

JOSH GREEN, M.D.
GOVERNOR



ANNE E. LOPEZ
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November 16, 2023

The Honorable Ronald D. Kouchi
President and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki
Speaker and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Department of the Attorney General's Report of Litigation Deposits Trust Account Transactions and Collections Made on Behalf of Other Departments and Agencies. In accordance with section 93-16, HRS, I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

If you have any questions or concerns, please feel free to call me at (808) 586-1500.

Sincerely,

A handwritten signature in black ink that reads "Anne E. Lopez".

Anne E. Lopez
Attorney General

c: Josh Green, M.D., Governor
Sylvia Luke, Lieutenant Governor
Legislative Reference Bureau (Attn: Karen Mau)
Leslie H. Kondo, State Auditor
Luis Salaveria, Director of Finance, Department of Budget and Finance
Stacey A. Aldrich, State Librarian, Hawaii State Public Library System
David Lassner, Ph.D., President, University of Hawaii

Enclosure

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**REPORT ON LITIGATION DEPOSITS
TRUST ACCOUNT TRANSACTIONS AND COLLECTIONS
MADE ON BEHALF OF OTHER DEPARTMENTS AND AGENCIES**

Pursuant to Section 28-16(e),
Hawaii Revised Statutes

For Fiscal Year 2022 - 2023

Submitted to the Thirty-Second State Legislature
Regular Session of 2024

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I. Overview of the Litigation Deposits Trust Account

The Litigation Deposits Trust Account (name changed on July 1, 2021, from "Litigation Deposits Trust Fund" pursuant to Act 9, Special Session Laws of Hawaii 2021), appropriation number T-909-N, was established pursuant to Act 178, Session Laws of Hawaii 2002, to account for moneys received through any civil action in which the State is a party where the settlement amount is \$100,000 or higher. Pursuant to section 28-16, Hawaii Revised Statutes (HRS), the trust account is administered by the Department of the Attorney General, which must annually report to the Legislature (1) the transactions, by subsidiary account, that take place in the Litigation Deposits Trust Account for each fiscal year, and (2) a summary of the collections made in any amount on behalf of other departments and agencies, specifying the appropriate number of transactions and amount collected for each department and agency.

During Fiscal Year (FY) 2022-2023, the following significant transactions occurred in the trust account:

Revenues:

1. The account earned \$155,694.25 from the State's Investment Pool.
2. The account received a settlement of \$11,463.00 from Roche Surety and Casualty Company, Inc., Case: State v. Roche Surety and Casualty Company, Inc., Civ. No. 22-0-0003-55 (Haw. 1st Cir. 2022) (charging defendant with fines imposed under section 661-21(a)(6), HRS, for litigation expenses).
3. The account received a settlement of \$13,000,000.00 from Liberty Dialysis Hawaii, LLC, Case: State v. Liberty Dialysis Hawaii, LLC et al., Civ. No. 15-1-1357-07 (Haw. 1st Cir. 2022) (alleging violations under the Hawaii False Claims Act, section 661-21(a), HRS).
4. The account received an additional settlement of \$85,568.12 from McKinsey & Company, Inc., Case: State v. McKinsey & Company, Inc., Civ. No. 21-0-0001-38 (Haw. 1st Cir. 2021) (regarding unfair deceptive acts or practices regarding opioids).
5. The account received a settlement of \$564,369.02 from JUUL Labs, Inc., Case: State v. JUUL Labs, Inc., Civ. No. 20-0-0009-33 (Haw. 1st Cir. 2022) (alleging violations of the Hawaii Unfair or Deceptive Acts or Practices Act for unjust enrichment, negligence, negligence *per se*, and public nuisance as related to JUUL's marketing practices).

Expenditures:

Body Armor	\$	5,221.80
Special Deputy	\$	1,950,000.00
Total:		\$1,955,221.80

Purchase of body armor paid from settlement proceeds previously received from Monsanto in FY 2021-2022.

Services paid to Special Deputy Attorney General: Fukunaga Matayoshi Ching & Kon-Herrera, LLP, paid from settlement proceeds received from Liberty Dialysis.

II. Financial Data for Fiscal Years 2021-2022 and 2022-2023

Below are the details of the revenue and expenditure for this account for FY 2021-2022 and FY 2022-2023:

	<u>FY 2021-2022</u>	<u>FY 2022-2023</u>
Beginning Cash Balance	1,889,442.59	3,480,477.14
Beginning Encumbrances	0.00	0.00
Revenues	1,591,034.55	13,817,094.39
Expenditures	0.00	(1,955,221.80)
Transfers	0.00	(11,050,000.00)
Ending Cash Balance	3,480,477.14	4,292,349.73

Revenue by Source Code – Fiscal Year 2022-2023

<u>Source Code</u>	<u>Description</u>	<u>Revenue</u>
0288	INVESTMENT POOL ACCOUNT	155,694.25
0787	JUDGMENTS AND SETTLEMENTS	13,661,400.14
	TRANSFER TO MEDICAID FRAUD CONTROL UNIT	(11,050,000.00)
	Total Revenue:	2,767,094.39

Expenditure by Object Code - Fiscal Year 2022-2023

<u>Object Code</u>	<u>Description</u>	<u>Expenditure</u>
3040	Operating Supplies	(5,221.80)
7111	Services on a Fee Basis	(1,950,000.00)
	Total Expenditure:	(1,955,221.80)

III. Collections Made on Behalf of Other Departments and Agencies

Section 28-16(e)(2), HRS, requires the Department to prepare a summary of the collections made in any amount on behalf of other departments and agencies specifying the appropriate number of transactions and amount collected for each department and agency. The report for FY 2022-2023 is as follows:

<u>Department/Agency</u>	<u>Collected Amount</u>	<u>Number of Transactions</u>
Department of Human Services	12,452,938.31	2,080
Department of Labor and Industrial Relations (DLIR)	415,243.35	250
Department of Taxation (DOTAX)	2,944,153.17	469
Department of Transportation (DOT)	918,728.76	138
Hawaii Health System Corporation	2,789,792.90	10,207
Miscellaneous Department/Agency (See Breakdown Below)	545,344.20	246
Department/Agency Total	20,066,200.69	13,390

<u>Miscellaneous Department/Agency (Breakdown)</u>	<u>Collected Amount</u>	<u>Number of Transactions</u>
Department of Accounting and General Services (DAGS) Non-Tax Revenue	7,024.82	4
DAGS Risk Management	92,457.02	3
DAGS Subrogation	1,881.64	7
Department of Agriculture	300.00	1
Department of the Attorney General (ATG) Labor Division	20,106.20	2
ATG Notary Public Office	2,529.00	4
DOE Criminal Restitution	600.00	1
DOE University of Hawai'i Stipend	23,997.22	50
DOE Worker's Compensation	53,333.33	3
Department of Human Resources Development Worker's Compensation	95,405.52	3
Department of Health (DOH) Dishonored Check	4,555.78	34
DOH Hawai'i State Hospital	300.00	1
DOH Solid Waste Management	1,200.00	1
Department of Land and Natural Resources (DLNR) Restitution	3,600.00	11
Hawai'i Campaign Spending Commission	518.75	3
Judiciary (Bail Bond Forfeitures)	195,700.00	15
Salary Overpayments		
DAGS	300.00	1
Department of Defense	3,000.00	3
DOE	27,979.57	61
DOH	2,062.17	16
DLNR	337.58	1
Department of Public Safety	8,155.60	21
Miscellaneous Department/Agency Total	545,344.20	246