

IN THE SUPREME COURT OF THE STATE OF HAWAII

In the Matter of the Estate)	Equity No. 2048
)	
of)	
)	
BERNICE P. BISHOP,)	
)	
Deceased.)	
)	
_____)	

ORDER DISMISSING APPEAL

Upon review of the statements supporting and contesting jurisdiction and the record, it appears that the proceeding to approve the 109th, 110th and 111th annual accounts of the Bishop Estate has not been completed and final judgment closing the proceeding has not been entered pursuant to Hawai'i Probate Rule [HPR] 34(c). The Attorney General's September 10, 1998 Petition to Remove and Surcharge Trustees, for Accounting and for Other Relief, as amended ("the Attorney General's petition"), is part of the proceeding to approve the 109th--111th annual accounts. The Attorney General's petition has not been decided as to all matters raised in the petition and an HRCP 54(b) certified order finally disposing of the petition has not been entered pursuant to HPR 34(a). The August 31, 1999 interim removal order determines part of the Attorney General's September 10, 1998, petition. Absent entry of a final judgment closing the proceeding to approve the annual accounts or entry of a certified

order finally determining the Attorney General's September 10, 1998, petition, the appeal of the August 31, 1999 order is an appeal from an interlocutory order for which interlocutory certification under HRS § 641-1(b) was denied by the circuit court.

The August 31, 1999 interim removal order is not reviewable on appeal of the February 10, 2000 certified order granting the December 13, 1999 petition of Appellant Henry Peters to permanently resign as trustee. The appeal of the February 10, 2000 order brings up for review only those matters related to the December 13, 1999 petition. See HPR 34(a) ("Any [] order that fully addresses all claims raised in a petition to which it relates, but that does not finally end the proceeding, may be certified for appeal in the manner provided by [HRC] 54(b)."). The August 31, 1999, interim removal order is not related to the December 13, 1999, petition, but is related to the Attorney General's September 10, 1998, petition. The fact that the interim removal order and the permanent removal order both concern the matter of Appellant's removal as trustee does not render the August 31, 1999 order reviewable on appeal of the February 10, 2000 order.

The August 31, 1999 interim removal order is not appealable under the contested matter provisions of the HPR inasmuch as the issue of the interim removal of the trustees was not designated, assigned, and resolved by the probate court under

the contested matter provisions of HPR 19 and 20. Appellant's objection to the issue of his interim removal was not a designation of the issue as a contested matter under HPR 19 and 20.

The August 31, 1999 interim removal order is not an appealable collateral order inasmuch as the order disposed of that part of the Attorney General's petition that sought interim removal and the issues resolved in the interim removal order are directly related to the merits of the Attorney General's September 10, 1998, petition.

Finally, Appellant is not aggrieved by the February 10, 2000 order granting his petition for permanent resignation. Accordingly,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, July 13, 2000.

George M. Masuoka, Acting Chief Justice

Ronald Ibarra, Acting Associate Justice

Dan T. Kochi, Acting Associate Justice

Shackley F. Raffetto, Acting Associate Justice

Gary W. B. Chang, Acting Associate Justice