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FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

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F. OTAKE
CLERK

Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of Consumer Protection,)	CIVIL NO. <u>09-1-0037-01 KKS</u>
)	(Other Civil Action)
Plaintiff,)	COMPLAINT AND SUMMONS
)	
vs —)	
)	
CITY UNIVERSITY OF FINANCE AND ECONOMICS, NEW YORK LLC, a Hawaii corporation,)	
)	
Defendant.)	
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COMPLAINT

Plaintiff, for a cause of action against the above-named defendant, 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 Defendant 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 City University of Finance and Economics, New York LLC ("CUFENY") is a Hawaii corporation.

4. The principal behind Defendant CUFENY is Lee Thong Yee who is also known as Marcus Lee. Mr. Lee is a Shanghai resident holding a Malaysian passport.

5. In August 2008, Plaintiff wrote Mr. Lee asking that he demonstrate CUFENY's compliance with Hawaii Rev. Stat. Chap. 446E, Hawaii's law relating to unaccredited degree granting institutions. Mr. Lee responded that CUFENY had not engaged in any operations, but intended to do so in the future and recognized that such activities were subject to Chap. 446E.

6. In September 2008, Plaintiff issued a written warning to CUFENY that any violations of Chap. 446E arising after its start up, including the posting of a website, would result in suit.

7. In August 2008, the domain name www.dbacufe.com was registered. Sometime between August 2008 and December 23, 2008, Defendant CUFENY uploaded its website located at <http://www.dbacufe.com>.

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

9. Defendant CUFENY is an “unaccredited institution” as that phrase is defined in Haw. Rev. Stat. § 446E-1.

10. Defendant CUFENY has a “presence” in the State of Hawaii as that term is used in Haw. Rev. Stat. § 446E-1.

COUNT I
FAILURE TO HAVE AN OFFICE LOCATED IN HAWAII

11. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 10 as though fully set forth herein.

12. Defendant CUFENY has failed to have an office located in Hawaii in violation of Haw. Rev. Stat. § 446E-5(d).

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

COUNT II
FAILURE TO HAVE AN EMPLOYEE LOCATED IN HAWAII

14. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 13 as though fully set forth herein.

15. Defendant CUFENY has failed to have an employee located in Hawaii in violation of Haw. Rev. Stat. § 446E-5(d).

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

COUNT III
FAILURE TO HAVE TWENTY FIVE ENROLLED STUDENTS LOCATED IN HAWAII

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

18. Defendant CUFENY has failed to have twenty-five enrolled students located in Hawaii in violation of Haw. Rev. Stat. § 446E-5(d).

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

COUNT IV
FAILURE TO PROPERLY MAKE STATUTORY DISCLOSURES

20. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 19 as though fully set forth herein.

21. Defendant CUFENY has failed to properly and adequately disclose in its website, its contracts for instruction and perhaps other promotional materials of the fact that it is not accredited by an accrediting agency recognized by the United States Secretary of Education in violation of Haw. Rev. Stat. § 446E-2(a).

22. Each day that Defendant CUFENY failed to properly and adequately disclose the fact that CUFENY is and was not accredited by an accrediting agency recognized by the United States Secretary of Education constitutes a separate and independent violation of Haw. Rev. Stat. § 446E-2(a).

23. Violations of Haw. Rev. Stat. § 446E-2(a) constitutes *per se* violations of Haw. Rev. Stat. § 480-2(a).

COUNT V
ILLEGAL INDICATIONS OR SUGGESTIONS OF STATE APPROVAL

24. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 23 as though fully set forth herein.

25. CUFENY has indicated or suggested that the State of Hawaii approved its operations in its website by claiming that it is “state registered” in its website.

26. Such indications or suggestions violate Haw. Rev. Stat. § 446E-5(a).

27. Violations of Haw. Rev. Stat. § 446E-5(a) constitutes *per se* violations of Haw. Rev. Stat. § 480-2(a).

COUNT VI
INJUNCTIVE RELIEF

28. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 27 as though fully set forth herein.

29. Unless Defendant is restrained and enjoined by this court from continuing to violate Haw. Rev. Stat. Chapter 446E and § 480-2(a) in the manner described herein, CUFENY 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 Defendant’s 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 trade names, trademarks, corporate registrations (including that for CUFENY), and certificates of authority held by or for the defendant.

3. Issue a temporary restraining order, preliminary injunction and permanent injunction enjoining the defendant, its 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 itself out as a “college, academy, institute, institution, university” or anything similar thereto;
- c. Failing to comply with Haw. Rev. Stat. Chapter 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 defendant pursuant to Haw. Rev. Stat. § 480-3.1 and enter judgment in favor of the plaintiff accordingly.

5. Award any consumers injured by the aforementioned violations full restitution, including pre and post judgment interest, against the defendant pursuant to

Haw. Rev, Stat. § 487-14 and the court's inherent authority and enter judgment accordingly.

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

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

DATED: Honolulu, Hawaii, January 8, 2009.



JEFFREY E. BRUNTON
Attorney for Plaintiff

State of Hawaii vs. City University of Finance and Economics, New York LLC, a Hawaii corporation; Civil No. _____; COMPLAINT AND SUMMONS

STATE OF HAWAII CIRCUIT COURT OF THE FIRST CIRCUIT	SUMMONS TO ANSWER CIVIL COMPLAINT	CASE NUMBER
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PLAINTIFF STATE OF HAWAII, by its Office of Consumer Protection	vs. DEFENDANT CITY UNIVERSITY OF FINANCE AND ECONOMICS, NEW YORK LLC, a Hawaii corporation
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PLAINTIFF'S ATTORNEY (NAME, ADDRESS, TEL. NO.) JEFFREY E. BRUNTON #2833 Office of Consumer Protection 235 South Beretania Street, Room 801 Honolulu, Hawaii 96813-2419 Telephone: (808) 586-2636

TO THE DEFENDANT(S):

You are hereby summoned and required to serve upon plaintiff's attorney, whose address is stated above, an answer to the complaint which is attached. This action must be taken within twenty 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 complaint.

This summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.



In accordance with the Americans with Disabilities Act, and other applicable state and Federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the First Circuit Court Administration Office at **PHONE NO. 539-4333, FAX 539-4322, or TTY 539-4853, at least ten (10) working days prior to your hearing or appointment date.**

DATE ISSUED JAN - 8 2009	CLERK F. OTAKE	
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I do hereby certify that this is a full, true, and correct copy of the original on file in this office.	CIRCUIT COURT CLERK
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