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## REPORT ON THE ANTITRUST TRUST FUND

Fiscal Year 2009 - 2010

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Section 28-13(d), Hawaii Revised Statutes, requires the Department of the Attorney General to submit a report to the Legislature no later than twenty days prior to the convening of each regular session to provide an accounting of the receipts and expenditures of the Antitrust Trust Fund.

### **I. BACKGROUND ON THE ANTITRUST TRUST FUND**

Pursuant to section 28-13, the Antitrust Trust Fund was established to provide a measure of resources to facilitate the enforcement of the antitrust laws. One of most important functions of the trust fund is to provide a means for promoting and facilitating the State's participation in multistate antitrust lawsuits and investigations. The fund is also used to cover other expenses relating to antitrust enforcement such as training, equipment purchases, and educational resources.

#### **A. Legal Authority for the Antitrust Trust Fund**

Act 97, Session Laws of Hawaii 2001, authorized the creation of the Antitrust Trust Fund in the State treasury. The Act took effect on June 29, 2001, and is codified as section 28-13, Hawaii Revised Statutes.

#### **B. Creation of Fund and Initial Funding**

The Department of Accounting and General Services established the appropriation number for the fund as T-908-N.

Section 3 of Act 97, Session Laws of Hawaii 2001, authorized the Department of the Attorney General ("Department") to deposit not more than \$150,000 from the Department's general fund appropriation for fiscal year 2000-2001 to the credit of the fund. In accordance with this authorization, effective June 30, 2001, \$150,000 was credited to the fund.

### C. Receipts and Expenditures, Generally

#### 1. Receipts

Section 28-13(a) authorizes the Department to deposit the following amounts into the fund:

- (1) Ten percent of any antitrust judgment or settlement received by the State except where the deposit is inconsistent with the court order or settlement agreement relating to the amount; and
- (2) Appropriations made by the Legislature.

#### 2. Expenditures

Section 28-13(b) authorizes the Department to use the fund for “expenditures relating to the enforcement of antitrust laws, including but not limited to expenditures for training, equipment purchases, educational resources, and facilitating participation in antitrust lawsuits and investigations initiated by other states.”

## II. FUND ACTIVITY IN FISCAL YEAR 2009-2010

### A. Receipts

DATE OF RECEIPT	DESCRIPTION OF RECEIPT	AMOUNT
Various dates for allocations applicable to FY 2009-2010	Share of Investment Pool Interest	\$3,964.54
October 13, 2009	Share of cost share fund allocated to Hawaii in connection with Insurance settlement	75,985.51
February 16, 2010	Cancellation of cost share check for pending antitrust litigation (reported as an expense in FY 2008-2009)	7,336.27
		<b>TOTAL</b> <b>\$87,286.32</b>

### B. Transfers by Journal Memoranda

DATE OF TRANSFER	PAYEE	DESCRIPTION OF TRANSFER	AMOUNT
February 3, 2010	State of Hawaii Treasury	Share of cost share fund allocated to Hawaii in connection with settlement	\$75,985.51
			<b>TOTAL</b> <b>\$75,985.51</b>

### C. Expenditures

DATE OF PAYMENT	PAYEE	PURPOSE OF EXPENDITURE	AMOUNT
Various dates for expenditures applicable to FY 2009-2010	Deputy Attorney General	Portion of payroll expenses	\$35,656.45
Various dates for expenditures applicable to FY 2009-2010	OfficeMax/Hopaco	Xerox paper costs for antitrust matters	689.01
July 17, 2009	Hawaiian Airlines	Airfare to the Islands of Hawaii, Kauai, and Maui for antitrust training sessions held	294.60
September 2, 2009	Hawaiian Airlines	Airfare to the Island of Hawaii for antitrust investigation, and associated cost for ground transportation	139.20
September 23, 2009	Deputy Attorney General	Payment of per diem amount, and expenses for excess lodging and parking for antitrust investigation	177.06
October 1, 2009	Hawaiian Airlines	Airfare to the Island of Hawaii for antitrust investigation	138.20
October 1, 2009	Fed Ex	Charges to deliver materials to the U.S. DOJ for antitrust matter	39.03
February 16, 2010	Paralegal	Reimbursement of expense for storage device used for antitrust matters	41.87
March 8, 2010	Fed Ex	Charges to deliver materials to the U.S. DOJ for antitrust matter	20.07
			<b>TOTAL</b>
			<b>\$37,195.49</b>

### D. Balance in the Antitrust Trust Fund

Section 28-13(c) provides that all unencumbered and unexpended moneys in excess of \$250,000 remaining on balance in the Antitrust Trust Fund at the close of June 30 of each year shall lapse to the credit of the general fund.

The balance in the fund as of June 30, 2009, was \$248,246.72. This amount included the sum of \$18,374.08 that was awaiting distribution in accordance with a court-approved settlement, and \$7,336.27 relating to an allocated cost share for pending antitrust litigation, leaving a balance in the fund of \$222,536.37.

The balance in the fund as of June 30, 2010, was \$222,352.04. This amount included \$18,374.08 awaiting distribution in accordance with a court-approved settlement, leaving a balance in the fund of \$203,977.96 for use pursuant to statute.