

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

2006 MAY 17 AM 10: 23

STATE OF HAWAII

N. YOTSUYA, CLERK  
SECOND JUDICIAL CIRCUIT  
STATE OF HAWAII

STATE OF HAWAII , by its Office of  
Consumer Protection, )

CIVIL NO. 03-1-0458 (2)  
(Other Civil Action)

Plaintiff, )

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW; EXHIBIT "A"  
CERTIFICATE OF SERVICE

vs. )

AMERICAN UNIVERSITY HAWAII,  
INC., a Hawaii corporation dba The  
American University of Hawaii and AUH )  
and HASSAN H. SAFAVI aka Henry  
Safavi, )

JURY WAIVED TRIAL

Dates: Jun 30, 2005 and Jan. 4, 2006

Time: 9:30 a.m. and 9:00 a.m.

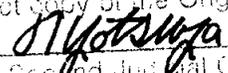
Judge: The Honorable Shackley F. Raffetto

Defendants. )

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court presided over a Jury Waived Trial on June 30, 2005 and  
January 4, 2006 and has considered the arguments of the parties, records,  
exhibits, pleadings, proposed Findings of Fact and Conclusions of Law submitted  
by Plaintiff State Of Hawaii By Its Office Of Consumer Protection thru Counsel  
Jeffrey E. Brunton, Esq. (hereinafter "State Of Hawaii"), proposed Findings of  
Fact and Conclusions of Law submitted Defendant Hassan H. Safavi thru  
Counsel I. Reza Gharakhani, Esq. (hereinafter "Defendant Safavi").

I hereby certify that this is a full, true and  
correct copy of the Original.

  
Clerk, Second Judicial Circuit

## **BACKGROUND**

1. On August 21, 2003, the State of Hawaii through its Office of Consumer Protection filed a Complaint in the First Circuit Court of the State of Hawaii against American University Hawaii, Inc, also known as American University of Hawaii, Inc. (hereinafter "AUH" or "Defendant AUH") for alleged violations of Hawaii Revised Statutes (hereinafter "HAW. REV. STAT.") Chapter 446E and § 480-2(a) (2005) with respect to its operation of an unaccredited degree granting institution.

2. On or about November 3, 2003, the First Circuit Court transferred venue of the case to the Second Circuit Court of the State of Hawaii on Maui.

3. The State of Hawaii's initial Complaint filed on August 21, 2003 alleged the following violations against Defendant AUH: Count I: Failure to Make Statutory Disclosures in Violation of HAW. REV. STAT. §446E-2(a) (2005); Count II: Suggestions of State Licensing, Approval or Regulation; Count III: Illegal Issuance of Law Degrees; Count IV: Illegal Issuance of Medical Degrees; Count V: Failure to Have Twenty-Five Students Enrolled in Hawaii in Violation of HAW. REV. STAT. § 446E-5(d) (2005); Count VI: Illegal Suggestions of Application for Future Accreditation; Count VII: Illegal Acceptance of Payments; Count VIII: Injunctive Relief.

4. On April 26, 2004, the State of Hawaii filed its First Amended Complaint.

5. On April 26, 2004, the State Of Hawaii filed a Second Amended Complaint re-alleging Counts I - VIII of the initial Complaint and adding Count IX: Defendant Safavi's Individual Liability.

6. On April 26, 2004, this Court granted the State's motion for preliminary injunction, prohibiting AUH from alleged conduct in violation of HAW. REV. STAT. Chapter 446E (2005).

7. On January 31, 2005, this Court entered its Order Granting Plaintiff's Motion for Entry of Permanent Injunction and Final Judgment Against Defendant American University Hawaii, Inc. (hereinafter "Permanent Injunction and Final Judgment").

8. The order granting Permanent Injunction and Final Judgment reserved the State of Hawaii's claims against Defendant Safavi for trial.

9. On August 10, 2005, the State of Hawaii separately moved to hold Defendant Safavi in contempt of the Permanent Injunction and Final Judgment.

10. On June 30, 2005, a jury waived trial as to Count IX of the Second Amended Complaint regarding Defendant Safavi's personal liability came on for hearing. Barbara Tanaka and Warren Hayama testified. The trial was continued to January 4, 2006.

11. On January 4, 2006, the trial continued. Joseph Tanaka and Defendant Safavi testified. At the trial the Court also heard evidence on the State of Hawaii's Contempt Motion against Defendant Safavi.

12. At the trial the State of Hawaii was represented by Jeffrey E. Brunton, Esq.; Defendant AUH and Defendant Safavi were represented by Reza I. Gharakhani, Esq.

13. This Court has considered the evidence, evaluated the credibility of the witnesses, and reviewed the written materials submitted. Therefore, based upon a careful review of the record and pursuant to Rule 52(a) of the Hawaii Rules of Civil Procedure,

**THIS COURT HEREBY MAKES** the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Plaintiff State of Hawaii's Office of Consumer Protection is the state agency designated by statute to enforce Hawaii's laws relating to unaccredited degree granting institutions, pursuant to HAW. REV. STAT. Chapter 446E (2005).

2. Defendant AUH is a Hawaii for-profit corporation, incorporated in 1994 by Carol Sue Fazio, also known as Carol Sue Johnson. Carol Sue Fazio owned all outstanding shares of stock in Defendant AUH.

3. Defendant AUH's principle office is located at 1063 Lower Main Street, 102-B, Wailuku, Hawaii.

4. Carol Sue Fazio, while a stockholder and listed as a Director of AUH in 1999, was never active in, nor did she take any official action on behalf of AUH.

5. Donald Hecht, fiancé of Carol Sue Fazio, although never a shareholder, officer or director, provided Defendant AUH with its initial courses,

curriculum, handbooks, dissertation handbook, and other academic materials. Donald Hecht also provided Defendant AUH with its initial equipment and supplies, and he also designed and created the logo and motto of Defendant AUH.

6. Defendant Safavi was born in Iran. He is a citizen of Great Britain and a legal resident of the United States. Defendant Safavi speaks and understands English and holds degrees in various areas of study, including the following: Bachelor's Degree in Psychology and Biology from University of Manchester; Master's Degree from the International Psychodynamic Institute in Geneva; Ph.D. from the Institute of Child Psychology in London; and a post-doctoral degree in Child Adolescent Development. At all times relevant herein he was a resident of the State of Hawaii.

7. Defendant Safavi is the only employee of Defendant AUH who resided in Hawaii.

8. In October 1998, Defendant Safavi acquired two-thirds of the outstanding shares of Defendant AUH.

9. In December 2003, Defendant Safavi became the sole shareholder of Defendant AUH.

10. From July 1999 through 2005, Defendant Safavi was in control of the corporate books of Defendant AUH and was responsible for and filed the Domestic Profit Corporation Annual Report (hereinafter "Annual Report") with the State of Hawaii, Department of Commerce and Consumer Affairs. The Annual Report must be filed annually under Hawaii law.

11. The Annual Reports filed by Defendant Safavi on behalf of Defendant AUH with the State of Hawaii, Department of Commerce and Consumer Affairs for the years 1999, 2000, 2001, 2003 and 2004 identify the following as the officers and directors of Defendant AUH:

- 1999 - Defendant Safavi as President and Director; Carol Sue Johnson as Director; Barbara Tanaka as Director; Fred F. Amery as Secretary and Director; and Barry B. Azadi as Treasurer and Director. AUH's corporate office is listed as 1063 Lower Main Street, 102-B, Wailuku, Hawaii 96793.
- 2000 - Defendant Safavi as President and Director; Barbara Tanaka as Director; Farhad Amery as Treasurer and Director; and Barry Azadi as Secretary and Director. AUH's corporate office is listed as 1063 Lower Main Street, 102-B, Wailuku, Hawaii 96793.
- 2001 - Defendant Safavi as President and Director; Barry Azadi as Secretary and Director; Barbara Tanaka as Director; Farhad Amery as Vice President; and Mandy Goldman as Treasurer and Director. AUH's corporate office is listed as 1063 Lower Main Street, 102-B, Wailuku, Hawaii 96793.
- 2003 - Defendant Safavi as President and Director; Mandy Goldman as Treasurer and Director; Barry Azadi as Secretary and Director; Barbara Tanaka as Director; Farhad Amery as Vice President; and Fathiyeh Safavi as Vice President. Joseph Tanaka is listed as the registered agent whose office was located at 1063 Lower Main Street, 102-B, Wailuku, Hawaii 96793.
- 2004 - Defendant Safavi as President and Director; Farhad Amery as Vice President and Director; and Barry Azadi as Secretary and Director. AUH's corporate office is listed as 1063 Lower Main Street, 102-B, Wailuku, Hawaii 96793.

12. Barbara Tanaka is the wife of Joe Tanaka. Barbara Tanaka was listed by Defendant Safavi as one of the Director's of AUH in its Annual Corporate filings in 1999, 2000, 2001 and 2003. Barbara Tanaka testified that

she was never a director of Defendant AUH and that she never gave Defendant Safavi permission to list her as a director of Defendant AUH. She knew Defendant Safavi only as a friend of Joe Tanaka, her husband.

13. Mandy Goldman is the daughter of Defendant Safavi.

14. Fathiyeh Safavi is the wife of Defendant Safavi.

15. Barry Azadi and Farhad Amery, also known as Fred Amery, are not related to Defendant Safavi.

16. The business of Defendant AUH is to provide educational opportunities for people living in Asia, who want to receive a degree from a university in the United States.

17. Defendant AUH has been operating as a post-secondary educational institution, issuing degrees to persons primarily residing outside the United States, since 1994. Defendant AUH charges a fee in consideration for issuing its degree to a student.

18. As a part of its degree issuing operations, Defendant AUH acts as the center of a hub of foreign universities located in different nations. Defendant AUH and these universities recruit and teach non-US-resident students. The student is required to pay tuition to the affiliate foreign university, located in the foreign country. In turn, Defendant AUH requires the affiliate to pay five percent of the tuition monies received to Defendant AUH. After the non-US-resident, foreign student has completed course work and after the fee is paid to Defendant AUH, Defendant AUH will issue the student an AUH degree, referred to as an "American" degree.

19. Defendant AUH has granted Juris Doctor degrees and Masters of Law degrees. Defendant AUH has issued foreign degrees which are equivalent or comparable to these degrees in other nations.

20. Defendant AUH has granted degrees identified as "non-bar" Juris Doctor ("J.D.") degrees in the Republic of Armenia and also Bachelor of Law and Diplomacy degrees in Law in the Republic of Georgia.

21. Defendant AUH has never been accredited by the American Bar Association, the Liaison Committee on Medical Education, or any other recognized accrediting agency or association recognized by the State of Hawaii or the United States Secretary of Education.

22. Defendant AUH does not claim to be exempt from the requirements of HAW. REV. STAT. Chapter 446E (2005).

23. Defendant AUH has never had at least twenty-five students enrolled in Hawaii as required by HAW. REV. STAT. §446E-5(d) (2005).

24. As of January 6, 2004, Defendant AUH had 809 enrolled students, none of whom resided in the State of Hawaii.

25. As of January 6, 2004, Defendant AUH had more than 2,000 degree applicants, of which 1,197 were graduates who have received their "American" degrees from Defendant AUH.

26. As of June 4, 2004, Defendant AUH had graduated more than 3,000 students.

27. As of January 6, 2004, Defendant AUH had more than 1,200 employees, faculty and staff.

28. In order to promote its business of issuing American University degrees, Defendant AUH caused to be created and has maintained an internet website which advertises its services to the public, both in the US and in other nations. The website is AUH's sole means of advertising for business and soliciting for students.

29. The website of Defendant AUH is identified as [www.auh.edu](http://www.auh.edu).

30. Defendant Safavi is solely responsible for the content of Defendant AUH's website.

31. Defendant Safavi has served as President of Defendant AUH continuously since 1999 and has been solely responsible for its business operations. Defendant Safavi at all times relevant herein was responsible for the overseas operations of Defendant AUH and was paid ten-thousand dollars (\$10,000.00) annually by Defendant AUH.

32. During the 1999 Legislative Session, the State of Hawaii Legislature adopted Act 171, A Bill Relating to Degree Granting Institutions, now known as Chapter 446E of the Hawaii Revised Statutes. Act 171 became law on July 1, 1999.

33. According to the House Consumer Protection and Commerce Committee Report (hereinafter "CPC Committee"), the purpose of Act 171 was to "prohibit unaccredited institutions from issuing degrees unless they comply with certain standards." The CPC Committee found that:

The proliferation of "diploma mills" in this State is harmful to consumers and to all legitimate educational institutions. This bill provides consumer safeguards, including requiring clearer disclosures, prohibiting the issuance of certain types of degrees, creating a mechanism for service of process, and requiring a level

of physical presence in this State in order to operate. Your Committee further concurs with DCCA's recommendations, and has amended the bill to provide that no unaccredited institution shall disclose in any catalog, promotional material, or written contract for instruction, that it has applied for future accreditation. HOUSE COMM. ON CONSUMER PROTECTION AND COMMERCE, STAND. COMM. REP. No. 597, 20<sup>th</sup> State Legislature, Reg. Sess., at 1239 (1999).

34. In early August 2003, prior to the State of Hawaii filing its Complaint against Defendant AUH, Jeffrey Brunton, Esq., acting on behalf of the State of Hawaii Office of Consumer Protection, informed Defendant Safavi that Defendant Safavi and AUH were operating in violation of HAW. REV. STAT. Chapter 446E (2005).

35. As of February 12, 2004 Defendant AUH operated its web site in violation of the requirements of HAW. REV. STAT. Chapter 446E (2005).

36. On April 26, 2004, the State of Hawaii filed a Second Amended Complaint and re-alleged Counts I - VIII of the Original Complaint and added Count IX: Defendant Safavi's Individual Liability.

37. Count IX alleged that Defendant Safavi as "actively or passively participated in the illegal activity and/or formulated, directed, supervised, participated in, benefited from, facilitated, controlled, knew and approved of, and committed or caused the commission of the various acts and practices described herein."

38. On April 26, 2004, this Court entered its Order granting the State of Hawaii's Motion for Partial Summary Judgment and Permanent Injunction against AUH or in the Alternative for a Preliminary Injunction (hereinafter "Preliminary Injunction") and preliminarily enjoined AUH from:

1. Representing that its operations worldwide are not subject to the requirements of HRS Chapter 446E;
2. Permitting the continued viewability of its websites, disseminating its catalogs and placing further advertisements pending full compliance with HRS §446E-2;
3. Using or disseminating legislative certificates and other government documents in its websites or any of its promotional materials and otherwise indicating or suggesting that the State of Hawaii licenses, approves or regulates its operations;
4. Enrolling any J.D. candidates and issuing any J.D. degrees ("non-bar" or otherwise);
5. Enrolling any M.D. candidates and issuing any M.D. degrees;
6. Issuing any degrees;
7. Making any claims of future accreditation; and
8. Accepting or receiving any tuition payments or other fees from or on behalf of a student.

39. As of April 26, 2004, Defendant AUH and Defendant Safavi continued to operate the website in violation of the requirements of HAW. REV. STAT. § 446E (2005) and the Preliminary Injunction.

40. On January 31, 2005, this Court granted Plaintiff State of Hawaii's Motion for Permanent Injunction and Final Judgment against Defendant AUH as follows:

1. This court has jurisdiction over this matter and Defendant American University Hawaii, Inc. ("AUH") hereto pursuant to HRS Chapters 446E, 480, 487 and 603 and venue is proper herein.
2. Plaintiff's Complaint states claims against Defendant AUH upon which relief may be granted under HRS Chapter 446E and HRS 480-2(a).
3. Defendant AUH, its officers, agents, servants, employees and those persons in active concert or participation with it who receive actual notice of this order by personal service or otherwise, are hereby restrained and enjoined from failing to comply with the requirements set forth herein.

4. Defendant AUH shall be responsible for making the substantive terms and conditions of this judgment known by its officers, directors, successors, managers, employees and those persons associated with Defendant AUH who are responsible for implementing the obligations set forth in this judgment.
5. Defendant AUH shall not effect any change in its form of doing business or organizational identity for the purpose of avoiding the terms and conditions contained in this judgment.
6. Defendant AUH shall, with respect to any an all future business activities in, from or under the color of the laws of the state of Hawaii comply with all of the provisions of Chapters 446E and 480 of the Hawaii Revised Statutes. Defendant AUH and its officers, agents, servants, employees, attorneys and those persons in active concert or participation with it who receive actual notice of this order agree to and hereby are permanently enjoined from:
  - A. Representing that the operations of American University of Hawaii worldwide are not subject to the requirements of HRS Chapter 446E;
  - B. Permitting the viewability of any websites, dissemination of any catalogs and placement of advertisements which do not fully comply with HRS § 446E-2;
  - C. Using or disseminating legislative certificates and other government documents in websites or promotional materials and otherwise indicating or suggesting that the State of Hawaii licenses, approves or regulates its operations;
  - D. Enrolling any J.D. candidates and issuing any J.D. degrees ("non-bar or otherwise);
  - E. Enrolling any M.D. candidates and issuing any M.D. degrees; and
  - F. Making any claims, promises or indicia of future accreditation.
7. Defendant AUH is hereby liable for restitution to consumers as set forth herein. Upon entry of this judgment, Defendant AUH shall notify all degree holders and degree applicants who enrolled or received their degrees subsequent to July 1, 1999 in writing that they are entitled to full restitution (conditioned only on the return of any diploma awarded). Said notice shall be in a form agreeable by Plaintiff and shall also notify the recipients of their rights under HRS §480-13. Defendant AUH shall provide a full refund to any recipient requesting one by certified check within fourteen days of receipt of the request for such and return of the diploma, if applicable.
8. Defendant AUH be and is hereby liable to Plaintiff for civil penalties pursuant to HRS § 480-3.1 in the amount of Five Hundred Thousand Dollars (\$500,000.00).

9. In the event Defendant AUH fails to satisfy the amounts specified in paragraphs 7 and 8 above within ten (10) days of the entry of this judgment, Defendant AUH, its agents, employees, successors and assigns, directly or indirectly, individually or in concert with others, or through any corporate or other device be and are enjoined from any of the following: (a) providing any post-secondary instructional programs or courses leading to a degree; (b) acting as or holding itself out as a "college, academy, institute, institution, university" or anything similar thereto; (c) accepting or receiving any tuition payments or other fees from or on behalf of any students; (d) enrolling students and (e) issuing any diplomas.
10. Defendant AUH shall promptly provide to Plaintiff upon request proof of any action(s) required to be taken by Defendant AUH pursuant to the terms of this judgment.
11. Under no circumstances shall this document or the name of State of Hawaii, the office of Consumer Protection, Department of Commerce and Consumer Affairs, or any of its employees or subdivisions be used by Defendant AUH in connection with any selling, advertising or promotion of any product or service. The parties understand that this document shall not be construed as an approval or sanction by the State of Hawaii of Defendant AUH's business practices. Nothing in this document shall be construed to permit or make lawful any act, practice, or course of conduct prohibited or made unlawful by HRS Chap. 446E, 480 or 481A or any other law.
12. This court shall retain jurisdiction of this case for the purpose of enabling any of the parties to this action to apply to this court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions. If it shall be made to appear to the court that there has been a violation of any of the terms of this judgment, upon motion, this court may enter an order to show cause why Defendant AUH should not be found in contempt. Nothing in this document shall bar Plaintiff from seeking, or the court from imposing, against Defendant AUH or any other person any other relief available under any other applicable provision of law for violation of this document, in addition to or in lieu of civil penalties provided for above.

41. Defendant AUH has been ordered to pay a civil penalty of Five Hundred dollars (\$500.00) per statutory violation.

42. The maximum civil penalty of Five Hundred dollars (\$500.00) per violation is appropriate.

43. As of January 4, 2006, AUH has not paid any of the civil penalty of Five Hundred Thousand Dollars (\$500,000.00) ordered by this Court. Defendant Safavi told this Court that Defendant AUH does not intend to pay the civil penalty.

44. Defendant AUH committed at least one thousand (1,000) separate violations of HAW. REV. STAT. §480-2 (2005) prior to this Court's Permanent Injunction and Final Judgment against AUH entered on January 31, 2005.

45. Defendant AUH has been ordered to pay restitution.

46. HAW. REV. STAT. 446E-2(c) (2005) requires Defendant AUH to keep true and accurate records of student enrollment, courses, fees, and matriculations rates. These records must be made available on demand by the State. Defendant AUH failed and refused to send the notice to its students of their right to restitution as directed by the Injunctive Orders of this Court. The Court infers from this failure by Defendant AUH that it did not keep the required records, in violation of HAW. REV. STAT. § 446E-2(c) (2005).

47. Defendant AUH has failed to pay requests by students for restitution within the fourteen (14) days time period from receiving a request in violation of this Court's Permanent Injunction and Final Judgment entered on January 31, 2005.

### **CONCLUSIONS OF LAW**

1. This Court has subject matter jurisdiction over this case pursuant to HAW. REV. STAT. §§ 480-21 and 603-21.5 (2005).

2. This Court has personal jurisdiction over Defendant Safavi.

3. HAW. REV. STAT. Chapter 446E (2005) is the law regulating unaccredited degree granting institutions.
4. HAW. REV. STAT. §480-2(a) (2005) prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.
5. Violation of HAW. REV. STAT. Chapter 446E (2005) is a *per se* violation of HAW. REV. STAT. §480-2(a) (2005) and HAW. REV. STAT. § 446E-3 (2005).
6. AUH has a “presence” in the State of Hawaii as that term is used in HAW. REV. STAT. § 446-1 (2005).
7. HAW. REV. STAT. §446E-1 (2005) defines an “Unaccredited Institution” as a degree granting institution that is not accredited or a candidate for accreditation by at least one nationally recognized accrediting agency that is listed by the United States Secretary of Education.
8. AUH is an “unaccredited institution” as defined in HAW. REV. STAT. § 446E-1 (2005).
9. AUH’s activities relevant in this lawsuit are not exempt from the provisions of HAW. REV. STAT. §446E (2005).
10. Defendant Safavi intentionally, knowingly, and falsely certified the Annual Reports for Defendant AUH with the State of Hawaii, Department of Commerce and Consumer Affairs, for the years 1999, 2000, 2001 and 2003, misrepresenting that Barbara Tanaka was Director of Defendant AUH when he knew she was not.

11. As of October 2004, AUH continued to issue degrees in violation of the requirements of HAW. REV. STAT. Chapter 446E (2005) and this Court's April 26, 2004 Preliminary Injunction.

12. From February 2005 through January 2006, AUH has continued to violate the requirements of HAW. REV. STAT. Chapter 446E (2005) and failed to comply with Paragraphs 7, 8 and 9 of this Court's Final Judgment Against AUH entered on January 31, 2005.

13. Defendant Safavi actively or passively formulated, directed, supervised, participated in, benefited from, facilitated, controlled, knew and approved of, and committed or caused the commission of all of the illegal activity for which Defendant AUH has been found liable by the prior orders of this Court.

14. Defendant Safavi's acts in violation of HAW. REV. STAT. Chapter 446E (2005) are a violation of HAW. REV. STAT. 480-2(a) (2005).

15. Defendant Safavi is personally liable for his violations of HAW. REV. STAT. Chapter 446E (2005) and this Court's orders.

16. Defendant Safavi is therefore liable, independently, individually, and personally, for Civil fines in the amount of Five Hundred Thousand dollars (\$500,000.00) and restitution, jointly and severally, as previously adjudged against Defendant AUH by this Court.

17. On August 10, 2005, State of Hawaii filed a Motion for an Order Declaring Defendant Safavi in Contempt of Court for failing to abide by the terms of the Permanent Injunction and Final Judgment against American University Hawaii, Inc.

18. As of January 2006, the AUH website, which had been found by this Court to be in violation of HAW. REV. STAT. §446E (2005), remained in violation and was still online and viewable by members of the public.

19. As of April 5, 2006, Defendant AUH continued operating in Dubai, United Arab Emirates and held a graduation in violation of the requirements of HAW. REV. STAT. Chapter 446E (2005) and this Court's Permanent Injunction and Final Judgment Against Defendant AUH.

20. On or about May 26, 2005, Defendant Safavi registered a separate for-profit corporation in Mississippi named "American University of Hawaii, Inc." (hereinafter "Mississippi Corporation"). Though described by Defendant Safavi as a parent corporation, of which Defendant AUH is a "branch" operation; the Mississippi corporation was established by Defendant Safavi and operated by him as a subterfuge intended by Defendant Safavi to enable him to use Defendant AUH to continue to provide post-secondary instructional programs or courses leading to a degree, acting or holding itself out as a "college, academy, institute, institution, university", and to continue to accept tuition, enroll students and issue diplomas, in violation of this Court's Permanent Injunction and Final Judgment against Defendant AUH entered on January 31, 2005 and the requirements of HAW. REV. STAT. Chapter 446E (2005).

21. On or about May 26, 2005, Defendant Safavi requested Hubco, a website hosting company, to provide services for business promotion to the Mississippi Corporation in order to continue to take advantage of the business "good will" generated by Defendant AUH that accrued from its business

operations in violation of the requirements of HAW. REV. STAT. Chapter 446E (2005) and this Court's Permanent Injunction and Final Judgment.

22. At trial Defendant Safavi claimed that the Mississippi Corporation is in fact incorporated under the laws of the State of Delaware. However, even if true, Defendant Safavi's use of that separate corporate entity in order to continue to violate this Court's Permanent Injunction and Final Judgment against Defendant AUH entered on January 31, 2005, clearly prohibiting such conduct by Defendant AUH and Defendant Safavi, was done and continues to be done intentionally and knowingly for the purpose of avoiding compliance with the requirements of HAW. REV. STAT. Chapter 446E (2005) and this Court's Orders. At the evidentiary hearing held on January 4, 2006 in conjunction with the trial, the State of Hawaii presented evidence that the website of AUH continued to operate. The website also suggested that Defendant AUH was enrolling students and that the Mississippi Corporation was active.

23. This Court takes judicial notice of the website of Defendant AUH. Copies of the website pages which were printed on April 27, 2006, are annexed hereto as Exhibit "A". HAW. R. EVID. 201. Boone v. Meniffee 387 F. Supp.2d 338 (2005).

24. Rule 65(d) of the Hawaii Rules of Civil Procedure makes injunctive relief binding upon the parties to the action, as well as their "officers, agents, servants, employees and attorneys" and "those persons in active concert or participation with them who receive actual notice of the order" are subject to its requirements.

25. In LeMay v. Leander, the Hawaii Supreme Court held that:

In order to hold a party in civil contempt, a movant must establish that: (1) the order with which the contemnor failed to comply is clear and unambiguous; (2) the proof of noncompliance is clear and convincing and (3) the contemnor has not diligently attempted to comply in a reasonable manner. 92 Haw. 614, 625 (2000).

26. AUH and Defendant Safavi had actual notice of Defendant AUH's violation of HAW. REV. STAT. Chapter 446E (2005) since August 2003; and, later of this Court's Preliminary Injunction on April 26, 2004 and this Court's Permanent Injunction and Final Judgment on January 1, 2005. Defendant Safavi was legally obligated not to violate the terms and conditions of the statute and this Court's orders.

27. The terms and conditions of this Court's Preliminary Injunction entered on April 26, 2004 and the Permanent Injunction and Final Judgment entered on January 10, 2005 are clear and unambiguous and Defendant Safavi had actual notice of these orders at the time they were entered.

28. The evidence of Defendant Safavi's violation of the terms and conditions of these orders is clear and convincing.

29. Defendant Safavi did not diligently attempt to comply with this Court's injunctive orders in a reasonable manner. The evidence clearly and convincingly establishes that Defendant Safavi consistently sought and acted to manipulate the use of the name and website of Defendant AUH in order to continue its business despite the fact that he knew his activities were in violation of HAW. REV. STAT. Chapter 446E (2005) and in violation of the Court's injunctive orders.

30. Defendant Safavi is both an “officer, agent, servant, and employee” of Defendant AUH who, in active concert with others, and through a corporate or other device, despite being enjoined from doing so, continued to cause Defendant AUH to: (a) provide post-secondary instructional programs or courses leading to a degree; (b) acted as or held itself out as a “college, academy, institute, institution, university” or anything similar thereto; (c) accepted or received tuition payments or other fees from or on behalf of students; (d) enrolled students; and (e) issued any diplomas.

31. Unless Defendant Safavi is punished for his contemptuous conduct and further enjoined from such conduct, there is good cause to believe that he will continue to engage in and is likely to engage in the practices that this Court has found in violation of HAW. REV. STAT. Chapter 446E (2005) and HAW. REV. STAT. § 480-2 (2005) and this Court’s orders prohibiting AUH and its officers and agents from such violations.

32. Defendant Safavi is ordered to be incarcerated until such time as he terminates the website using the name American University of Hawaii, agrees to and notifies each student as required by this Court’s prior orders, in a form agreed to by the State of Hawaii, of his or her right to restitution, provides the State of Hawaii with a list of the names and addresses of all of its students who enrolled since HAW. REV. STAT. Chapter 446E (2005) became law, and changes the name of the Mississippi Corporation to something other than American University of Hawaii.

33. Defendant Safavi and his agents, servants, employees, attorneys and those persons in active concert or participation with him, directly or indirectly, individually or in concert with others, or through any corporate or other device who receive actual notice of the judgment are permanently enjoined from the following: (a) Providing any post-secondary instructional programs or courses leading to a degree; (b) Acting as or holding himself out as a "college, academy, institute, institution, university" or anything similar thereto; (c) Failing to comply with HAW. REV. STAT. Chap. 446E (2005) or § 480-2(a) (2005) 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, or (e) maintaining a website using the name American University of Hawaii, until all restitution and civil penalties ordered by this Court are fully satisfied.

34. Defendant Safavi is liable, jointly and severally with Defendant American University Hawaii, Inc., for restitution to consumers as set forth in the prior Orders of this Court. To the extent not already done, upon entry of judgment, Defendant Safavi must notify all American University of Hawaii degree holders and degree applicants who enrolled or received their degrees subsequent to July 1, 1999, in writing, that they are entitled to full restitution (conditioned only on the return of any diploma awarded). Said notice shall be in a form agreeable by Plaintiff and shall also notify the recipients of their rights under HAW. REV. STAT. §480-13 (2005). Defendant Safavi or Defendant American University Hawaii, Inc. shall provide a full refund to any recipient

requesting one by certified check within fourteen days of receipt of the request for such and the return of the diploma, if applicable.

DATED: Wailuku, Maui, Hawaii, May 17, 2006.

/s/ SHACKLEY F. RAFFETTO (Seal)

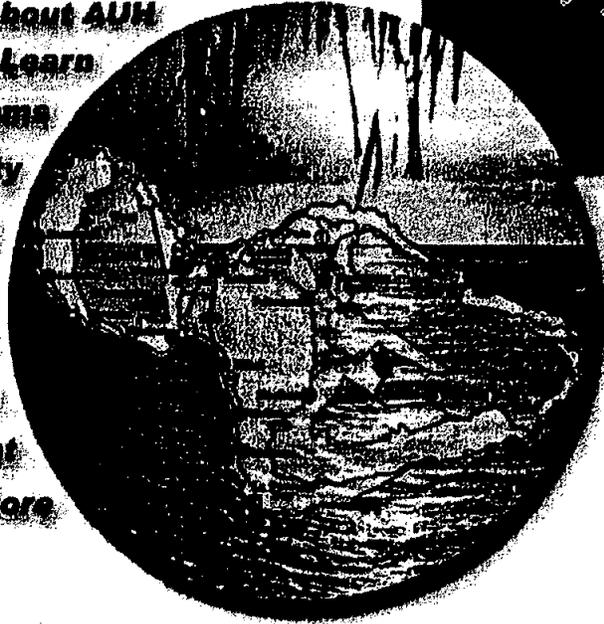
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JUDGE OF THE ABOVE-ENTITLED COURT

# **EXHIBIT “A”**

# A U H

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- Entrance Eligibility**
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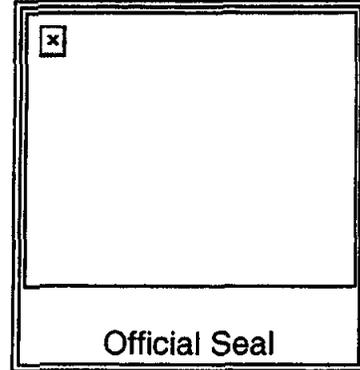
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Welcome to the Official Website of the American University of Hawaii. Due to ongoing legal processes the Branch in the State of Hawaii has temporarily ceased to operate, and this will affect those affiliates of the University that were operating under that Branch until such time that the problem is resolved through the appropriate courts of law. Other affiliates not under that Branch are not affected and will continue their operation as usual under the direction of the Head Office in the State of Mississippi.



In this day and age of expansion of knowledge, what better gift than a unique and reachable opportunity to offer you the most precious and yet convenient means of keeping abreast of the global artistic, scientific, cultural and technological advancements. A treasure put at your disposal to remain updated, self-educated and a person of this interactive world, today and forever. Through this University you will discover all that can navigate you to new horizons of modern life, in your own time and at your own pace.

Thank you for your visit, and accept our appreciation for being our guest.

Board of Trustees  
American University of Hawai'i

**AMERICAN UNIVERSITY OF HAWAII** came to being in August 1994 as the first multimedia, global university in the world. Headquartered in the State of Mississippi, United States of America, as a private, degree-granting institution of post-secondary education, and recognized and commanded as a world leader in the field of higher education, the aim of the University is to bring quality American education at the most reasonable cost to any person with aptitude for higher learning anywhere in the world.

**IMPORTANT NOTE:** The concept of a Global, Multimedia University

is new to the world, and will inevitably pose a number of questions. One such question will relate to the controversy on the matter of Accreditation, which is a PRIVATE, NON-GOVERNMENTAL and VOLUNTARY process peculiar to the United States of America, and relating to the traditional institutions of higher education operating within that country.

AMERICAN UNIVERSITY OF HAWAII IS NOT ACCREDITED BY AN ACCREDITING AGENCY RECOGNIZED BY THE UNITED STATES SECRETARY OF EDUCATION.

Note: In the United States, many licensing authorities require accredited degrees as the basis for eligibility for licensing. In some cases, accredited colleges may not accept for transfer courses and degrees completed at unaccredited colleges, and some employers may require an accredited degree as a basis for eligibility for employment.

The legitimacy of a degree-granting institution of post-secondary education operating in the United States IS NOT A FEDERAL MATTER.

The American University of Hawaii, despite the fact that as a global university does not require to be accredited in the United States, has made every effort to substantiate its position.

The American University of Hawaii is recognized by the educational authorities of a number of the sovereign countries in which it has established affiliations with public universities and/or private institutions of higher education of the respective country. In the case of a doctorate degree, being the highest step in the ladder of education, the matter of accreditation becomes even more irrelevant, but non-the-less, almost all degrees at this level issued by AUH outside the United States of America, will be ratified by the official educational and national authorities of the country from which the award is made, thus making them acceptable the world over. **Students are advised, however, to make their own inquiry at local and national level regarding licensing and practice permit requirements before enrolling in any particular degree program offered by AUH.**

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Thursday, April 27, 2006

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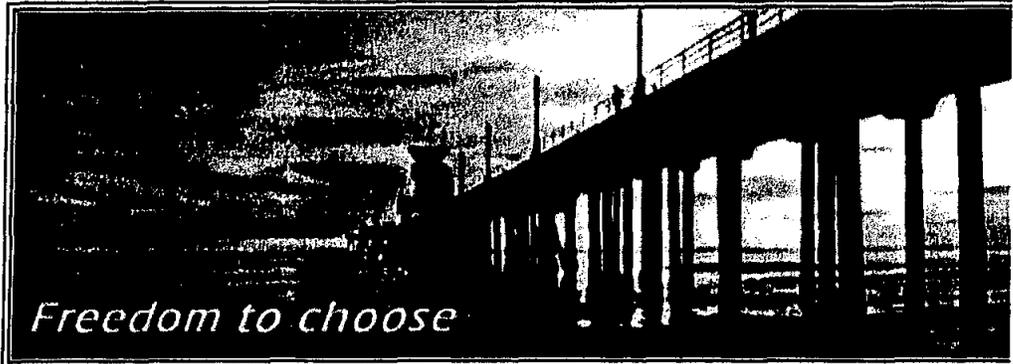

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### **ADMISSION POLICIES AND PROCEDURE:**

At the American University of Hawaii, you have the freedom to decide on how you earn your degree.

We believe that every educational system representing a country's culture and tradition be respected by other nations.

Providing students with the "Freedom to Learn" is our goal, so the gates of this University are open to all seekers of knowledge and self-betterment at all times, with no regard to race, age, color, creed, gender or place of residence.

At many traditional universities, a genius such as Thomas Edison or a successful entrepreneur like Bill Gates might be refused enrollment into a doctoral degree because they did not obtain Master's degrees. Thus, strict academic regulations with emphasis on transcripts and documents rather than acquired knowledge and personal achievement become obstacles for successful individuals who strive toward self-betterment, simply wanting to obtain a college degree.

To avoid these educational barriers, AUH focuses on academic and life achievement to evaluate students for enrollment. In addition, AUH does not use the English Language Proficiency Test to limit talented non-English speaking individuals from reaching their life goals. AUH is not a "School of English Language". It is where the highest values of human knowledge are preserved, expanded upon, and transferred to the next generation regardless of the communication tool used to do so.

Bring your prior college credits and units to us, and we accept them in transfer toward your degree. Bring your life and work experiences to us, and we will evaluate these experiences for possible credit equivalence. If you have knowledge found in a college level course, you can submit a paper to challenge the course, and we will give you credit if your paper meets the expected standards. If you need to complete our courses, then do so by attending our classes in classrooms, evening or weekend courses, seminars, workshops, or through independent learning at your own pace and schedule without the need to leave your home or work.

With AUH's alternate methods of education, these academic obstacles will be completely obsolete in the 21st century.

FOR DETAILS ON THE RELATED TOPICS SELECT THE APPROPRIATE HEADING ON THIS PAGE

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**961 HWY 80 EAST  
Clinton, MS 39056**

**Telephone** : (1) 601-923-0954  
**Fax** : (1) 601-923-0955  
**E-mail** : [Info@auh.edu](mailto:Info@auh.edu)

**Academic Programs and all Communications:**

International Academic Programs Division  
American University of Hawaii  
**1722 Westwood Boulevard  
Los Angeles, CA 90024-5610, USA**

**Telephone** : (1) 310-234-9211  
**Fax** : (1) 310-234-9231  
**E-mail** : [Amery@auh.edu](mailto:Amery@auh.edu)

**Worldwide Web and Related Links:**

AUH Main Website : <http://www.auh.edu>  
AUH Iran Website : <http://www.auhiran.com>  
TUA (Trasnational University Alliance) : <http://www.trunia.org>

**YOU CAN ALSO CONTACT ANY OF THE REGIONAL OFFICES WORLDWIDE FOR FURTHER INFORMATION**

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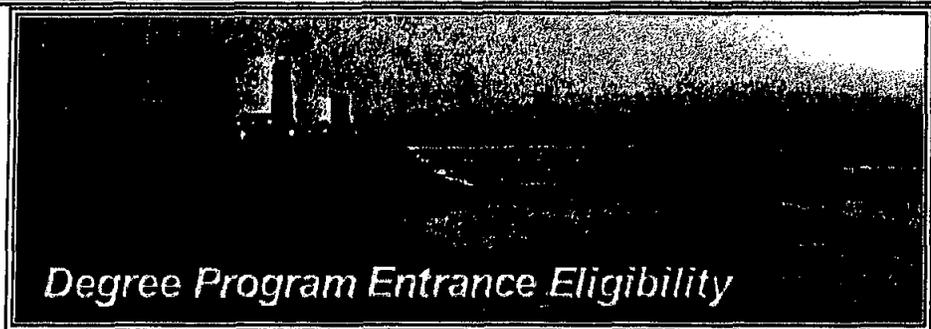
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College of Law & Diplomacy
College of Mass Communication And Journalism
College of Medicine
College of Natural Science and Environment
College of Natural and Alternative Medicine
College of Public Policy & Administration
College of Social and Behavioral Sciences



**UNDERGRADUATE :**

**University Requirements :** American University of Hawaii requires that every undergraduate must demonstrate, upon entrance to the University, a High School Diploma or its equivalent, issued by a recognized educational institution, and an acceptable level of ability in English composition.

**College Requirements :** There are no prerequisites for enrollment in most of the Colleges of the University. The minimum subject matter requirement for graduation is completion of a minimum of 120 semester units (30 courses), of which usually a minimum of 60 units should be completed in the field-related free electives and mandatory core subjects.

**GRADUATE :**

**University Requirements :** American University of Hawaii requires that all students enrolling in postgraduate degree programs possess a Bachelor Degree or its equivalent from a recognized institution of higher education. On special occasions the University may accept life and work experience as equivalent to a first degree. For rules governing these very exceptional cases kindly see the appropriate chapters in the University Catalogue.

**College Requirements :** Admission to graduate standing in most of the Colleges of University is generally granted to applicants possessing a Bachelor Degree or its equivalent and some work experience in the proposed area or related fields. Evaluation of applicant's portfolio for admission will consist of an integrated assessment of all relevant material provided by the applicant, including transcripts for previous academic work, evidence of work experience, statement of purpose and letters of recommendation. In cases of excessive applications for admission to any of the programs offered in any academic year,

the Dean of the College will have the right to enforce the University's recommended admission standard of requiring a 3.0 or better undergraduate grade point average (on a 4.0 scale) and /or propriety of highest scores on LEA ( Life-Experience Assessment). For rules governing exceptional cases kindly consult Individual College prospectuses.

The minimum subject matter requirement for graduation to the Master's level is completion of a minimum of 44 semester units (11 courses), of which usually a maximum of 8 units could be completed in the form of a Master's Thesis.

The minimum subject matter requirement for graduation to the Doctoral level is completion of 92 semester units (23 courses) after the Bachelor level, or 48 semester units (12 courses) after the Master's level.

The University prefers to admit the holders of a Master's Degree to its Doctor of Philosophy degree programs, completing a minimum of 36 semester units (9 courses) before being admitted to the Candidacy status. Of the remaining courses a minimum of 12 units should be completed in the form of a Doctoral Dissertation.

Doctoral students in professional disciplines are not required to present a doctoral dissertation, but have to complete the minimum required 12 courses if enrolled with a master's degree or 92 semester units if entering with a bachelor's degree.

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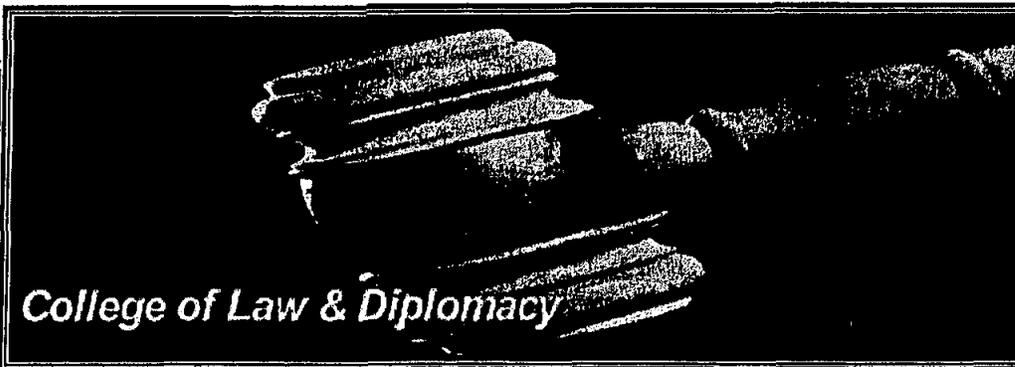
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- College of International & Intercultural Studies
- College of Mass Communication And Journalism
- College of Medicine
- College of Natural Science and Environment
- College of Natural and Alternative Medicine
- College of Public Policy & Administration
- College of Social and Behavioral Sciences



Dear Educant,

I wish to thank you for your interest in the American University of Hawaii and the College of Diplomacy of the University, where a stimulating academic environment is provided for independence as residential learners in application of administrative and management knowledge for the benefit of humanity at large.

Academic study at the College of Law and Diplomacy, AUH, is basically concerned with study and in a common set of disciplines, concepts, and techniques to develop critical intelligence and foster awareness of our world through the study of past and present, with an aim of betterment of the fate in the future. Bearing in mind that many lawyers and diplomats will play a crucial role in this during their careers, the College endeavors to train these future role-players at different levels of education. The programs are extensive and demanding, and each individual student is responsible for undertaking theoretical, practical and applied work to prepare him/her for the future challenge of professional practice of these fields of study, which have been called the key to the 21st Century success of humanity.

Programs of study at all levels are completely geared to the basic philosophy of education at AUH which emphasizes fundamental principles of preparing the student for an effective and lifelong self-development as the domain of human knowledge continues to evolve. Graduates of the College of Law and Diplomacy at AUH are not cultivated to stop at receiving their degree, but to be able to meet the challenge of the Process of Change now and in the next century.

The College offers Bachelor, Master, Professional Doctorate and Doctorate of Philosophy programs in a number of disciplines. THE LEGAL DEGREES ARE OFFERED ONLY IN COUNTRIES WHERE SUCH PROGRAMS HAVE BEEN RATIFIED BY THE NATIONAL AUTHORITIES OF THE SOVEREIGN COUNTRIES. COURSES RELATING TO THE PRACTICE OF LAW ARE OFFERED ONLY TO PRACTICING LAWYERS IN EACH COUNTRY AND ARE FOR THE PURPOSE OF UPDATING LOCAL KNOWLEDGE IN THE LATEST DEVELOPMENTS OF THE FIELD AS APPLIED AT GLOBAL LEVEL TODAY. THE LAW DEGREES ARE NOT OFFERED IN THE STATES OF AMERICA, AND WILL NOT BE VALID FOR PRACTICE OF LAW IN THAT COUNTRY. The programs are offered in accordance with the above stipulations :

Legal Studies and Law

BSLS, MSLS, Ph.D.

Criminal Justice

BA (CJ)

Criminology  
International and Corporate Law  
Juridical Administration

MS, Ph.D.  
MSLS, Ph.D.  
MS/MBA (with the College of Business Administration and Management)

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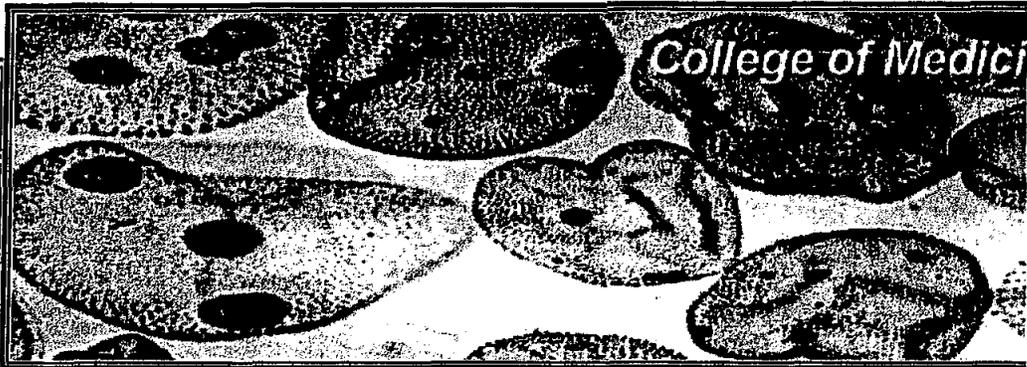
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The American University of Hawaii is proud to announce that through an Agreement of Articulation Yerevan State Medical University it will be offering a number of degree programs in Medical Sci English language, including the Doctorate of Medicine issued by the famed Yerevan State University in the Republic of Armenia, and recognized by the World Health Organization (WHO).

The programs offered will be based on the curriculum offered by the best medical schools in th States of America, as developed and recommended by AUH, and will run in parallel with the p offered by YSMU, a very reputable institution at world level.

All degrees issued will be that of AUH EXCEPT FOR DOCTORATE OF MEDICINE, and will be ratifie Ministry of Education and Science, and Ministry of Health of the Republic of Armenia. THE DOCTO MEDICINE, KNOWN AS "VEROCH" WILL BE ISSUED BY YSMU. AMERICAN UNIVERSITY OF HAWA NOT ISSUE DOCTORATE OF MEDICINE OR ANY DEGREE SIMILAR TO DOCTORATE OF MEDICINE S BACHELOR OF MEDICINE AND BACHELOR OF SURGERY. Candidates for "Veroch" should cons national and local licensing authorities to make certain that the degree issued by YSMU is accep practice of Medicine in their country or place of residence and the relating circumstances of re prior to enrolment.

Both universities are presently developing modes of implementing the programs from Academic Ye and once the programs are ready for operation, all interested individuals will be notified.

For further details kindly contact the office of the Dean for Medical Education, AUH, address as a your local AUH representation.

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## Library Services AT AUH

With the incredible expansion of Internet and its associated facilities, access to almost any book or scientific document at any time, and from and in any part of the world, has become an easy task. This inevitably has effected the role of university libraries and library services, the most progressive amongst them taking the look of a "Cyber Cafe" rather than the graveyard of old volumes with the moldy smells and the cobwebs. Nostalgic, but outdated, obviously in a progressive university like AUH, the old-fashioned library cannot exist.

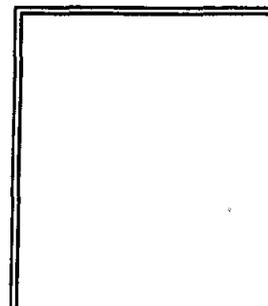
The services that we provide are as follows:

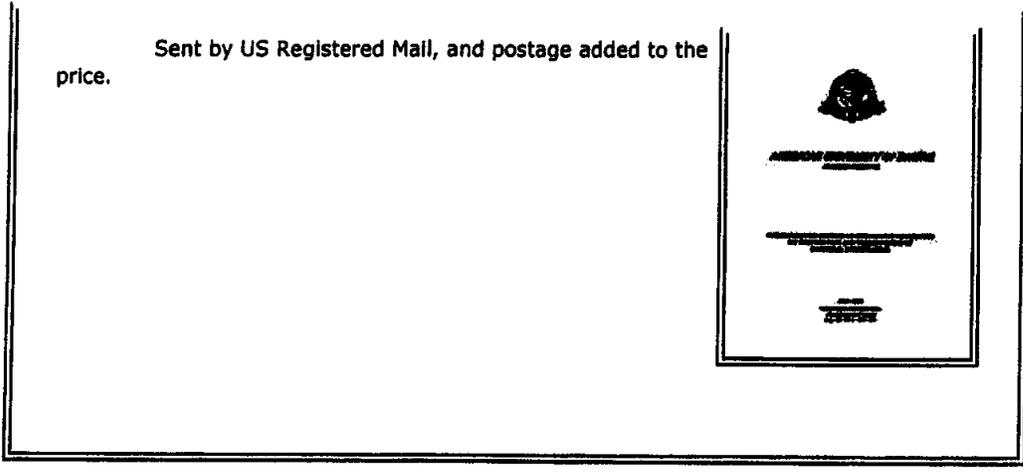
- Purchase and shipment of latest volume of textbooks, professional manuals and magazines, and original research papers for our students as and when they need them, at a discounted price. Orders are taken at each local Center and forwarded to the Los Angeles Office for processing. This Office has special arrangements with booksellers such as Barnes & Nobel, Borders, Technical Books, and Amazon. com in USA, and Foyles in England, as well as certain publishers like McMillan, McGraw Hill, etc.
- Providing our students with names of book wholesalers who will accept orders and make shipments directly, such as Buffin Books in England.
- Production and sale of University's own publications required by the students, such as the University's "*Dissertation Handbook*", a MUST for all doctoral students, and very helpful to any learner presenting a final thesis at any level.
- Forwarding the latest copy of the textbooks used by the local Centers for their reference library.
- Purchase and shipment of educational aid material such as video and audio tapes, CDs, computer software, etc. that could be obtained in USA or UK more easily or cheaply.
- Providing list of references for research purposes of postgraduate students when such service is not available through the local Centers.

### University Publications:

- "*Dissertation Handbook*", Guidelines for Doctor of Philosophy Candidates on Preparation and Presentation of Doctoral Dissertation, AUH Press, 3rd Edition July 1996, Copyright No. TX4-483-347, US Library of Congress.

Price: AUH Students	\$29.99-
Students of other institutions	\$39.99-
Libraries	\$59.99-
Public	\$79.99-





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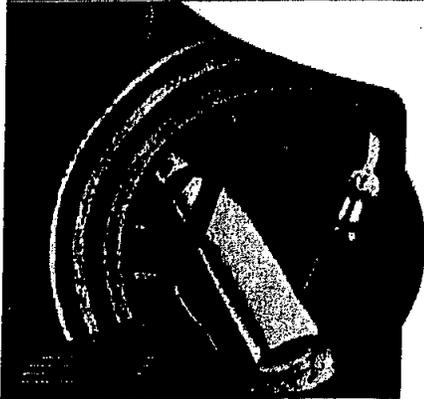
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REQUIREMENTS, IN THE SHORTEST  
PERIOD AND AT THE LEAST COST.

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ز دانشگاهی با شناخت جهانی و بر پایه نیازهای  
لردي و اجتماعی خویش در کوتاه ترین زمان و  
با کمترین هزینه دریافت کنید.

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رفع کننده ادعا یا مسئولیت

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the document entitled **FINDINGS OF FACT AND CONCLUSIONS OF LAW; ORDER** filed on this 17<sup>th</sup> day of May, 2006 was duly served upon the following parties at their last known address by U.S. MAIL, postage pre-paid or by court jacket on this 17<sup>th</sup> day of May, 2006.

JEFFREY BRUNTON, ESQ.  
State of Hawaii  
Office of Consumer Protection  
235 South Beretania Street, Room 801  
Honolulu, Hawaii 96813-2419

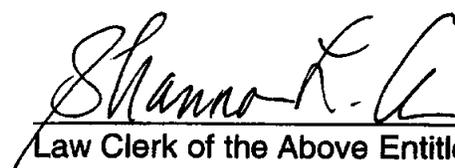
[VIA U.S. MAIL]

Attorneys for Plaintiff  
State of Hawaii, by its Office of Consumer Protection

REZA I. GHARAKHANI, ESQ.  
2029 Century Park East, Suite 2100  
Los Angeles, California 90067

[VIA U.S. MAIL]

DATED: Wailuku, Maui, Hawaii, May 17, 2006.

  
Law Clerk of the Above Entitled 