

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

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

2002 JUN 19 PM 1:59

F. OTAKE
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of
Consumer Protection,

Plaintiff,

vs.

PICKERING UNIVERSITY THE
UNITED CONGREGATIONAL
CHURCH "SOCIETY OF FRIENDS
GROUP", a Hawaii nonprofit
corporation, WILLIAM REICHARD AND
ROBERT W. KELLER

Defendants.

CIVIL NO. 02-1-1492-06
(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

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)	CIVIL NO. _____
Consumer Protection,)	(Other Civil Action)
)	
Plaintiff,)	COMPLAINT AND SUMMONS
)	
)	
vs.)	
)	
)	
PICKERING UNIVERSITY THE UNITED)	
CONGREGATIONAL CHURCH)	
"SOCIETY OF FRIENDS GROUP", a)	
Hawaii nonprofit corporation,)	
WILLIAM REICHARD AND ROBERT W.)	Trial Date: None
KELLER)	SCF Date: None
)	
Defendants.)	
_____)	

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 Pickering University The United Congregational Church "Society of Friends Group" ("Pickering University") is a Hawaii nonprofit corporation.

4. Defendant William Reichard ("Reichard") is a resident of the State of Oregon.

5. Defendant Robert W. Keller ("Keller") is a resident of the State of California

6. On August 3, 1994 Pickering University's Articles of Incorporation filed with the Business Registration Division of the Department of Commerce and Consumer Affairs of the State of Hawaii.

7. From its incorporation, Pickering University has continuously 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.

8. Pickering University's 2000 annual corporate exhibit identifies its corporate mailing address as 1155 Fort Street Mall, Honolulu, Hawaii 96813-379.

9. Pickering University also maintains a website located at <http://www.pickering.edu>.

10. Pickering University's website also identifies Pickering University's address as 1155 Fort Street Mall, Honolulu, Hawaii 96813.

11. 1155 Fort Street Mall, Honolulu, Hawaii is the former street address for a company called The Mail Exchange. The Mail Exchange provides mail receipt and forwarding, voice-messaging and other services to individuals or businesses who contract with it.

12. Defendant Keller, on behalf of Pickering University, contracted with The Mail Exchange for mail-forwarding services.

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

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

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

16. Subsequently on July 1, 1999, the defendants, acting in concert have engaged in the operation of the unaccredited degree granting institution Pickering University. To that end, the defendants have offered to sell and sold educational services, including those leading to degrees. In conjunction therewith, the defendants have utilized a variety to marketing materials, including website, catalogs and other materials.

17. Pickering University is an "unaccredited institution" as that phrase is defined in Hawaii Rev. Stat. § 446E-1.

18. Pickering University 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

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

20. Pickering University 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).

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

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

COUNT II
FAILURE TO CONTINUOUSLY MAINTAIN A STATUTORY AGENT

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

24. Pickering University has failed to continuously maintain an agent for service of process within the State of Hawaii as required by Hawaii Rev. Stat. § 446E-4(a).

COUNT III
FAILURE TO HAVE AN OFFICE LOCATED IN HAWAII

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

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

27. 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

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

29. Pickering University has failed to have an employee located in Hawaii in violation of Hawaii Rev. Stat. § 446E-5(d).

30. 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

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

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

33. 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

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

35. Pickering University 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 January 24, 2000.

36. Pickering University 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.

37. 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).

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

COUNT VII
SUGGESTIONS OF STATE LICENSING, APPROVAL OR REGULATION

39. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 38 as though fully set forth herein.

40. Pickering University has, 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).

41. 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).

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

COUNT VIII
DEFENDANT WILLIAM REICHARD'S INDIVIDUAL LIABILITY

43. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 42 as though fully set forth herein.

44. Defendant William Reichard 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 IX
DEFENDANT ROBERT W. KELLER'S INDIVIDUAL LIABILITY

45. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 44 as though fully set forth herein.

46. Defendant Robert W. Keller 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 X
INJUNCTIVE RELIEF

47. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 46 as though fully set forth herein.

48. 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 enjoining The Mail Exchange, their agents, employees, successors and assigns, directly or indirectly, individually or in concert with others, or through any corporate or other device from providing voice mail, mail forwarding, or any other service to the Defendants.

3. 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 Pickering University The United Congregational Church "Society of Friends Group"), certificates of authority held by or for the defendants.

4. 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.

5. 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, June 19, 2002.

JEFFREY E. BRUNTON
Attorney for Plaintiff

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.

5. 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, June 19, 2002.



JEFFREY E. BRUNTON
Attorney for Plaintiff