

DAVID Y. IGE
GOVERNOR



DEPT. COMM. NO. 198

RUSSELL A. SUZUKI
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DEPARTMENT OF THE ATTORNEY GENERAL
425 QUEEN STREET
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(808) 586-1500

DANA O. VIOLA
FIRST DEPUTY ATTORNEY GENERAL

December 27, 2018

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

The Honorable Scott K. Saiki
Speaker and Members of the House of
Representatives
Thirtieth 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 blue ink that reads "Russell A. Suzuki".

Russell A. Suzuki
Attorney General

c: David Y. Ige, Governor
Josh Green, Lieutenant Governor
Legislative Reference Bureau (Attn.: Karen Mau)
Leslie Kondo, State Auditor
Laurel A. Johnston, Director of Finance, Department of Budget and Finance
Stacey A. 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 2017 - 2018

**Submitted to the Thirtieth State Legislature
Regular Session of 2019**

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 2017-2018

- Balance as of June 30, 2017.....\$385,308.71
- Receipts from July 1, 2017 to June 30, 2018.....\$1,021,465.91
- Transfers from July 1, 2017 to June 30, 2018.....\$1,154,308.15
- Expenditures from July 1, 2017 to June 30, 2018.....\$5,496.87
- Balance as of June 30, 2018.....\$246,969.60

III. FUND ACTIVITY IN FISCAL YEAR 2017-2018

A. Receipts.

| DATE OF RECEIPT | DESCRIPTION OF RECEIPT | AMOUNT |
|------------------------|--|-----------------------|
| Various dates | Share of investment pool interest | \$922.86 |
| November 30, 2017 | In re Provigil-Multistate Antitrust Settlement | 1,020,543.05 |
| TOTAL | | \$1,021,465.91 |

B. Transfers by Journal Memoranda.

| DATE OF TRANSFER | PAYEE | DESCRIPTION OF TRANSFER | AMOUNT |
|-------------------------|---|---|-----------------------|
| January 12, 2018 | County of Kauai | Transfer of allocated share of DRAM settlement fund | \$1,602.00 |
| January 12, 2018 | County of Hawaii | Transfer of allocated share of DRAM settlement fund | 4,100.00 |
| January 12, 2018 | University of Hawaii | Transfer of allocated share of DRAM settlement fund | 19,548.00 |
| December 15, 2017 | State Treasury-General Fund | Transfer of DRAM settlement fund | 206,179.53 |
| December 15, 2017 | Department of Human Services – Med-Quest Division | Transfer of allocated share of Provigil settlement fund | 359,090.68 |
| December 5, 2017 | Department of Health-Hawaii State Hospital | Transfer of allocated share of Provigil settlement fund | 2,004.97 |
| December 14, 2017 | State Treasury-General Fund | Transfer of remainder of Provigil settlement fund | 557,593.59 |
| December 5, 2017 | State Treasury-General Fund | Transfer of amount in excess of statutory maximum | 4,189.38 |
| TOTAL | | | \$1,154,308.15 |

C. Expenditures.

| DATE OF PAYMENT | PAYEE | PURPOSE OF EXPENDITURE | AMOUNT |
|------------------------|-------------------------------------|---|-------------------|
| Various days | Vendors and Deputy Attorney General | Travel costs (including per diem, excess lodging, and ground transportation) for: (i) Suboxone-multistate antitrust litigation meeting- Columbus, HO; (ii) Generic drugs antitrust litigation meeting-Hartford, CT; and (iii) FTC-Western States enforcement meeting – San Francisco, CA. | \$5,496.87 |
| | | TOTAL | \$5,496.87 |

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, 2018, was \$246,969.60.