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FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

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H. CHING
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

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| STATE OF HAWAII, by its Office of Consumer Protection, |) | CIVIL NO. <u>01-1-2780-09</u> |
| |) | (Other Civil Action) |
| |) | |
| Plaintiff, |) | COMPLAINT AND SUMMONS |
| |) | |
| vs. |) | |
| |) | |
| FREDERICK TAYLOR |) | |
| INTERNATIONAL UNIVERSITY, INC. , |) | |
| a dissolved Hawaii corporation and |) | |
| MANSOUR S. SAKI, |) | |
| |) | |
| Defendants. |) | |

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

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

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| STATE OF HAWAII, by its Office of |) | CIVIL NO. 01-1-2780-09 (RWP) |
| Consumer Protection, |) | (Other Civil Action) |
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| FREDERICK TAYLOR INTERNATIONAL) |) | |
| UNIVERSITY, INC. , a dissolved |) | |
| Hawaii corporation and MANSOUR S. |) | |
| SAKI, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

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 Frederick Taylor International University, Inc. ("FTIU") is a Hawaii corporation.

4. Upon information and belief, Defendant Mansour S. Saki is a resident of the State of California.

5. On February 13, 1997 Articles of Incorporation of FTIU were filed with the Department of Commerce and Consumer Affairs of the State of Hawaii. Those articles recite that the purpose for which the corporation was organized shall be . . . "to operate and to award degrees of Associate of Art, Associate of Science, Bachelor, Master and Doctoral degrees in compliance with all appropriate laws set forth by the State of Hawaii."

6. FTIU's articles of incorporation identify Defendant Saki as its president, secretary and one of its directors, as well as a 50% shareholder in the corporation.

7. FTIU's last annual report for the year ending December 31, 1999 identifies its corporate mailing address as being 1010 Pueo Street, Honolulu, Hawaii 96816. That address is, in fact, a residential address which was, upon information and belief rented to a director of FTIU. Plaintiff's mail to that address is being returned by the post office as undeliverable.

8. FTIU, in conjunction with Frederick Taylor University, maintains or maintained a website located at <http://www.ftu.edu>. That uniform resource locator address is registered to Frederick Taylor University of 346 Rheem Boulevard, Suite 203, Moraga, California 94556.

9. The administrative contact for the FTU website is Defendant Saki.

10. The FTIU website stated that "Frederick Taylor International University is a Registered Corporation with the State of Hawaii." Elsewhere it recited that "I understand that Frederick Taylor International University is registered with the State of Hawaii as an educational institution to confer undergraduate and graduate degree programs." Elsewhere it recited that "Frederick Taylor International University is a Registered Educational Institution with the State of Hawaii" and that "Frederick Taylor International University, FTIU, is Registered with the State of Hawaii."

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

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

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

14. FTIU has had a "presence" in the State of Hawaii as that term is used in Haw. Rev. Stat. §446E-1 since its articles of incorporation were filed.

15. Having learned of FTIU's operations, plaintiff asked FTIU and its principals, including Defendant Saki, to demonstrate that they were in compliance with Hawaii's laws regarding unaccredited degree granting institutions.

16. Plaintiff received a response from Defendant Saki which indicated that FTIU was in violation of Hawaii law.

17. Shortly thereafter, FTIU filed articles of dissolution with the Business Registration Division of the Department of Commerce and Consumer Affairs.

COUNT I
FAILURE TO MAKE STATUTORY DISCLOSURES

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

19. FTIU 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).

20. Each and every catalog, promotional material and/or written contract for instruction that failed to properly and adequately disclose the fact that FTIU 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).

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

COUNT II
FAILURE TO HAVE AN OFFICE LOCATED IN HAWAII

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

23. FTIU has failed to have an office located in Hawaii in violation of Hawaii Rev. Stat. §446E-5(d).

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

COUNT III
FAILURE TO HAVE TWENTY-FIVE HAWAII STUDENTS ENROLLED

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

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

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

COUNT IV
ILLEGAL ACCEPTANCE OF PAYMENTS

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

29. FTIU has had a continual "presence" in the State of Hawaii as that phrase is used in Hawaii Rev. Stat. § 446E-1 and § 446E-5 since at least July 1, 1999.

30. FTIU 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.

31. 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).

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

COUNT V
SUGGESTIONS OF STATE LICENSING, APPROVAL OR REGULATION

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

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

35. 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).

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

COUNT VI
DEFENDANT MANSOUR S. SAKI'S INDIVIDUAL LIABILITY

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

38. Defendant Saki 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.

COUNT VII
INJUNCTIVE RELIEF

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

40. 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 FTIU), 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, 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, September 21, 2001.

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Attorney for Plaintiff

- 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, 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, September 21, 2001.



JEFFREY E. BRUNTON
Attorney for Plaintiff