

JEFFREY E. BRUNTON #2833
Office of Consumer Protection
235 South Beretania Street, Room 801
Honolulu, Hawaii 96813-2419
Telephone: (808) 586-2636

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED
2004 DEC 29 PM 3: 22

H. CHING
CLERK

Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of)	CIVIL NO. 04-1-1737-09 VSM
Consumer Protection,)	(Other Civil Action)
)	
Plaintiff,)	FIRST AMENDED COMPLAINT AND
)	SUMMONS
)	
vs.)	
)	
)	
)	
EARTHNET INSTITUTE, a Hawaii)	
nonprofit corporation and GEORGE A.)	
WOLFORD,)	Trial Date: None
)	SCF Date: None
Defendants.)	
)	

FIRST 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 Earthnet Institute ("ENI") is a Hawaii nonprofit corporation doing business under the name Earthnet Institute.

4. Defendant George A. Wolford was a former resident of the State of Hawaii who currently resides in the State of Missouri.

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

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

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

8. ENI 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

9. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 8 as though fully set forth herein.

10. Defendant ENI and its agents have failed to properly and adequately disclose in all catalogs, promotional materials and/or written contracts for instruction the fact that ENI 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).

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

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

COUNT II
FAILURE TO HAVE TWENTY-FIVE HAWAII STUDENTS ENROLLED

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

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

15. Defendant ENI is and has been, therefore, unauthorized to issue any degrees.

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

COUNT III
FAILURE TO HAVE AN OFFICE LOCATED IN HAWAII

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

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

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

COUNT IV
FAILURE TO PRODUCE RECORDS AND INFORMATION

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

21. Defendant ENI has failed to provide records and information upon Plaintiff's demand in violation of Hawaii Rev. Stat. §446E-2(b).

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

COUNT V
ILLEGAL ACCEPTANCE OF PAYMENTS

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

24. Defendant ENI 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 VI
DEFENDANT WOLFORD'S INDIVIDUAL LIABILITY

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

28. At all times relevant herein, Defendant Wolford was an officer and/or director of ENI.

29. Defendant Wolford 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

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

31. 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 trade names, trademarks, corporate registrations (including that for Earthnet Institute), 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 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, December 29, 2004.



JEFFREY E. BRUNTON
Attorney for Plaintiff

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Defendants.)	Trial Date: None
)	SCF Date: None
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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 First 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.

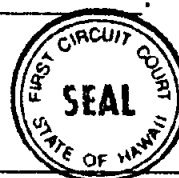
If you fail to make your answer within the twenty-day time limit, judgment by default will be taken against you for the relief demanded in the First Amended Complaint.

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.

DATED: Honolulu, Hawaii, DEC 29 2004

H. CHING



Circuit Court Clerk