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

12 In the Matter of the Statement of Issues
13 Against:
14 **SCHOOL OF HEALING TOUCH**
15 **Applicant for Verification of Exempt Status**
16 **Verification of Exempt Status (expired**
November 3, 2021)
17 **Approval to Operate Institution Code**
18 **2800371 (expired November 15 2017)**
19
20 Respondent.

Case No. BPPE22-215

STATEMENT OF ISSUES

21 **PARTIES**

22 1. Deborah Cochrane (Complainant) brings this Statement of Issues solely in her official
23 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
24 Consumer Affairs.

25 2. On or about October 5, 2021, the Bureau for Private Postsecondary Education
26 (Bureau) received an Application for Verification of Exempt Status from School of Healing
27 Touch (Respondent), owned by Hussein F. Azar. The application sought verification from the
28 Bureau that Respondent's private postsecondary educational institution, known as "School of

1 Healing Touch,” is exempt from regulation pursuant to Education Code section 94874,
2 subdivisions (a) and (f). On or about February 14, 2022, the Bureau denied Respondent’s
3 application. On or about March 21, 2022, Respondent requested an administrative hearing
4 regarding the Bureau’s denial of his application.

5 **JURISDICTION**

6 3. This Statement of Issues is brought before the Director of the Department of
7 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
8 authority of the following laws. All section references are to the California Education Code
9 unless otherwise indicated.

10 4. Section 94886 states:

11 “Except as exempted in Article 4 (commencing with Section 94874) or in compliance with
12 the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,
13 conduct, or do business as a private postsecondary educational institution in this state without
14 obtaining an approval to operate under this chapter.”

15 5. Section 94817 states:

16 “‘Approval to operate’ or ‘approval’ means the authorization pursuant to this chapter to
17 offer to the public and to provide postsecondary educational programs, as well as the written
18 document issued to an institution signifying its approval to operate.”

19 6. Section 94857 states:

20 “‘Postsecondary education’ means a formal institutional educational program whose
21 instruction is designed primarily for students who have completed or terminated their secondary
22 education or are beyond the compulsory age of secondary education, including programs whose
23 purpose is academic, vocational, or continuing professional education.”

24 7. Section 94858 states:

25 “‘Private postsecondary educational institution’ means a private entity with a physical
26 presence in this state that offers postsecondary education to the public for an institutional charge.”

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1 8. Section 94875 states, in part:

2 “The bureau shall regulate private postsecondary educational institutions through the
3 powers granted, and duties imposed, by this chapter. In exercising its powers, and performing its
4 duties, the protection of the public shall be the bureau's highest priority. If protection of the
5 public is inconsistent with other interests sought to be promoted, the protection of the public shall
6 be paramount.”

7 9. California Code of Regulations, title 5, section 71400.5 states, in part, that
8 proceedings related to denial of an application “shall be conducted in accordance with Chapter 5
9 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.”

10 **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

11 10. Education Code section 94874, subdivisions (a) and (f) states:

12 “Except as provided in Sections 94874.2, 94874.7, and 94927.5, the following are exempt
13 from this chapter:

14 “(a) An institution that offers solely avocational or recreational educational programs.

15 . . .

16 “(f) An institution that does not award degrees and that solely provides educational
17 programs for total charges of two thousand five hundred dollars (\$2,500) or less when no part of
18 the total charges is paid from state or federal student financial aid programs. The bureau may
19 adjust this cost threshold based upon the California Consumer Price Index and post notification of
20 the adjusted cost threshold on its internet website as the bureau determines, through the
21 promulgation of regulations, that the adjustment is consistent with the intent of this chapter.”

22 11. Education Code section 94818 states:

23 “‘Avocational education’ means education offered for the purpose of personal
24 entertainment, pleasure, or enjoyment.”

25 12. California Code of Regulations, title 5, section 70000, subdivision (x) states:

26 “(x) ‘Recreational Education’ means education offered for the purpose of teaching the
27 fundamentals, skills or techniques of sports or games.”

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1 13. California Code of Regulations, title 5, section 71395, subdivisions (a) and (b) state,
2 in part:

3 “(a) In order to obtain verification from the Bureau that it is exempt pursuant to Section
4 94874 of the Code, an institution must complete “Application for Verification of Exempt Status,”
5 Form Application 94874 (rev. 2/10).

6 “(b) The application for verification of exemption shall include all of the following:

7 . . .

8 “(9) The total institutional charges for the educational program, and whether or not the
9 institution is approved to offer federal financial assistance if applying for an exemption under
10 Section 94874(f) of the Code

11”

12 **FIRST CAUSE FOR DENIAL OF APPLICATION**

13 (Exempt Status Pursuant to Section 94874, subd. (a))

14 14. Respondent’s application for exempt status pursuant to Section 94874, subdivision (a)
15 is subject to denial in that Respondent failed to establish that Respondent’s institution offers
16 solely avocational or recreational educational programs. (Educ. Code §§ 94818 and 94874, subd.
17 (a); and Cal. Code Regs., title 5, § 70000, subd. (x).). In particular, the programs Respondent
18 proposes to offer as exempt from regulation – including courses in Acupressure as well as
19 Swedish, Deep Tissue and Soft Tissue massage – are not offered “solely” “for the purpose of
20 personal entertainment, pleasure, or enjoyment” (Educ. Code § 94818) or “for the purpose of
21 teaching the fundamentals, skills or techniques of sports or games.” (Cal. Code Regs., title 5, §
22 70000, subd. (x).) Instead, they relate to vocations in acupressure and massage therapy. In fact,
23 Respondent represents to the public, via its Facebook profile, that its programs may lead to a
24 “rewarding profession” and “exciting career” “in the Health profession.”¹

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27 ¹ (www.facebook.com/schoolofhealingtouch/ [“Graduates may have the opportunity to work
28 closely with doctors and others in the Health profession. It is a rewarding profession where one
can really help others while growing in a [sic] exciting career of one’s own.”])

