

DAVID Y. IGE
GOVERNOR



DEPT. COMM. NO. 181

DOUGLAS S. CHIN
ATTORNEY GENERAL

RUSSELL A. SUZUKI
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1500

December 28, 2017

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

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

Dear President Kouchi and Speaker Saiki:

For your information and consideration, I am transmitting one (1) copy for each of you of the Department of the Attorney General's Annual Report on the Antitrust Trust Fund, as required by section 28-13(d), Hawaii Revised Statutes (HRS). 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 586-1282.

Sincerely,

A handwritten signature in black ink, appearing to read "DS Chin", written over the typed name.

Douglas S. Chin
Attorney General

c: David Y. Ige, Governor
Shan S. Tsutsui, Lieutenant Governor
Legislative Reference Bureau (Attn.: Karen Mau)
Leslie Kondo, State Auditor
Wesley K. Machida, Director of Finance, Department of Budget and Finance
Stacey Aldrich, State Librarian, Hawaii State Public Library System
David Lassner, PhD., President, University of Hawaii

Enclosure

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REPORT ON THE ANTITRUST TRUST FUND

Pursuant to Section 28-13(d), Hawaii Revised Statutes

Fiscal Year 2016 - 2017

**Submitted to the Twenty-Ninth State Legislature
Regular Session of 2018**

Section 28-13(d), Hawaii Revised Statutes, requires the Department of the Attorney General (“Department”) 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 the 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 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. SUMMARY OF FUND ACTIVITY IN FISCAL YEAR 2016-2017

- Balance as of June 30, 2016.....\$47,543.65
- Receipts from July 1, 2016 to June 30, 2017.....\$339,013.10
- Transfers from July 1, 2016 to June 30, 2017.....\$0.00
- Expenditures from July 1, 2016 to June 30, 2017.....\$1,248.04
- Balance as of June 30, 2017.....\$385,308.71

III. FUND ACTIVITY IN FISCAL YEAR 2016-2017

A. Receipts.

DATE OF RECEIPT	DESCRIPTION OF RECEIPT	AMOUNT
August 29, 2016	In re DRAM – Indirect Purchaser Settlement	\$164,260.22
November 23, 2016	In re DRAM – Reimbursement of Cost Share Contribution	7,759.80
December 16, 2016	In re DRAM – Settlement – Fees and Costs	166,993.08
TOTAL		\$339,013.10

B. Transfers by Journal Memoranda.

DATE OF TRANSFER	PAYEE	DESCRIPTION OF TRANSFER	AMOUNT
TOTAL			\$0

C. Expenditures.

DATE OF PAYMENT	PAYEE	PURPOSE OF EXPENDITURE	AMOUNT
August 25, 2016 and October 6, 2016	Deputy Attorney General	Costs incurred to attend NAAG Antitrust Litigation Training held on September 28-30, 2016, in San Francisco, California	\$316.01
June 27, 2017	Deputy Attorney General	Partial travel costs (per diem, excess lodging, and ground transportation) to attend multistate litigation meeting held on June 20-22, 2017, in Columbus, Ohio	932.03
TOTAL			\$1,248.04

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, 2017, was \$385,308.71, of which \$166,974.00 was awaiting distribution to the certain recipients pursuant to the settlement and the General Fund; the net amount available in the Antitrust Trust Fund was less than the \$250,000 cap on the fund. The \$166,974.00 amount is based on a recalculation of the DRAM indirect purchaser settlement amount conducted to assess the accuracy of the settlement amount received by the State of Hawaii.