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2004 APR 26 PM 1:14

C. CASIL, CLERK
SECOND JUDICIAL CIRCUIT
STATE OF HAWAII

Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of
Consumer Protection,

Plaintiff,

vs.

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

Defendants.

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

SECOND AMENDED COMPLAINT AND
SUMMONS

Trial Date: None
SCF Date: None

SECOND AMENDED COMPLAINT

Plaintiff, for a cause of action against the above-named defendants,
avers and alleges 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. Defendant American University Hawaii, Inc. is a Hawaii corporation doing business under the names The American University of Hawaii and AUH. It will hereinafter be referred to as AUH.

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

5. Subsequent to July 1, 1999, Defendant AUH, acting in concert with others, has engaged in the operation of the unaccredited degree granting institution AUH. To that end, the defendant has offered to sell and sold post-secondary degrees.

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

7. AUH 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 AUH and its agents have failed to properly and adequately disclose in all catalogs, promotional materials and/or written contracts for instruction the fact that AUH 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 AUH 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 a *per se* violation of Hawaii Rev. Stat. § 480-2(a).

COUNT II
SUGGESTIONS OF STATE LICENSING, APPROVAL OR REGULATION

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

13. AUH and its agents have, in its catalogs and/or promotional materials indicated or suggested that the State of Hawaii licenses, approves of or regulates its operations in violation of Hawaii Rev. Stat. §446E-5(a).

14. Each and every catalog, promotional material and/or written contract for instruction that contains such a suggestion or indication constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-5(a).

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

COUNT III
ILLEGAL ISSUANCE OF LAW DEGREES

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

17. AUH is not now and never has been accredited by the American Bar Association.

18. AUH has issued juris doctor (J.D.), master of laws (L.L.M.) or equivalent or comparable degrees.

19. Each and every such degree issued constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-5(b).

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

COUNT IV
ILLEGAL ISSUANCE OF MEDICAL DEGREES/DECEPTIVE TRADE ACTS

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

22. AUH is not now and never has been accredited by the Liaison Committee on Medical Education.

23. AUH has offered to issue and/or issued doctor of medicine (M.D.) or equivalent or comparable degrees.

24. Each and every such degree issued constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-5(c), or alternatively, if no such degrees were actually offered, each such offer constitutes a deceptive trade practice in violation of Hawaii Rev. Stat. § 480-2(a).

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

COUNT V

FAILURE TO HAVE TWENTY-FIVE HAWAII STUDENTS ENROLLED

26. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 25 as though fully set forth herein.

27. AUH has failed to have twenty-five enrolled students in Hawaii in violation of Hawaii Rev. Stat. § 446E-5(d).

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

COUNT VI

ILLEGAL SUGGESTIONS OF APPLICATION FOR FUTURE ACCREDITATION

29. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 28 as though fully set forth herein.

30. AUH has indicated or suggested in its catalogs and/or promotion materials that it has applied for future accreditation.

31. Each and every such representation issued constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-5(f).

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

COUNT VII
ILLEGAL ACCEPTANCE OF PAYMENTS

33. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 32 as though fully set forth herein.

34. Defendant AUH has accepted or received tuition payments or other fees on behalf of students despite not being in compliance with all of the requirements of Hawaii Rev. Stat. Chap. 446E.

35. The acceptance of such payment(s) or fee(s) from each student constitutes a separate and independent violation of Hawaii Rev. Stat. §446E-5(e).

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

COUNT VIII
INJUNCTIVE RELIEF

37. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 36 as though fully set forth herein.

38. 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.

COUNT IX
DEFENDANT SAFAVI'S INDIVIDUAL LIABILITY

39. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 38 as though fully set forth herein.

40. Defendant Hassan H. Safavi is a resident of the State of Hawaii. Hassan H. Safavi is also known as Henry Safavi.

41. At all times relevant herein, Defendant Safavi was an officer and/or director of AUH.

42. Defendant Safavi 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.

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 University Hawaii, Inc.), 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 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, jointly and severally, 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, APR 15 2004.



JEFFREY E. BRUNTON
Attorney for Plaintiff

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AMERICAN UNIVERSITY HAWAII,)	
INC., a Hawaii corporation dba The)	
American University of Hawaii and)	
AUH and HASSAN H. SAFAVI aka)	
Henry Safavi,)	Trial Date: None
)	SCF Date: None
Defendants.)	
)	

SUMMONS

TO THE DEFENDANTS:

You are hereby summoned and required to serve upon plaintiff's attorney, whose address is stated above, an answer to the Second Amended Complaint which is attached. This action must be taken within 20 days after service of this summons upon you, exclusive of the day of service.

If you fail to make your answer within the twenty-day time limit, judgment by default will be taken against you for the relief demanded in the Second Amended Complaint.

If you fail to obey this summons this may result in an entry of default and default judgment.

Pursuant to Rule 4(b) of the Hawai'i Rules of Civil Procedure, this summons shall not be delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the public, unless a judge of the District or Circuit courts permits, in writing on the summons, personal delivery during those hours.

APR 26 2004

DATED: Wailuku, Hawaii, _____.

/sgd/C. CASIL (seal)

Circuit Court Clerk