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1ST CIRCUIT COURT  
STATE OF HAWAII  
FILED

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N. ANAYA  
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Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of  
Consumer Protection, )

Plaintiff, )

vs. )

INTERNATIONAL EAST-WEST )  
UNIVERSITY, a Hawaii nonprofit )  
corporation and CHUNG-YING CHENG, )

Defendants. )

CIVIL NO. 02-1-1747-07  
(Other Civil Action)

COMPLAINT AND SUMMONS

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.

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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 International East-West University ("IEWU") is a Hawaii nonprofit corporation.

4. Defendant Chung-Ying Cheng ("Cheng") is a resident of the State of Hawaii.

5. During the period from July 1, 1999 through the present, IEWU operated an unaccredited degree granting institution in or from the State of Hawaii or under the ostensible authority of the laws of the State of Hawaii.

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

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

9. IEWU 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**

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

11. IEWU 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).

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

13. 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**

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

15. IEWU has failed to have an office 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 TWENTY-FIVE HAWAII STUDENTS ENROLLED**

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

18. IEWU has failed to have twenty-five enrolled students 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**  
**CLAIMS OF APPLICATION FOR FUTURE ACCREDITATION**

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

21. IEWU has claimed or suggested that it has or will apply for future accreditation in violation of Hawaii Rev. Stat. § 446E-5(f).

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

23. Each and every catalog, promotional material and/or written contract for instruction that contained such a representation constitutes a separate and independent violation of Hawaii Rev. Stat. § 480-2(a).

24. Alternatively, each student that enrolled as a result of each and every promotional material that contained such a misrepresentation constitutes a separate and independent violation of Hawaii Rev. Stat. § 480-2(a).

**COUNT V**  
**DECEPTIVE REPRESENTATIONS**

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

26. IEWU has made a series of misleading and deceptive statements in its catalogue, including that IEWU has been an active member of the Instructional Telecommunications (sic) Council.

27. Each and every catalog, promotional material and/or written contract for instruction that contained such a misrepresentation constitutes a separate and independent violation of Hawaii Rev. Stat. § 480-2(a).

28. Alternatively, each student that enrolled as a result of each and every promotional material that contained such a misrepresentation constitutes a separate and independent violation of Hawaii Rev. Stat. § 480-2(a).

**COUNT VI**  
**ILLEGAL ACCEPTANCE OF PAYMENTS**

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

30. IEWU has had or claimed to have 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.

31. IEWU 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.

32. 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).

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

**COUNT VII**  
**DEFENDANT CHENG'S INDIVIDUAL LIABILITY**

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

35. Defendant Cheng is an officer and director of IEWU.

36. Defendant Cheng 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 VIII**  
**INJUNCTIVE RELIEF**

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

38. 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 IEWU), 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.

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 22, 2002.

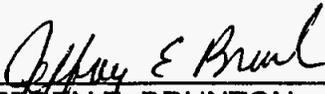
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Attorney for Plaintiff

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 22, 2002.

  
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JEFFREY E. BRUNTON  
Attorney for Plaintiff