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1ST CIRCUIT COURT
STATE OF HAWAII
FILED

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M.N. TANAKA
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of
Consumer Protection,

Plaintiff,

vs.

ANU DISTANCE LEARNING, INC., a
Hawaii corporation, LINGXIN ZHANG
and BILL R. BOOTH,

Defendants.

CIVIL NO. 02-1-1762-07
(Other Civil Action)

COMPLAINT AND SUMMONS

Trial Date: None
SCF Date: None

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. Chaps. 446E, 480 and 487 seeking

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Hawaii corporation, LINGXIN ZHANG)	
and BILL R. BOOTH,)	
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Defendants.)	Trial Date: None
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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. Chaps. 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 ANU Distance Learning, Inc. ("ANU") is a Hawaii corporation.

4. Defendant Lingxin Zhang ("Zhang") is a resident of the State of California.

5. Defendant Bill R. Booth ("Booth") is a resident of the State of California.

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

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

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

9. Subsequent to July 1, 1999, the Defendants, acting in concert, have engaged in the operation of the unaccredited degree granting institution American National University. To that end, the Defendants have offered to sell and

sold educational services, including those leading to degrees. In conjunction therewith, the Defendants have utilized a variety of marketing materials, including a website, catalogs and other materials.

10. American National University is an "unaccredited institution" as that phrase is defined in Hawaii Rev. Stat. § 446E-1.

11. American National University has or claims to have a "presence" in the State of Hawaii as that term is used in Hawaii Rev. Stat. §446E-1.

COUNT I
FAILURE TO MAKE STATUTORY DISCLOSURES

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

13. American National University 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).

14. Each and every catalog, promotional material and/or written contract for instruction that failed to properly and adequately disclose the fact that American National University 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).

15. 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

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

17. American National University has failed to have an office located in Hawaii in violation of Hawaii Rev. Stat. §446E-5(d).

18. 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

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

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

21. 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

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

23. American National University 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 April 3, 2002.

24. American National University 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.

25. 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).

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

COUNT V
DEFENDANT ZHANG’S INDIVIDUAL LIABILITY

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

28. Defendant Zhang 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 VI
DEFENDANT BOOTH’S INDIVIDUAL LIABILITY

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

30. Defendant Booth 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

31. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 30 as though fully set forth herein.

32. 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 enjoining Johnson Choi, his agents, employees, successors and assigns, directly or indirectly, individually or in concert with others, or through any corporate or other device from providing voice mail, mail forwarding, or any other service to the Defendants.
3. 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 ANU Distance Learning, Inc.), certificates of authority held by or for the Defendants.

4. 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.

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

6. 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.

7. Assess and award judgment in favor of Plaintiff and against the Defendants, for attorneys' fees, costs, costs of investigation, interest, and other expenses.

8. Award Plaintiff such other relief as the court may deem just and equitable under the circumstances.

DATED: Honolulu, Hawaii, July 23, 2002.

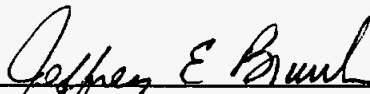
JEFFREY E. BRUNTON
Attorney for Plaintiff

6. 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.

7. Assess and award judgment in favor of Plaintiff and against the Defendants, for attorneys' fees, costs, costs of investigation, interest, and other expenses.

8. Award Plaintiff such other relief as the court may deem just and equitable under the circumstances.

DATED: Honolulu, Hawaii, July 23, 2002.



JEFFREY E. BRUNTON
Attorney for Plaintiff