



# **ANTITRUST TRUST FUND**

**Report on Receipts and Expenditures**

**Pursuant to Section 28-13, Hawaii Revised Statutes**

**Submitted by the Department of the Attorney General**

# OVERVIEW OF THE ANTITRUST TRUST FUND

Pursuant to Act 97, SLH 2001, codified as section 28-13, Hawaii Revised Statutes, 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 to be used to cover other expenses relating to antitrust enforcement such as training, equipment purchases, and educational resources.

<b>FUND NAME:</b>	Antitrust Trust Fund
<b>AUTHORITY:</b>	Act 97, SLH 2001, codified as Hawaii Revised Statutes § 28-13.
<b>APPROPRIATION SYMBOL:</b>	T-908-N
<b>ADMINISTERED BY:</b>	Department of the Attorney General
<b>FUND PURPOSE:</b>	Expenditures relating to the enforcement of the 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.
<b>INITIAL BALANCE AS OF JULY 1, 2001:</b>	\$150,000 via a deposit from the Department’s fiscal year 2000-2001 general fund appropriation.
<b>DEPOSITS FROM JULY 1, 2001 UP TO SEPTEMBER 30, 2002:</b>	\$116,983.98
<b>TRANSFERS FROM JULY 1, 2001 UP TO SEPTEMBER 30, 2002:</b>	\$58,203.50
<b>EXPENDITURES FROM JULY 1, 2001 UP TO SEPTEMBER 30, 2002:</b>	\$38,367.51
<b>BALANCE AS OF SEPTEMBER 30, 2002:</b>	<b>\$170,412.97</b>

# ANTITRUST TRUST FUND

## Report on Receipts and Expenditures

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

#### A. Legal Authority for the Fund.

Act 97, SLH 2001, authorized the creation of the “Antitrust Trust Fund” in the State treasury. The Act took effect on June 29, 2001, and has been codified as Hawaii Revised Statutes § 28-13.

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

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

Act 97 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. See, sec. 3 of Act 97, 2001 SLH 2001 at p. 180. In accordance with this authorization, effective June 30, 2001, \$150,000 was credited to the fund.

#### C. Receipts and Expenditures, Generally.

##### 1. Receipts.

Hawaii Revised Statutes § 28-13(a) permits the Department to deposit the following amounts into the fund:

(1) Ten per cent 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.

The Department is authorized 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.” Hawaii Revised Statutes § 28-13(b).

**II. FUND ACTIVITY FROM JULY 1, 2001 UP TO AND INCLUDING SEPTEMBER 30, 2002.**

**A. Beginning balance - \$150,000.00**

**B. Deposits - \$116,983.98**

<b>DATE</b>	<b>AMOUNT</b>	<b>DESCRIPTION OF THE RECEIPT</b>
Oct. 29, 2001	\$38,335.00	The amount was received in connection with the Department's participation in a multistate antitrust lawsuit challenging the merger of Chevron Corporation and Texaco Inc. The action was filed in the United States District Court for the Central District of California, <u>State of California, et al., v. Chevron Corporation and Texaco Inc.</u> , Case No. 01-07746.  Although the entirety of Hawaii's portion of the attorney's fees and costs of \$38,335.00 was deposited into the fund, only 10% or \$3,833.50 was retained in the fund; the remaining 90% or \$34,501.90 was transferred to the General Fund by way of a journal voucher. <u>See</u> , section on transfers.
May 15, 2002	\$54,000.00	Amount as per Order For Distribution of Settlement Funds filed on April 30, 2002 in the antitrust gasoline litigation, <u>Earl I. Anzai v. Chevron Corporation, et al.</u> , Civil No. 98-00792. The specific amount was requested by the Department to replenish the trust fund for monies previously encumbered for another antitrust investigation, and constituted approximately .2% of the total settlement funds in the registry of the United States District Court.
July 8, 2002	\$23,702.00	The amount was received in connection with the Department's participation in a settlement of a multistate antitrust lawsuit involving Mylan Laboratories, Inc. The settlement was received to resolve claims of the Medicaid Division, Department of Human Services, in connection with its expenditures for prescriptions for the drugs Lorazepam and Chlorazepate administered to Medicaid patients. The entire amount was subsequently transferred to the Medicaid Division. <u>See</u> , section on transfers.
Aug. 22, 2002	\$395.33	Allocated share of the Department's Investment Pool Interest.
Sept. 19, 2002	\$551.65	Allocated share of the Department's Investment Pool Interest.
<b>TOTAL</b>	<b>\$116,983.98</b>	

**C. Transfers by Journal Memoranda - \$58,203.50**

<b>DATE</b>	<b>PAYEE</b>	<b>AMOUNT</b>	<b>DESCRIPTION OF THE TRANSFER</b>
Dec. 13, 2001	State Treasury via JM 2555	\$34,501.50	The amount constitutes 90% of Hawaii's portion of the attorney's fees and costs of \$38,335.00.
July 30, 2002	Dept. of Human Services, Medicaid Division via JM0328	\$23,702.00	The amount constitutes the entire amount received in connection with its participation in a settlement of a multistate antitrust lawsuit involving Mylan Laboratories, Inc. The recipient of the funds was the Medicaid Division, Department of Human Services.
<b>TOTAL</b>		<b>\$58,203.50</b>	

**D. Expenditures - \$38,367.51**

<b>DATE</b>	<b>PAYEE</b>	<b>AMOUNT</b>	<b>PURPOSE OF THE EXPENDITURE</b>
Aug. 3, 2001	Rodney Kimura, Deputy Attorney General	\$565.60	Per diem costs, ground transportation costs, and other costs incurred while attending a National Association of Attorneys General meeting on antitrust enforcement held at the Maryland Attorney General's Office.
Sept. 1, 2001	Panda Travel	\$834.00	Travel costs for attending a National Association of Attorneys General meeting on antitrust enforcement held at the Maryland Attorney General's Office.
Oct. 1, 2001	Federal Express	\$40.84	Charges for delivery of documents needed for participation in <u>State of California, et al., v. Chevron Corporation and Texaco Inc.</u> , Case No. 01-07746, filed in the United States District Court for the Central District of California.
Oct. 22, 2001	State of Arizona	\$5,718.45	Cost share payment for participation in an antitrust litigation, <u>In Re Cardizem CD Antitrust Litigation</u> , Master File No. 99-MD-1278, MDL No. 1278, filed in the United States District Court for the Eastern District of Michigan.

<b>DATE</b>	<b>PAYEE</b>	<b>AMOUNT</b>	<b>PURPOSE OF THE EXPENDITURE</b>
Mar. 8, 2002	Federal Express Corporation	\$128.03	Charges for delivery of documents to the U.S. Department of Justice and Baker & Miller, PLLC, in connection with the investigation into the proposed merger of Hawaiian Airlines and Aloha Airlines.
Mar. 8, 2002	Rodney Kimura, Deputy Attorney General	\$17.00	Costs incurred for travel to Kona and Hilo to participate in Senate hearings on the proposed merger of Hawaiian Airlines and Aloha Airlines.
Mar. 8, 2002	Rodney Kimura, Deputy Attorney General	\$57.25	Costs incurred for travel to Maui and Kauai to participate in Senate hearings on the proposed merger of Hawaiian Airlines and Aloha Airlines.
Apr. 15, 2002	Federal Express Corporation	\$113.33	Charges for delivery of documents to Baker & Miller, PLLC, in connection with the investigation into the proposed merger of Hawaiian Airlines and Aloha Airlines.
Apr. 30, 2002	Panda Travel	\$718.70	Air fare costs to attend an American Bar Association Antitrust meeting held in Washington, D.C.
Apr. 12, 2002	Michael Meaney, Deputy Attorney General	\$682.50	Advance per diem costs for attending the American Bar Association Antitrust meeting held in Washington, D.C.
May 13, 2002	Michael Meaney, Deputy Attorney General	\$1,202.46	Additional costs incurred attending the American Bar Association Antitrust meeting held in Washington, D.C., including registration fee.
May 24, 2002	Baker & Miller, PLLC	\$10,551.01	Legal fees incurred in connection with the investigation of the proposed merger of Hawaiian Airlines and Aloha Airlines, and the Section 116 antitrust exemption.
May 28, 2002	EconOne	\$11,460.00	Professional services and expenses incurred for formulation of a legislative solution to the gasoline antitrust litigation.
June 19, 2002	EconOne	\$1,098.21	Professional services and expenses incurred for formulation of a legislative solution to the gasoline antitrust litigation.
July 1, 2002	USG	\$875.00	Subscription to OPIS Weekly Newsletter.
July 8, 2002	Bureau of National Affairs	\$1,629.00	Subscription to Antitrust and Trade Regulation Report.

<b>DATE</b>	<b>PAYEE</b>	<b>AMOUNT</b>	<b>PURPOSE OF THE EXPENDITURE</b>
Aug. 15, 2002	Rodney Kimura, Deputy Attorney General	\$552.50	Advance per diem costs for attending the National Association of Attorneys General meeting on Pharmaceutical Pricing Task Force held in Columbus, Ohio
Aug. 15, 2002	National Association of Attorneys General	\$100.00	Registration Fee for the National Association of Attorneys General meeting on Pharmaceutical Pricing Task Force held in Columbus, Ohio.
Aug. 28, 2002	Echostar/Hughes Merger Cost Share Account	\$960.88	Allocated share of the costs associated with the investigation into the proposed merger of Echostar Communications Corp. and Hughes Electronic Corp.
Sept. 3, 2002	Rodney Kimura, Deputy Attorney General	\$131.06	Ground transportation costs, and other costs incurred while attending the National Association of Attorneys General meeting on Pharmaceutical Pricing Task Force held in Columbus, Ohio.
Sept. 3, 2002	Ref. = JM 0872	\$528.73	Reclassified expenses for FedEx and Ian Hirokawa from G002 to T908 incurred for the investigation into the proposed merger of Echostar Communications Corp. and Hughes Electronic Corp
Sept. 3, 2002	Ian Hirokawa, Paralegal	\$89.95	Reimbursement of mailing fees incurred for the investigation into the proposed merger of Echostar Communications Corp. and Hughes Electronic Corp
Oct. 3, 2002	Panda Travel	\$313.01	Air fare costs to attend the National Association of Attorneys General meeting on Pharmaceutical Pricing Task Force held in Columbus, Ohio.
<b>TOTAL</b>		<b>\$38,367.51</b>	

**III. ENDING BALANCE AS OF SEPTEMBER 30, 2002 -\$170,412.97.**

<b>ITEM</b>	<b>AMOUNT</b>
<b>Beginning Balance</b>	\$150,000.00
<b>Deposits</b>	\$116,983.98
<b>Transfers</b>	\$58,203.50
<b>Expenditures</b>	\$38,367.51
<b>TOTAL</b>	<b>\$170,412.97</b>