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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

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

CIVIL NO. 03-1-0359-02
(Other Civil Action)

vs.)
)
)

COMPLAINT AND SUMMONS

UNIVERSITY OF HONOLULU, a Hawaii)
corporation; EDEN UNIVERSITY, a)
Hawaii corporation and CULTURE)
UNIVERSITY, a Hawaii corporation,)
)
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. Chaps. 446E, 480 and 487 seeking

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Defendants.)	
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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.

2. This court has subject matter jurisdiction over this case pursuant to Hawaii Rev. Stat. §§ 480-21 and 603-21.5.

3. Defendant Honolulu University (hereinafter "HU") is a Hawaii corporation.

4. Defendant Eden University (hereinafter "EU") is a Hawaii corporation.

5. Defendant Culture University (hereinafter "CU") is a Hawaii corporation.

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

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

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

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

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

12. Defendant HU has or had a "presence" in the State of Hawaii as that term is used in Hawaii Rev. Stat. §446E-1.

13. Defendant EU has or had a "presence" in the State of Hawaii as that term is used in Hawaii Rev. Stat. §446E-1.

14. Defendant CU has or had a "presence" in the State of Hawaii as that term is used in Hawaii Rev. Stat. §446E-1.

COUNT I
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. Defendants HU, EU and CU have 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 II
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. Defendants HU, EU and CU have 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 III
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. Defendants HU, EU and CU have 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 IV
ILLEGAL ACCEPTANCE OF PAYMENTS

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

25. Defendants HU, EU and CU have 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.

26. 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).

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

COUNT V
SUGGESTIONS OF STATE LICENSING, APPROVAL OR REGULATION

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

29. Defendants HU, EU and CU have, in their catalogs and/or promotional materials indicated or suggested that the State of Hawaii licenses, approves of or regulates their operations in violation of Hawaii Rev. Stat. §446E-5(a).

30. 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).

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

COUNT VI
FAILURE TO PRODUE RECORDS AND INFORMATION

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

33. Defendants HU, EU and CU have failed to provide records and information upon Plaintiff's demand in violation of Hawaii Rev. Stat. § 446E-2(b).

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

COUNT VII
INJUNCTIVE RELIEF

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

36. 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 those for Honolulu University, Eden University and Culture University), certificates of authority held by or for the Defendants.
3. Issue a temporary restraining order, preliminary injunction and permanent injunction requiring the defendants and any webhosters to immediately take whatever steps as are necessary to ensure that the web pages or web sites operated, in whole or part, by the defendants cannot be accessed by the public.
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, February 6, 2003.

JEFFREY E. BRUNTON
Attorney for Plaintiff

DATED: Honolulu, Hawaii, February 6, 2003.



JEFFREY E. BRUNTON
Attorney for Plaintiff