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8  
9 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**  
**STATE OF CALIFORNIA**

11  
12 In the Matter of the Statement of Issues  
Against:

13 **CODING HOUSE INSTITUTE**

14  
15 **Application for Approval to Operate an**  
16 **Institution Non-Accredited**

17 Respondent.

Case No. 1000841

OAH No. 2015121007

**FIRST AMENDED STATEMENT OF  
ISSUES**

18 Complainant alleges:

19 PARTIES

20 1. Joanne Wenzel (“Complainant”) brings this First Amended Statement of Issues solely  
21 in her official capacity as the Chief of the Bureau for Private Postsecondary Education,  
22 Department of Consumer Affairs.

23 2. On or about April 8, 2014, the Bureau for Private Postsecondary Education  
24 (“Bureau”) received an Application for Approval to Operate an Institution Non-Accredited from  
25 Respondent Coding House Institute (“Respondent”). Respondent is owned by non-party Nicholas  
26 James. Between April 17, 2014 and May 27, 2015, the Bureau and Respondent exchanged  
27 correspondence regarding Respondent’s application.

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1 has the capacity to satisfy the minimum operating standards. The bureau shall deny an  
2 application for an approval to operate if the application does not satisfy those standards.”

3 STATUTORY AND REGULATORY PROVISIONS<sup>1</sup>

4 9. **Business and Professions Code section 480** provides, in part:

5 “(a) A board may deny a license regulated by this code on the grounds that the applicant  
6 has one of the following:

7 . . .

8 “(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
9 benefit himself or herself or another, or substantially injure another.

10 “(3)(A) Done any act that if done by a licentiate of the business or profession in question,  
11 would be grounds for suspension or revocation of license.

12 . . .

13 “(d) A board may deny a license regulated by this code on the ground that the applicant  
14 knowingly made a false statement of fact that is required to be revealed in the application for the  
15 license.”

16 10. **Section 94840** provides:

17 “‘Enrollment agreement’ means a written contract between a student and institution  
18 concerning an educational program.”

19 11. **Section 94897** provides, in part:

20 “An institution shall not do any of the following:

21 . . .

22 “(j) In any manner make an untrue or misleading change in, or untrue or misleading  
23 statement related to, a test score, grade or record of grades, attendance record, record indicating

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26 \_\_\_\_\_  
27 <sup>1</sup> The California Private Postsecondary Education Act of 2009 was recently amended, effective  
28 January 1, 2015. See Senate Bill No. 1247. This First Amended Statement of Issues is based on  
the pre-amendment version of the Act.

1 student completion, placement, employment, salaries, or financial information, including any of  
2 the following:

3 “(1) A financial report filed with the bureau.

4 “(2) Information or records relating to the student's eligibility for student financial aid at the  
5 institution.

6 “(3) Any other record or document required by this chapter or by the bureau.

7 . . .

8 “(m) Direct any individual to perform an act that violates this chapter, to refrain from  
9 reporting unlawful conduct to the bureau or another government agency, or to engage in any  
10 unfair act to persuade a student not to complain to the bureau or another government agency.

11 . . . .”

12 12. **Section 94900** provides, in part:

13 . . .

14 “(b) An institution shall maintain, for each student granted a degree or certificate by that  
15 institution, permanent records of all of the following:

16 “(1) The degree or certificate granted and the date on which that degree or certificate was  
17 granted.

18 “(2) The courses and units on which the certificate or degree was based.

19 “(3) The grades earned by the student in each of those courses.”

20 13. **Section 94909** provides, in part:

21 “(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a  
22 prospective student, either in writing or electronically, with a school catalog containing, at a  
23 minimum, all of the following:

24 . . .

25 “(5) A description of the programs offered and a description of the instruction provided in  
26 each of the courses offered by the institution, the requirements for completion of each program,  
27 including required courses, any final tests or examinations, any required internships or

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1 externships, and the total number of credit hours, clock hours, or other increments required for  
2 completion.

3 . . .

4 “(7) Information regarding the faculty and their qualifications.

5 . . .

6 “(d) An accredited institution is not required to provide a School Performance Fact Sheet to  
7 a prospective student who is not a California resident, not residing in California at the time of his  
8 or her enrollment, and enrolling in an accredited distance learning degree program offered by the  
9 institution, if the institution complies with all federal laws, the applicable laws of the state where  
10 the student is located, and other appropriate laws, including, but not limited to, consumer  
11 protection and student disclosure requirements.”

12 14. **Section 94911** provides, in part:

13 “An enrollment agreement shall include, at a minimum, all of the following:

14 . . .

15 “(j) The following statements:

16 “(1) ‘Any questions a student may have regarding this enrollment agreement that have not  
17 been satisfactorily answered by the institution may be directed to the Bureau for Private  
18 Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address),  
19 (telephone and fax numbers).’

20 “(2) ‘A student or any member of the public may file a complaint about this institution with  
21 the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by  
22 completing a complaint form, which can be obtained on the bureau's Internet Web site (Internet  
23 Web site address).’”

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1           15.   **Section 94920** provides, in part:

2           “An institution that does not participate in the federal student financial aid programs shall  
3 do all of the following:

4           . . .

5           “(b) Institutions shall refund 100 percent of the amount paid for institutional charges, less a  
6 reasonable deposit or application fee not to exceed two hundred fifty dollars (\$250), if notice of  
7 cancellation is made through attendance at the first class session, or the seventh day after  
8 enrollment, whichever is later.

9           . . .

10          “(e) The institution shall pay or credit refunds within 45 days of a student's cancellation or  
11 withdrawal.”

12          16.   **California Code of Regulations, title 5, section 71180** provides:

13          “The institution shall include, with its Form Application 94886, exemplars of all student  
14 enrollment agreements and instruments of indebtedness.”

15          17.   **California Code of Regulations, title 5, section 71200** provides:

16          “(a) The institution shall include in its Form Application 94886 copies of advertising and  
17 other statements disseminated to the public in any manner by the institution or its representatives  
18 that concern, describe, or represent each of the following:

19           “(1) The institution.

20           “(2) Each educational program offered by the institution.

21          “(b) If advertising is broadcast by television or radio, the Form Application 94886 shall also  
22 include a copy of the script.”

23          18.   **California Code of Regulations, title 5, section 71240** provides, in part:

24          . . .

25          “(b) The institution shall submit current, reviewed financial statements at the time it applies  
26 for approval to operate. Each set of financial statements shall comply with Section 74115 of this  
27 chapter.”

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1           22.   **California Code of Regulations, title 5, section 71735** provides:

2           “(a) An institution shall have sufficient facilities and necessary equipment to support the  
3 achievement of the educational objectives of all of the courses and educational programs in which  
4 students are enrolled. If an institution represents that the educational service will fit or prepare a  
5 student for employment in a particular occupation or as described in particular job titles, either of  
6 the following conditions shall be met:

7           “(1) The equipment used for instruction or provided to the student shall be comparable in  
8 model type or features to equipment generally used in those occupations or job titles at the time  
9 the instruction is offered.

10          “(2) The institution shall establish that the equipment used for instruction or provided to a  
11 student is not obsolete and is sufficient for instructional purposes to reasonably assure that a  
12 student acquires the necessary level of education, training, skill, and experience to obtain  
13 employment in the field of training and to perform the tasks associated with the occupation or job  
14 title to which the educational program was represented to lead.

15          “(b) An institution's facilities, including heating and cooling, ventilation, lighting,  
16 classrooms, laboratories, and campus environs, shall be well-maintained. The institution shall  
17 maintain all valid permits required by any public agencies relating to the health and safety of the  
18 institution's facilities and equipment on file, and such permits shall be available to the Bureau  
19 upon request.”

20           23.   **California Code of Regulations, title 5, section 71745** provides, in part:

21           “(a) The institution shall document that it has at all times sufficient assets and financial  
22 resources to do all of the following:

23           “(1) Provide all of the educational programs that the institution represented it would  
24 provide.

25           “(2) Ensure that all students admitted to its educational programs have a reasonable  
26 opportunity to complete the programs and obtain their degrees or diplomas.

27           “(3) Maintain the minimum standards required by the Act and this chapter.

28           “(4) Pay timely refunds as required by Article 13 of the Act.



1           “(5) Pay all operating expenses due within 30 days.

2           “(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the  
3 end of the most recent fiscal year when using generally accepted accounting principles, or for an  
4 institution participating in Title IV of the federal Higher Education Act of 1965, meet the  
5 composite score requirements of the U.S. Department of Education. For the purposes of this  
6 section, current assets does not include: intangible assets, including goodwill, going concern  
7 value, organization expense, startup costs, long-term prepayment of deferred charges, and non-  
8 returnable deposits, or state or federal grant or loan funds that are not the property of the  
9 institution but are held for future disbursement for the benefit of students. Unearned tuition shall  
10 be accounted for in accordance with general accepted accounting principles.

11           . . . .”

12           24. **California Code of Regulations, title 5, section 71760** provides, in part:

13           “Each institution shall develop and maintain adequate procedures used by the institution to  
14 assure that it is maintained and operated in compliance with the Act and this Division.”

15           25. **California Code of Regulations, title 5, section 74112** provides, in part:

16           . . .

17           “(h) Documentation supporting all data reported shall be maintained by the institution for at  
18 least five years from the time included in either an Annual Report or a Performance Fact Sheet,  
19 and shall include at a minimum: student name(s), address, phone number, email address, program  
20 completed, program start and completion dates, place of employment and position, salary, hours,  
21 and a description of all attempts to contact each student. Documentation shall also include the  
22 name, email address, phone number, and position or title of the institution's representative who is  
23 primarily responsible for obtaining the students' completion, placement, licensing, and salary and  
24 wage data, the date that the information was gathered, and copies of notes, letters or emails  
25 through which the information was requested and gathered.”

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1       26. **California Code of Regulations, title 5, section 74115** provides, in part:

2       ...

3       “(b) A set of financial statements shall contain, at a minimum, a balance sheet, an income  
4 statement, and a cash flow statement, and the preparation of financial statements, shall comply  
5 with all of the following:

6       “(1) Audited and reviewed financial statements shall be conducted and prepared in  
7 accordance with the generally accepted accounting principles established by the American  
8 Institute of Certified Public Accountants by an independent certified public accountant who is not  
9 an employee, officer, or corporate director or member of the governing board of the institution.

10       ...

11       “(5) Any audits shall demonstrate that the accountant obtained an understanding of the  
12 institution's internal financial control structure, assessed any risks, and has reported any material  
13 deficiencies in the internal controls.

14       ...”

FIRST CAUSE FOR DENIAL OF APPLICATION  
(Incomplete Application – Financial Statements)  
(Cal. Code Regs., title 5, §§ 71240, subd. (b); 71745, subd. (a); and  
74115, subds. (b)(1) and (b)(5))

17       27. Respondent’s application is subject to denial because Respondent failed to include a  
18 current reviewed financial statement, completed by a licensed Certified Public Accountant, with  
19 its application. (Cal. Code Regs., title 5, §§ 71240, subd. (b); 71745, subd. (a); and 74115, subds.  
20 (b)(1) and (b)(5)).

SECOND CAUSE FOR DENIAL OF APPLICATION  
(Incomplete Application - Advertising)  
(Cal. Code Regs., title 5, § 71200)

23       28. Respondent’s application is subject to denial because Respondent failed to provide  
24 with its application copies of advertising and other statements disseminated to the public. (Cal.  
25 Code Regs., title 5, § 71200). In particular, Respondent has failed to provide screenshots of its  
26 current website, which advertises its institution and educational program.

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1 employment. (Educ. Code § 94897, subd. (j)(3) and Bus. & Prof. Code § 480, subd. (a)(3)(A)).

2 In particular:

3 a. On its website, Respondent advertises: “95% of our students get a job within 2  
4 months of graduating the boot camp.” However, according to data maintained by Respondent, its  
5 placement rate for that period is 81%.

6 b. On its website, under a heading reading “WHERE OUR GRADUATES WORK  
7 NOW,” Respondent includes the logos of the companies Paypal, US Bank, and Infuse. But  
8 according to data maintained by Respondent regarding its graduates, none of Respondent’s  
9 graduates were employed by Paypal, US Bank, or Infuse.

10 c. On its website, under a heading reading “Partners,” Respondent includes the  
11 logos of 14 companies. On this page, Respondent represents that “many” of these “partner”  
12 companies “are offering positions to our graduates.” In response to a request by the Bureau for  
13 copies of Respondent’s partnership agreements with these companies, Respondent’s owner,  
14 Nicholas James, stated that the “partner” companies give Respondent’s student’s guest workshops  
15 and tours and that “some” of those companies hire Respondent’s graduates. However, according  
16 to data maintained by Respondent regarding its graduates, only two of Respondent’s graduates  
17 were employed by any of the “partner” companies (specifically, Google and Zurb).

18 NINTH CAUSE FOR DENIAL OF APPLICATION  
19 (Act Involving Dishonesty, Fraud, or Deceit)  
20 (Bus. & Prof. Code § 480, subds. (a)(2))

21 35. Respondent’s application is subject to denial because Respondent committed an act  
22 involving dishonesty, fraud, or deceit with the intent to substantially benefit itself or another, or  
23 substantially injure another. (Bus. & Prof. Code § 480, subds. (a)(2)). The circumstances are set  
24 forth in paragraphs 33 and 34, above.

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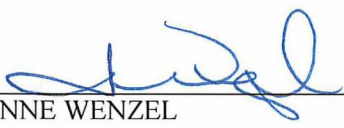
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

- 1. Denying Respondent's Application for Approval to Operate an Institution Non-Accredited; and
- 2. Taking such other and further action as deemed necessary and proper.

DATED: 6/23/16

  
\_\_\_\_\_  
JOANNE WENZEL  
Chief  
Bureau for Private Postsecondary Education  
Department of Consumer Affairs  
State of California  
*Complainant*

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