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FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

2004 FEB -5 PM 2:47

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CLERK

Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of)	CIVIL NO. <u>04-1-0222-02 (SSM)</u>
Consumer Protection,)	(Other Civil Action)
)	
Plaintiff,)	COMPLAINT AND SUMMONS
)	
)	
vs.)	
)	
)	
AMERICAN STATES COLLEGE INC., a)	
Hawaii corporation and AMERICAN)	
STATE UNIVERSITY, a Hawaii)	
nonprofit corporation,)	
)	
Defendants.)	
)	

COMPLAINT

Plaintiff, for a cause of action against the above-named defendants,
aver and allege that:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action brought by the Office of Consumer Protection of the
State of Hawaii pursuant to Hawaii Rev. Stat. Chapters 446E, 480 and 487 seeking

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Defendants.)	
_____)	

COMPLAINT

Plaintiff, for a cause of action against the above-named defendants,
aver and allege that:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action brought by the Office of Consumer Protection of the
State of Hawaii pursuant to Hawaii Rev. Stat. Chapters 446E, 480 and 487 seeking

to enjoin the Defendants from engaging in certain acts or practices in violation of Hawaii's consumer protection laws and to obtain other and additional relief.

2. This court has subject matter jurisdiction over this case pursuant to Hawaii Rev. Stat. §§ 480-21 and 603-21.5.

3. Defendants American States College Inc. and American State University (collectively "American States") are Hawaii corporations.

4. Defendant American States maintains a website located at <http://www.ascedu.org>. That uniform resource locator address is registered to Park Jindeok of Seoul, South Korea.

5. Defendant American States is not now and never has been accredited by a recognized accrediting agency or association recognized by the United States Secretary of Education.

6. Defendant American States is an "unaccredited institution" as that phrase is defined in Hawaii Rev. Stat. § 446E-1.

7. Defendant American States has a "presence" in the State of Hawaii as that term is used in Haw. Rev. Stat. §446E-1.

COUNT I
FAILURE TO MAKE STATUTORY DISCLOSURES

8. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 7 as though fully set forth herein.

9. Defendant American States failed to properly and adequately disclose in all catalogs, promotional materials, including its website, and/or written contracts for instruction the fact that it is not fully accredited by any nationally recognized

accrediting agency or association listed by the United States Secretary of Education in violation of Hawaii Rev. Stat. § 446E-2(a).

10. Each and every catalog, promotional material and/or written contract for instruction that failed to properly and adequately disclose the fact that American States is and was not fully accredited by any nationally recognized accrediting agency or association listed by the United States Secretary of Education constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-2(a).

11. Violations of Hawaii Rev. Stat. § 446E-2(a) constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT II
FAILURE TO HAVE TWENTY-FIVE HAWAII STUDENTS ENROLLED

12. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 11 as though fully set forth herein.

13. Defendant American States has failed to have twenty-five enrolled students in Hawaii in violation of Hawaii Rev. Stat. § 446E-5(d).

14. Violations of Hawaii Rev. Stat. § 446E-5(d) constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT III
FAILURE TO HAVE AN OFFICE LOCATED IN HAWAII

15. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 14 as though fully set forth herein.

16. Defendant American States has failed to have an office located in Hawaii in violation of Hawaii Rev. Stat. §446E-5(d).

17. Violations of Hawaii Rev. Stat. § 446E-5(d) constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT IV
FAILURE TO HAVE AN EMPLOYEE LOCATED IN HAWAII

18. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 17 as though fully set forth herein.

19. Defendant American States has failed to have an employee located in Hawaii in violation of Hawaii Rev. Stat. § 446E-5(d).

20. Violations of Hawaii Rev. Stat. § 446E-5(d) constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT V
INJUNCTIVE RELIEF

21. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 20 as though fully set forth herein.

22. Unless Defendants are restrained and enjoined by this court from continuing to violate Hawaii Rev. Stat. Chap. 446E and § 480-2(a) in the manner described herein, they will continue to do so, irreparably harming and injuring the consuming public of the State of Hawaii.

WHEREFORE, plaintiff prays that this court:

1. Find, order, adjudge and declare that Defendants' conduct, as alleged herein, violates the statutory provisions set forth above.

2. Issue a temporary restraining order, preliminary injunction and permanent injunction directing the Business Registration Division of the Department

of Commerce and Consumer Affairs of the State of Hawaii to dissolve, terminate, revoke and/or cancel all tradenames, trademarks, corporate registrations (including that for American States), certificates of authority held by or for the defendants.

3. Issue a temporary restraining order, preliminary injunction and permanent injunction enjoining the defendants, their agents, employees, successors and assigns, directly or indirectly, individually or in concert with others, or through any corporate or other device from any of the following:

- a. Providing any post-secondary instructional programs or courses leading to a degree;
- b. Acting as or holding themselves out as a “college, academy, institute, institution, university” or anything similar thereto;
- c. Failing to comply with Hawaii Rev. Stat. Chap. 446E or § 480-2(a) in any particulars; and
- d. Owning or operating any business in the State of Hawaii, claiming to operate under the laws of the State of Hawaii, or having a presence in Hawaii until all restitution, civil penalties and costs entered herein are fully satisfied.

4. Assess appropriate civil penalties against the defendants individually pursuant to Hawaii Rev. Stat. § 480-3.1 and enter judgment in favor of plaintiff accordingly.

5. Award any consumers injured by the aforementioned violations full restitution, including pre and post judgment interest, against the defendants, pursuant to Hawaii Rev. Stat. § 487-14 and the court's inherent authority and enter judgment accordingly.

6. Assess and award judgment in favor of plaintiff and against the defendants, for attorneys' fees, costs, costs of investigation, interest, and other expenses.

7. Award plaintiff such other relief as the court may deem just and equitable under the circumstances.

DATED: Honolulu, Hawaii, _____.

JEFFREY E. BRUNTON
Attorney for Plaintiff

State of Hawaii vs. American States College Inc. et al.; Civil No. _____;
COMPLAINT AND SUMMONS.

5. Award any consumers injured by the aforementioned violations full restitution, including pre and post judgment interest, against the defendants, pursuant to Hawaii Rev. Stat. § 487-14 and the court's inherent authority and enter judgment accordingly.

6. Assess and award judgment in favor of plaintiff and against the defendants, for attorneys' fees, costs, costs of investigation, interest, and other expenses.

7. Award plaintiff such other relief as the court may deem just and equitable under the circumstances.

DATED: Honolulu, Hawaii, FEB 05 2004.



JEFFREY E. BRUNTON
Attorney for Plaintiff

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