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

Attorney for Plaintiff

STATE OF HAWAII
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B. TERAOKA
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of Consumer Protection, Plaintiff, vs. EMPIRE UNIVERSITY, a Hawaii nonprofit corporation and TCHANG BAHRK, Defendants.	CIVIL NO. 05-1-0387-03 SSM (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. 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 Empire University ("EU") is a Hawaii nonprofit corporation.

4. Defendant Tchang Bahrk is a resident of the State of New York.

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

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

8. EU has a "presence" in the State of Hawaii as that term is used in Haw. Rev. Stat. §446E-1.

9. Defendant Tchang Bahrk is the principal behind the operations of Empire University.

10. Defendants have knowingly submitted false information to the Business Registration Division of the State of Hawaii and to Plaintiff concerning Empire University.

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

13. Violations of Hawaii Rev. Stat. § 446E-5(d) constitute *per se* violations of Hawaii 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 EU has failed to have an employee located in Hawaii in violation of Hawaii Rev. Stat. §446E-5(d).

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 A STATUTORY AGENT LOCATED IN HAWAII

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

18. Defendant EU has failed to have a statutory agent for service of process located in Hawaii in violation of Hawaii Rev. Stat. §446E-4.

19. Violations of Hawaii Rev. Stat. § 446E-4 constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT IV
PROVISION OF FALSE INFORMATION TO GOVERNMENT AGENCY

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

21. Plaintiff requested Defendant EU to provide records and information pursuant to Hawaii Rev. Stat. §446E-2(b).

22. On behalf of Defendant EU, Defendant Bahrk faxed a response to Plaintiff. That response purports to have been prepared by Jae Lee of Honolulu, but, in fact, was prepared by Defendant Bahrk and faxed from New York.

23. The response contains a variety of false information, including the address of the university's claimed office, the location of its statutory agent for service of process, the location and telephone number of its claimed Hawaii employee, the identity of the person preparing the response and information about the claimed Hawaii students.

24. The conduct of the Defendants as set forth herein violates Hawaii. Rev. Stat. §710-1063.

25. Violations of Hawaii Rev. Stat. § 710-1063 constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT V
ILLEGAL ACCEPTANCE OF PAYMENTS

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

27. Defendants have 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.

28. 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).

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

COUNT VI
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 Empire University), 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, March 8, 2005.

Jeffrey E Brunton

JEFFREY E. BRUNTON
Attorney for Plaintiff

STATE OF HAWAII CIRCUIT COURT OF THE FIRST CIRCUIT	**SUMMONS** **TO ANSWER CIVIL COMPLAINT**	CASE NUMBER CIVIL NO.

PLAINTIFF STATE OF HAWAII, by its Office of Consumer Protection	VS.	DEFENDANT EMPIRE UNIVERSITY, a Hawaii nonprofit corporation and TCHANG BAHRK

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 (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 (20) day time limit, judgment by default will be taken against you for the relief demanded in the 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.

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 MAR 8 2005	CLERK S. TERAOKA	FIRST CIRCUIT COURT SEAL STATE OF HAWAII
I do hereby certify that this is a full, true, and correct copy of the original on file in this office.		CIRCUIT COURT CLERK