

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

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F. OTAKE  
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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.

NATION UNIVERSITY, a Hawaii  
nonprofit corporation,

Defendant.

CIVIL NO. 04-1-0154-01 (vsm)  
(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. Chapters 446E, 480 and 487 seeking

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of Consumer Protection,	)	CIVIL NO. _____
	)	(Other Civil Action)
	)	
Plaintiff,	)	COMPLAINT AND SUMMONS
	)	
	)	
vs.	)	
	)	
	)	
NATION UNIVERSITY, a Hawaii nonprofit corporation,	)	
	)	
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 Defendant 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 Nation University ("NU") is a Hawaii nonprofit corporation.

4. On April 16, 2003 NU's Articles of Incorporation were filed with the Department of Commerce and Consumer Affairs of the State of Hawaii.

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

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

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

**COUNT I**  
**FAILURE TO PRODUCE RECORDS AND INFORMATION**

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

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

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

**COUNT II**  
**FAILURE TO MAKE STATUTORY DISCLOSURES**

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

12. Defendant NU 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).

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

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

**COUNT III**  
**FAILURE TO HAVE AN OFFICE LOCATED IN HAWAII**

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

16. Defendant NU has failed to have an office located 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**  
**FAILURE TO HAVE AN EMPLOYEE LOCATED IN HAWAII**

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

19. Defendant NU has failed to have an employee located in Hawaii in violation of Hawaii Rev. Stat. § 446E-5(d).

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

**COUNT V**  
**FAILURE TO HAVE TWENTY-FIVE HAWAII STUDENTS ENROLLED**

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

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

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

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

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

25. Defendant NU 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 16, 2003.

26. Defendant NU 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.

27. 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).

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

**COUNT VII**  
**INJUNCTIVE RELIEF**

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

30. Unless Defendant NU 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 Nation University, Inc.), 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.

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 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, \_\_\_\_\_.

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JEFFREY E. BRUNTON  
Attorney for Plaintiff

State of Hawaii vs. Nation University, Inc., et al; Civil No. \_\_\_\_\_;  
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 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, JAN 28 2004.

  
\_\_\_\_\_  
JEFFREY E. BRUNTON  
Attorney for Plaintiff

State of Hawaii vs. Nation University, Inc., et al; Civil No. \_\_\_\_\_;  
COMPLAINT AND SUMMONS.