

Defendants from engaging in certain acts or practices in violation of Hawaii's consumer protection laws and to obtain other and further relief.

2. This Court has jurisdiction and venue in this action pursuant to Haw. Rev. Stat. §§ 480-21, 603-21.5(3), 603-23 and 603-36(5).

3. Defendant Pacific Western University (Hawaii), Inc. ("PWUHI") was incorporated in the State of Hawaii on June 14, 1988.

4. PWUHI operates the unaccredited degree granting institution under the unregistered trade name Pacific Western University Hawaii and now American PacWest International University or APIU.

5. Defendant PWUHI is not now and never has been accredited by an accrediting agency recognized by the United States Secretary of Education.

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

7. Defendant PWUHI has a "presence" in the State of Hawaii as that phrase is defined in Hawaii Rev. Stat. §446E-1.

COUNT I
FAILURE TO PROPERLY MAKE STATUTORY DISCLOSURES

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

9. PWHU has failed to properly and adequately disclose in its catalogs, promotional material and/or contracts for instruction the fact that it is not accredited by an accrediting agency recognized by the United States Secretary of Education in violation of Hawaii Rev. Stat. § 446E-2(a).

10. The publication of each and every catalog and promotional material and the execution of each contract for instruction that failed to properly and adequately disclose the fact that PWUHI is and was not accredited by an accrediting agency recognized by the United States Secretary of Education constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-2(a).

11. Alternatively, the provision to each student of such a catalog or promotional material or the execution of a contract for instruction that failed to properly and adequately disclose the fact that PWUHI is and was not accredited by an accrediting agency recognized by the United States Secretary of Education constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-2(a).

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

COUNT II
SUGGESTIONS OF STATE LICENSING, APPROVAL OR REGULATION

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

14. In its website, PWUHI indicates or suggests that the State of Hawaii licenses, approves or regulates its operations by posting statements and information including but not limited to stating that the Hawaii legislature recognized and commended PWUHI, posting images of commendations issued to "Pacific Western University" by the Hawaii State legislature and stating that the State of Hawaii Department of Commerce and Consumer Affairs issued a

“CERTIFICATE OF GOOD STANDING Authorization No. 71582-D1-2004042617431208”.

15. PWUHI 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 in violation of Hawaii Rev. Stat. §446E-5(a).

16. 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).

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

COUNT III
FAILURE TO HAVE AN OFFICE LOCATED IN HAWAII

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

19. PWUHI failed to have an office 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 IV
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. PWUHI 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 V
FAILURE TO MAINTAIN RECORDS, DOCUMENTS AND INFORMATION

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

25. PWUHI has failed to maintain documents, records and information in violation of Hawaii Rev. Stat. §446E-2(c).

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

COUNT VI
FAILURE TO PRODUCE RECORDS, DOCUMENTS AND INFORMATION

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

28. PWUHI has failed to produce documents, records and information in violation of Hawaii Rev. Stat. §446E-2(c).

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

COUNT VII
ILLEGAL ACCEPTANCE OF PAYMENTS

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

31. During the course of its operations, PWUHI accepted and received tuition payments and other fees from students despite not being in compliance with all of the requirements of Hawaii Rev. Stat. Chapter 446E.

32. The acceptance of tuition payments and other fees 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 VIII
ILLEGAL ISSUANCE OF DEGREES

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

35. Because PWUHI did not have the requisite twenty-five students in Hawaii, nor the office, as required by Hawaii Rev. Stat. § 446E-5(d), it was not authorized by the laws of the State of Hawaii to issue any degrees.

36. All degrees issued by PWUHI have, therefore, been issued illegally.

COUNT IX
INJUNCTIVE RELIEF

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

38. 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, they will continue to do so, irreparably harming and injuring the consuming public of the State of Hawaii.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court:

1. Find, order, adjudge and declare that defendant's conduct, as alleged herein, violates the statutory provisions set forth above.

2. Appoint a receiver for the assets of the Defendant pursuant to Hawaii Rev. Stat. §480-16.

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. Failing to comply with Hawaii Rev. Stat. Chap. 446E or § 480-2(a) in any particulars;
- b. Collecting tuition payments and/or other fees from or on behalf of students unless and until Defendant is in complete compliance with Hawaii Rev. Stat. Chapter 446E;
- c. Issuing any degrees;
- d. Directly or indirectly transferring, selling, alienating, liquidating, encumbering, pledging, loaning, assigning, concealing, dissipating, converting, withdrawing or otherwise disposing of assets, funds, real property or other property, wherever located,

owned or controlled by or held for the benefit of, in whole or in part, or in the possession of the Defendant, except as ordered by the court; and

- e. Owning or operating any business in the State of Hawaii until all restitution, civil penalties and costs entered herein are fully satisfied.

4. Find, order, adjudge and declare, pursuant to Haw. Rev. Stat. § 480-12, that any and all written or oral contracts or agreements entered into between Defendant and students are in violation of Haw. Rev. Stat. § 480-2 and are void and unenforceable unless ratified by students in writing.

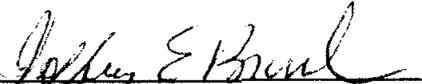
5. Assess appropriate civil penalties against the Defendant pursuant to Hawaii Rev. Stat. § 480-3.1 and enter judgment in favor of Plaintiff accordingly.

6. Award any consumers injured by the aforementioned violations full restitution, including pre and post judgment interest against the Defendant 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, September 15, 2005.


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State of Hawaii v. Pacific Western University (Hawaii), Inc.; Civil No. 05-1-0516-03 (EEH); First Amended Complaint.