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7

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

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

Case No. 1001384

13 **SOUTHCAL CAREER INSTITUTE**

STATEMENT OF ISSUES

14 **Applicant for Renewal of Approval to**
15 **Operate an Institution Non-Accredited**
16 **Applicant**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about June 10, 2013, the Bureau for Private Postsecondary Education received
24 an Application for Renewal of Approval to Operate and Offer Educational Programs for Non-
25 Accredited Institutions from Southcal Career Institute, (Respondent). On or about May 31, 2013,
26 Michael F. Chen and Gou-Ling Susie certified under penalty of perjury to the truthfulness of all
27 statements, answers, and representations in the application.

28 3. The Bureau denied the application on December 11, 2015.

1 **JURISDICTION**

2 4. This Statement of Issues is brought before the Director of the Department of
3 Consumer Affairs (Director) for the Bureau.

4 5. Education Code Section 94891 states in pertinent part:

5 ...

6 (b) To be granted a renewal of an approval to operate, the institution shall demonstrate its
7 continued capacity to meet the minimum operating standards.

8

9 6. Education Code Section 94887 states:

10 An approval to operate shall be granted only after an applicant has presented sufficient
11 evidence to the bureau, and the bureau has independently verified the information provided by the
12 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
13 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
14 for an approval to operate if the application does not satisfy those standards.

15 **STATUTORY AND REGULATORY PROVISIONS**

16 7. Business and Professions Code of 22 defines the term "board" to include "bureau."

17 8. Education Code section 94885¹ states:

18 (a) The bureau shall adopt by regulation minimum operating standards for an institution
19 that shall reasonably ensure that all of the following occur:(1) The content of each educational
20 program can achieve its stated objective.

21 (2) The institution maintains specific written standards for student admissions for each
22 educational program and those standards are related to the particular educational program.

23 (3) The facilities, instructional equipment, and materials are sufficient to enable students to
24 achieve the educational program's goals.

25 (4) The institution maintains a withdrawal policy and provides refunds.

26 (5) The directors, administrators, and faculty are properly qualified.

27 _____
28 ¹ California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

1 (6) The institution is financially sound and capable of fulfilling its commitments to
2 students.

3 (7) That, upon satisfactory completion of an educational program, the institution gives
4 students a document signifying the degree or diploma awarded.

5 (8) Adequate records and standard transcripts are maintained and are available to students.

6 (9) The institution is maintained and operated in compliance with this chapter and all other
7 applicable ordinances and laws.

8 (b) Except as provided in Section 94855.1, an institution offering a degree must satisfy one
9 of the following requirements:

10 (i) Accreditation by an accrediting agency recognized by the United States Department of
11 Education, with the scope of that accreditation covering the offering of at least one degree
12 program by the institution.

13 (ii) An accreditation plan, approved by the bureau, for the institution to become fully
14 accredited within five years of the bureau's issuance of a provisional approval to operate to the
15 institution. The provisional approval to operate to an unaccredited degree-offering institution
16 shall be in compliance with Section 94885.5.

17 9. Title 5, CCR, section 71475 states in part:

18 ...

19 "(e) The institution shall submit at the time it applies for renewal current financial
20 statements that meet the requirements of section 74115 as follows: (1) for an institution with
21 annual gross revenues of \$ 500,000 and over, statements shall be audited; (2) for an institution
22 with annual gross revenues less than \$ 500,000, statements shall be reviewed.

23 ...

24 "(ee) The application shall contain a description of the procedures used by the institution to
25 assure that it is maintained and operated in compliance with the Act and this Division."

26 10. Title 5, CCR, section 74115 states:

27 "(a) This section applies to every set of financial statements required to be prepared or filed
28 by the Act or by this chapter.

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

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

8 (2) Financial statements prepared on an annual basis as required by section 74110(b) shall
9 be prepared in accordance with the generally accepted accounting principles established by the
10 American Institute of Certified Public Accountants. Nonprofit institutions shall provide annual
11 financial statements as required under generally accepted accounting principles for nonprofit
12 organizations.

13 (3) The financial statements shall establish that the institution meets the requirements for
14 financial resources required by Section 71745.

15

16 (d) "Current" with respect to financial statements means completed no sooner than 120
17 days prior to the time it is submitted to the Bureau, and covering no less than the most recent
18 complete fiscal year. If more than 8 months will have elapsed between the close of the most
19 recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover no
20 less than five months of that current fiscal year."

21 11. Title 5, CCR, section 71760 states:

22 "Each institution shall develop and maintain adequate procedures used by the institution to
23 assure that it is maintained and operated in compliance with the Act and this Division."

24 **FIRST CAUSE FOR DENIAL OF APPLICATION**

25 (Failure to Provide Compliant Financial Resources and Statements)

26 12. Respondent's application is subject to denial under Education Code sections 94887 in
27 conjunction with CCR, title 5, sections 71475 subdivision (e), 71745 and 74115 in that
28 Respondent failed to provide financial documents setting forth the financial resources and

1 statements that were prepared by a California certified public accountant, who is not an
2 employee, officer, or corporate director or member of the governing board of the institution.
3 Said financial documents must demonstrate that the institution can meet the monthly operating
4 expenses.

5 **SECOND CAUSE FOR DENIAL OF APPLICATION**

6 (Failure to meet operational Standards- Self-Monitoring Procedures)


7 13. Respondent's application is subject to denial under sections 5 CCR 71475(ee) and
8 71760 in that the Institution provided "Self-Monitoring" procedures that identify how the
9 Institution will monitor its compliance with the rules and regulations put forth by the Board of
10 Directors. However, Respondent did not identify how they will comply with the current laws and
11 regulations and amendments made to the California Private Postsecondary Act of 2009 and the
12 California Code of Regulations.

13 **PRAYER**

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

- 17 1. Denying the application of Southcal Career Institute, a renewal of Approval to
18 Operate an Institution Non-Accredited;
19 2. Taking such other and further action as deemed necessary and proper.
20

21 DATED: 8/17/16

22 
23 JOANNE WENZEL
24 Chief
25 Bureau for Private Postsecondary Education
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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