeles, California 90064.

On May 13, 2008, I served the foregoing document described as follows: **SECOND SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE** on all parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Roberta Scott, Esq.
James Banks, Esq.
BANKS & WATSON
Hall of Justice Building
813 6th Street, Suite 400
Sacramento, California 95814
Tel: (916) 325-1000

I caused such envelope to be delivered via overnight mail - FEDERAL EXPRESS - by depositing said enveloped in the designated collection bin of FEDERAL EXPRESS.

X I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of a party served, service is presumed invalid if the postal cancellation date or postage meter date is more than 1 day after the date of deposit for mailing in the affidavit.

Executed on May 13, 2008 at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EDEN MAMAAT

Exhibit 3

Eric Grant

From: Jerry H. Stein [Jstein@lscslaw.com]
Sent: Thursday, June 19, 2008 2:24 PM
To: 'LOUISE ING'; charlene.shimada@bingham.com; 'Clyde Wadsworth'; 'ken kuniyuki'; 'PAUL Alston'; 'Robert A.Brundage'; 'James J. Banks'; 'Eric Grant'
Subject: Production of Documents
Importance: High
Attachments: Statement Grant-pdf.oas; Fee Agreement-pdf.oas; Settlement agreement with Grant-pdf.oas

Dear Counsel:

Attached please find the three documents that my clients agreed to produce in response to the questions raised in Paul Alston and Louise Ing's May 6, 2008 letter. Please note that pursuant to the terms of the parties' Stipulated Protective Order that each of the documents has been marked Confidential. In addition, each of the documents has been redacted.

If you have any questions concerning the documents produced, please let me know.

Finally, are we going to receive the KS's responses to the questions posed on Eric Grant's behalf today as indicated in Paul Alston June 18th E-mail.

Jerry Stein

Exhibit 4



June 19, 2008

BY E-MAIL

James J. Banks, Esq.
Banks & Watson
Hall of Justice Building
813 6th Street, Suite 400
Sacramento, CA 95814-2403

Jerry H. Stein, Esq.
Levin & Stein
28494 Westinghouse Place
Suite 201
Valencia, CA 91355

Eric Grant, Esq.
Attorney at Law
8001 Folsom Blvd., Suite 100
Sacramento, CA 95826

Ken T. Kuniyuki, Esq.
Kuniyuki & Chang
Suite 2660, Pauahi Tower
1003 Bishop Street
Honolulu, HI 96813

Re: ***Grant v. Kamehameha Schools/Bernice Pauahi
Bishop Estate, et al., No. 08-00672 FCD-KJM***

Dear Counsel:

On behalf of Defendants and Cross-Defendants Kamehameha Schools/Bernice Pauahi Bishop Estate and its trustees ("KS"), we are responding to the questions propounded in Jim Banks' correspondence to KS' counsel, dated May 16, 2008. We have reproduced the questions, with KS' responses in bold.

KS objects to each of the requests to the extent they seek information about the affairs of entities other than KS on the ground that the information sought goes beyond the agreed-upon scope of this preliminary discovery. Only KS' ties to California are relevant to the jurisdictional issues before the Court. The responses below are limited to KS and are to the best of KS' knowledge after reasonable inquiry.

1. Is there any disagreement about the following?
 - a. In speaking to Mr. Grant by telephone, leaving voicemails on Mr. Grant's various telephone lines, faxing items to Mr. Grant's office fax machine and corresponding

American Savings Bank Tower
18th Floor
1001 Bishop Street
Honolulu, Hawai'i 96813
Phone: (808) 524-1800
Fax: (808) 524-4591

Carter Professional Center
Suite C21
65-1230 Mamalahoa Highway
Kamuela, Hawai'i 96743
Phone: (808) 885-6762
Fax: (808) 885-6011

One Main Plaza
Suite 521
2200 Main Street
Wailuku, Hawai'i 96793
Phone: (808) 244-1160
Fax: (808) 442-0794

www.ahfi.com

James J. Bank, Esq.
Eric Grant, Esq.
Jerry H. Stein, Esq.
Ken T. Kuniyuki, Esq.
June 19, 2008
Page 2

with Mr. Grant by electronic mail between Tuesday, May 3, 2007 and Wednesday, May 23, 2007, Kathleen Sullivan, counsel to KSBE, was physically present in the State of California.

No disagreement.

b. That beginning in or about 1985, Kamehameha Schools/Bernice Pauahi Bishop Estate ("KSBE") or an affiliate made an investment in SoCal Holdings, Inc.

KS disagrees with this statement.

KS objects to this request and to requests no. 1.c.-m., below, to the extent that they seek information about the activities of KS' affiliates on the grounds that such information is irrelevant and goes beyond the scope of the agreed-upon discovery. Therefore, the responses to this and the following subparagraphs are only with respect to KS.

c. That in August 1992, KSBE or an affiliate loaned \$30 million to SoCal Holdings, Inc. for which it received senior promissory notes and stock representing 62.5% of the Class A Common Stock of SoCal Holdings, Inc.

No disagreement.

d. That in 1995, KSBE or an affiliate exchanged its \$30 million loan and unpaid interest of \$2.6 million for additional equity in SoCal Holdings, Inc. and infused SoCal Holdings, Inc. with an additional \$42.5 million for preferred stock and senior debt.

No disagreement.

James J. Bank, Esq.
Eric Grant, Esq.
Jerry H. Stein, Esq.
Ken T. Kuniyuki, Esq.
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Page 3

e. Under an agreement dated November 1, 2000, KSBE or an affiliate sold 4.759 million shares in the People's Bank of California for approximately \$10.00 per share. The purchaser was FBOP Corporation, an Illinois holding company associated with the First Bank of Oak Park.

KS agrees that the described transaction took place on or about November 1, 2000, but cannot agree that it occurred on that exact date. Otherwise, no disagreement.

f. That KSBE or an affiliate owns or has owned approximately 10% of Goldman, Sachs & Co.

KS objects to this request on the grounds that it seeks information that is outside the scope of agreed-upon discovery and seeks information that is irrelevant to this litigation.

g. That KSBE or an affiliate owns or has owned approximately 5% of the Saks Fifth Avenue department store chain.

KS objects to this request on the grounds that it seeks information that is outside the scope of agreed-upon discovery and seeks information that is irrelevant to this litigation.

h. That KSBE or an affiliate operates 1930 Kamehameha Four Road, LLC, a California limited liability company number 200604910239. 1930 Kamehameha Four Road, LLC's business address is registered as 6380 Wilshire Boulevard, Suite 1106, Los Angeles, California 90048. Its agent for service of process is Mr. Jacob Witner also at that address.

KS disagrees with the statement that it operates 1930 Kamehameha Four Road, LLC. KS is without sufficient information to address the remaining statements.

James J. Bank, Esq.
Eric Grant, Esq.
Jerry H. Stein, Esq.
Ken T. Kuniyuki, Esq.
June 19, 2008
Page 4

i. That KSBE or an affiliate operates the Kamehameha Schools Alumni Association, California corporation number C1891978, with a business address of 1887 Makuakane Street, Honolulu, Hawaii 96817 and an agent for service of process, Mr. John W. Kaulukukui, 16424 South Denker Avenue, Gardena, California 90247

KS disagrees with the statement that it operates the Kamehameha Schools Alumni Association. The Kamehameha Schools Alumni Association exists separate and apart from KS. KS is informed and believes that the Kamehameha Schools Alumni Association is a Hawai`i non-profit corporation. KS is without sufficient information to address the remaining statements.

j. That KSBE or an affiliate formerly operated Paki, Inc., California corporation number C2486440, with an address 1122 Cortez Avenue, Laguna Beach, California 92651 and an agent for service of process, Ms. Mary Beth Pugh at that same address.

KS disagrees with the statement that it operated Paki, Inc. KS is without sufficient information to address the remaining statements.

k. That KSBE or an affiliate operated Newport Kohalla (sic) LLC, a California limited liability corporation with a business address of 2030 Main Street, Suite 500, Irvine, California 92614.

In response to this inquiry, KS states that it is the sole member of Newport Kohala LLC, a Delaware limited liability company. KS further states that the third party manager of Newport Kohala LLC has an office at 1920 Main Street, Suite 500, Irvine, California 92614.

James J. Bank, Esq.
Eric Grant, Esq.
Jerry H. Stein, Esq.
Ken T. Kuniyuki, Esq.
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Page 5

- l. That Kamehameha Schools Children's Chorus has traveled to and performed in the State of California.

In response to this inquiry, KS states that the Children's Chorus has performed in California as well as in numerous other states and in countries all over the world.

- m. That the Kamehameha Schools Alumni Association currently and for the last several years has offered a Northern California scholarship.

KS objects to this inquiry on the grounds that it seeks information that is outside the scope of agreed-upon discovery and seeks information that is irrelevant to this litigation. The Kamehameha Schools Alumni Association exists separate and apart from KS. KS is informed and believes that the Kamehameha Schools Alumni Association is a Hawai'i non-profit corporation. KS is without sufficient information to address the remaining statements.

2. Has KSBE or an affiliate done any of the following?

KS objects to requests no. 2.a.-t., below, to the extent that they seek information about the activities of KS' affiliates on the grounds that such information is irrelevant and goes beyond the scope of the agreed-upon discovery. Therefore, the responses to the following subparagraphs are only with respect to KS. KS also objects to these requests on the ground that they are unlimited as to time. Without waiving these objections, KS responds for the period of the last 10 years

- a. Directly or through an affiliate owned personal property situated in the State of California. If so, please identify all such personal property and dates of ownership.

No.

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b. Directly or through an affiliate registered a corporation or other business vehicle with the California Secretary of State. If so, please identify all such corporations.

No.

c. Directly or through an affiliate paid income taxes to the State of California. If so, please identify the year and the amount(s).

No.

d. Directly or through an affiliate paid personal property taxes, business taxes or any other form of local tax to any municipality or lower governmental entity in the State of California. If so, please identify the year and amount.

No.

e. Directly or through an affiliate paid real property taxes to any county tax assessor situated in the State of California. If so, please identify the year and the amount.

In 1993 KS acquired a property known as the Desert Springs Marketplace in Riverside County, California, through a deed in lieu of foreclosure. KS sold a portion of that property in 1994 and sold the remainder of the property in 2003. KS assumes that it paid real property taxes on that property during the years it owned the property. However, KS, after a reasonable search and inquiry, has been unable to locate information indicating the years and amounts such taxes were paid. KS has not owned any other real property in the State of California.

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f. Directly or through an affiliate held any form of license issued by the State of California or any California county or city. If so, please identify the license and the issuing authority.

Between 1993 and 2003, KS owned a property known as the Desert Springs Marketplace in Riverside County, California. KS does not believe that it held any licenses in connection with that property, but KS, after a reasonable search and inquiry, has been unable to locate the information necessary to state with certainty that it did not hold any such license. Other than licenses possibly held in connection with its ownership of the Desert Springs Marketplace, KS has not held any licenses issued by the State of California or any California county or city.

g. Directly or through an affiliate entered into any contracts with a California corporation or an individual domiciled in California. If so, please set forth the date of the contract and the parties.

KS objects to this request on the grounds that it is overbroad, unreasonably burdensome and oppressive, seeks information that is beyond the scope of agreed-upon discovery and seeks information that is irrelevant to this action. KS further objects to this request on the ground that it is unlimited as to time. Without waiving these objections, KS states that from time to time it has (a) entered into contracts with California-based entities and individuals in connection with the investments and real estate transactions described in 2.i, below, and (b) entered into contracts with other California-based entities and individuals, including, but not limited to legal counsel and other professionals, who provided services relating to matters outside of California.

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h. Directly or through an affiliate sold any type of insurance to an insured domiciled in the State of California. If so, please identify the date of the policy and the risk insured.

No.

i. Directly or through an affiliate conducted business activities within the State of California. If so, please identify each such business activity.

KS objects to this request on the grounds that the phrase “conducted business activities” is vague, ambiguous, overbroad, unreasonably burdensome and oppressive. KS also objects to this request on the ground that it is unlimited as to time. Without waiving these objections, KS states that it engaged only in the transactions described above and following transactions within the last 10 years (with respect to which historical information is also provided for context):

- 1. KS is the sole member of Newport Kohala, LLC, a Delaware LLC, which has a third-party manager located in Irvine, California, and which is now inactive.**
- 2. In 1991, KS made a loan to Cook Partners, LP secured by Desert Springs Marketplace. The loan was increased in 1992 and 1993. In 1993, KS acquired title to Desert Springs Marketplace through a deed in lieu of foreclosure. KS owned Desert Springs Marketplace from 1993-2003, during which time the property was run by an independent property manager. KS sold a portion of the property in 1994 and then sold the remainder in June 2003.**
- 3. In September 1992, KS loaned money to CT Golf, Inc., to permit CT Golf to acquire an interest in property near the Desert Springs Marketplace for the development of a golf resort property. CT Golf and its partial guarantor defaulted under the loan and KS initiated non-judicial**

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foreclosure proceedings; in 1996, KS entered into a workout transaction under which the Palm Springs Redevelopment Agency paid the bulk of the loan and executed a 5-year note in favor of KS, and the Agency was given title to the property. CT Golf's guarantors also executed a bridge note to KS as part of the workout. All of the notes were paid in full by 2002.

- 4. KS is a limited partner in Southern Nevada Income Properties, LP, which is a California limited partnership formed to acquire, own and operate residential complexes in Nevada. SNIP's business address is 1764 San Diego Ave., San Diego, California. SNIP's general partner is ConAm Partners 88D, a California limited partnership. KS has entered into other agreements with SNIP in connection with this investment.**
- 5. KS has or had investments in various investment funds that have invested in real estate and/or oil and gas in California.**

j. Directly or through an affiliate appointed an agent for service of process in California. If so, please identify the agent(s) for service of process and the dates of appointment.

Between 1993 and 2003, KS owned a property known as the Desert Springs Marketplace in Riverside County, California. KS does not believe that it appointed an agent for service of process in connection with that property, but KS, after a reasonable search and inquiry, has been unable to locate the information necessary to state with certainty that it did not do so. Other than an agent possibly appointed in connection with its ownership of the Desert Springs Marketplace, KS has not appointed any agents for service of process in California.

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k. Directly or through an affiliate has sold or leased real property or timberland within the State of California. If so, please identify such sale or lease that has occurred within the last 15 years.

In 1993 KS obtained a property known as the Desert Springs Marketplace in Riverside County, California, through a deed in lieu of foreclosure. KS sold a portion of that property in 1994 and sold the remainder of the property in 2003. KS had commercial tenants in that property between 1993 and 2003. Other than this property, KS has not sold or leased any real property or timberland within the State of California.

l. Directly or through an affiliate employed individuals in the State of California. If so, please identify the number of employed individuals during the last 15 years.

No.

m. Directly or through an affiliate advertised within the State of California. If so, please provide copies of specimens of any such advertisement.

Between 1993 and 2003, KS owned a property known as the Desert Springs Marketplace in Riverside County, California. KS may have advertised in connection with that property. However, KS, after a reasonable search and inquiry, has been unable to locate the information necessary to state with any certainty whether it did so. KS also publishes an alumni magazine that is sent to alumni all over the world, including California. On occasion, that magazine contains advertisements relating to KS.

n. Directly or through an affiliate maintained an office within the State of California. If so, please identify the address(es) of any office(s) so maintained within the last 15 years.

No.

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o. Directly or through an affiliate undertaken any financings or loan transactions within the State of California. If so, please identify any such loan applications occurring within the last 15 years.

KS objects to this request on the grounds that it is vague and unintelligible in its use of the term "financings or loan transactions." Given the request for "loan applications," KS interprets this question as asking for transactions in which KS was seeking a loan or other financing. Based on that understanding, KS responds: No.

p. Directly or through an affiliate maintained bank accounts at financial institutions situated or domiciled within the State of California. If so, please identify the financial institution and address.

Between 1993 and 2003, KS owned a property known as the Desert Springs Marketplace in Riverside County, California. During at least some of that time, there was a bank account at Bank of America, P.O. Box 3530, Rancho Cordova, California, held by Investors' Property Services as Agent for Desert Springs Marketplace Oper/Trust Account. KS, after a reasonable search and inquiry, has been unable to locate further information relating to any bank accounts it held in connection with the Desert Springs Marketplace. Other than bank accounts possibly maintained in connection with its ownership of the Desert Springs Marketplace, KS has not maintained any bank accounts in the State of California.

q. Directly or through an affiliate engaged in litigation within the State of California. If so, please identify the case name and number and the court in which it is/was pending.

In connection with its ownership of Desert Springs Marketplace, in May 2003, KS filed an unlawful detainer action, entitled *Trustees of the Estate of Bernice Pauahi*

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Bishop v. Canyon Hills, USA, Inc., et al., Riverside County Superior Court, Case No. PSC112632. That matter was concluded in or about July 2003. Other than that action and the instant case, KS has not engaged in any litigation in California. KS has been represented by counsel in at least one argument before the 9th Circuit in San Francisco relating to litigation that arose in Hawai'i, including the en banc hearing in the appeal filed by John and Jane Doe.

r. Conducted meetings of the KSBE Board of Trustees within the State of California. If so, please identify the location and dates of any such meetings.

No.

s. Have any affiliates conducted meetings of directors of shareholders within the State of California.

KS objects to this request on the grounds that it is outside the scope of agreed-upon discovery and seeks information that is irrelevant to this action.

t. If KSBE intends to file a motion to transfer venue pursuant to 28 U.S.C. §1404(a) based in any manner on "the convenience of . . . witnesses," please identify those witnesses whose convenience is the bases for the motion, together with the general subject matter of their expected testimony.

KS objects to this request on the grounds that it is outside the scope of agreed-upon discovery and seeks information that is irrelevant to this action.

Very truly yours,



PAUL ALSTON

Exhibit 5

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Exhibit 6



Thursday, October 16, 2008

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ATTORNEY SEARCH

Kathleen Marie Sullivan - #242261

Current Status: Active

This member is active and may practice law in California.

See below for more details.

Profile Information

Bar Number	242261		
Address	Quinn Emanuel et al LLP	Phone Number	(650) 801-5012
	555 Twin Dolphin Dr #560	Fax Number	(650) 801-5100
	Redwood Shores, CA, 94065	e-mail	kathleensullivan@quinnemanuel.com
District	District 3	Undergraduate School	Cornell Univ; Ithaca NY
County	San Mateo	Law School	Harvard Univ Law School; Cambridge MA
Sections	None		

Status History

Effective Date	Status Change
<i>Present</i>	Active
5/25/2006	Admitted to The State Bar of California

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Exhibit 7



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1. **Emmett B Lewis III**
 Miller & Chevalier
 655 15th St NW
 Washington DC 20005-5701

 Email: elewis@milchev.com
 Phone: 202-626-5800
 Fax: 202-626-5801

Membership Status: Active
 Disciplinary history: No
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