

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

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

2003 JUL 28 PM 2:21

R. HIGA
CLERK

Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of)	CIVIL NO. <u>03-1; 1545-07</u>
Consumer Protection,)	(Other Civil Action)
)	
Plaintiff,)	COMPLAINT AND SUMMONS
)	
)	
vs.)	
)	
)	
KENSINGTON UNIVERSITY, INC., a)	
Hawaii corporation fka Kensington)	
International University, Inc. and fka)	Trial Date: None
Kensington University (Hawaii), Inc.,)	SCF Date: None
)	
Defendant.)	
)	

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

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

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of Consumer Protection,)	CIVIL NO. 03-1-1545-07 ____
)	(Other Civil Action)
)	
Plaintiff,)	COMPLAINT AND SUMMONS
)	
)	
vs.)	
)	
)	
KENSINGTON UNIVERSITY, INC., a Hawaii corporation fka Kensington International University, Inc. and fka Kensington University (Hawaii), Inc.,)	Trial Date: None
)	SCF Date: None
)	
Defendant.)	
_____)	

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 Kensington University, Inc. is a Hawaii corporation which formerly was known as Kensington International University, Inc. and Kensington University (Hawaii), Inc.

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

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

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

7. KU has or claims 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

8. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 7 as though fully set forth herein.

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

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

11. 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 AN OFFICE LOCATED IN HAWAII

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

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

14. 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

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

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

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

COUNT IV
SUGGESTIONS OF STATE LICENSING, APPROVAL OR REGULATION

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

19. KU and its agents have, 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).

20. 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).

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

COUNT V
ILLEGAL ACCEPTANCE OF PAYMENTS

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

23. Defendant KU 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.

24. 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).

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

COUNT VI
INJUNCTIVE RELIEF

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

27. Unless Defendant is restrained and enjoined by this court from continuing to violate Hawaii Rev. Stat. Chap. 446E and § 480-2(a) in the manner described herein, it 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 Defendant's 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 Kensington University, Inc. certificates of authority held by or for the defendant.

3. Issue a temporary restraining order, preliminary injunction and permanent injunction enjoining the defendant, its 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 defendant 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 defendant 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 defendant, 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, _____.

JEFFREY E. BRUNTON
Attorney for Plaintiff

Civil No. _____; State of Hawaii v. Kensington University Inc., et al.; Complaint and Summons

5. Award any consumers injured by the aforementioned violations full restitution, including pre and post judgment interest, against the defendant 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 defendant, 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, July 28, 2003.



JEFFREY E. BRUNTON
Attorney for Plaintiff

Civil No. _____; State of Hawaii v. Kensington University Inc., et al.; Complaint and Summons