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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:

Case No. 1000999

13  
14 **NATURAL HEALING INSTITUTE OF**  
**NATUROPATHY, INC.; STEVE**  
15 **SCHECHTER, OWNER**

**SECOND AMENDED**  
**STATEMENT OF ISSUES**

16 **SCHOOL CODE: 3710431**

17 **Application for Renewal of Approval to**  
**Operate An Institution Non-Accredited**

18  
19 Respondent.

20  
21 Complainant alleges:

22 **PARTIES**

23 1. Joanne Wenzel (Complainant) brings this Second Amended Statement of Issues  
24 solely in her official capacity as the Chief of the Bureau for Private Postsecondary Education,  
25 Department of Consumer Affairs.

26 2. On or about March 13, 2012, the Bureau for Private Postsecondary Education  
27 (hereinafter "Bureau") received an Application for Renewal of Approval to Operate an Institution  
28 Non-Accredited (Application #24563) from Natural Healing Institute of Naturopathy, Inc., Steve

1 Schechter, Owner (Respondent). On or about March 8, 2012, Steve Schechter certified under  
2 penalty of perjury to the truthfulness of all statements, answers, and representations in the  
3 application. The Bureau denied the application on June 30, 2015.

#### 4 JURISDICTION

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

9 4. Education Code Section 94886 states:

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

13 5. Education Code Section 94887 states:

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

#### 18 STATUTORY AND REGULATORY PROVISIONS

19 6. Education Code (hereinafter "Code") section 94891, subdivision (b) stated that "[t]o  
20 be granted a renewal of an approval to operate, the institution shall demonstrate its continued  
21 capacity to meet the minimum operating standards."

22 7. Section 94911 of the Education Code states in part:

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

24 ...

25 (c) In underlined capital letters on the same page of the enrollment agreement in  
26 which the student's signature is required, the total charges for the current period  
27 of attendance, the estimated total charges for the entire educational program,  
and the total charges the student is obligated to pay upon enrollment.

28 ...

1           8.       Section 94934 of the Education Code states:

2           (a) As part of the compliance program, an institution shall submit an annual  
3           report to the bureau, under penalty of perjury, signed by a responsible corporate  
4           officer, by July 1 of each year, or another date designated by the bureau, and it  
5           shall include the following information for educational programs offered in the  
6           reporting period:

7                   (1) The total number of students enrolled by level of degree or for a  
8                   diploma.

9                   (2) The number of degrees, by level, and diplomas awarded.

10                  (3) The degree levels and diplomas offered.

11                  (4) The Student Performance Fact Sheet, as required pursuant to Section  
12                  94910.

13                  (5) The school catalog, as required pursuant to Section 94909.

14                  (6) The total charges for each educational program by period of  
15                  attendance.

16                  (7) A statement indicating whether the institution is, or is not, current in  
17                  remitting Student Tuition Recovery Fund assessments.

18                  (8) A statement indicating whether an accrediting agency has taken any  
19                  final disciplinary action against the institution.

20                  (9) Additional information deemed by the bureau to be reasonably  
21                  required to ascertain compliance with this chapter.

22           (b) The bureau, by January 1, 2011, shall prescribe the annual report's format  
23           and method of delivery."

24           9.       Title 5, CCR, section 71240 states:

25           (a) The Form Application 94886 shall contain a statement that the institution  
26           has and can maintain the financial resources required pursuant to section 71745.

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

30           10.    Title 5, California Code of Regulations ("CCR"), section 71475 states in part:

31           ...

32           (b) An institution seeking to renew its Approval to Operate pursuant to section  
33           94891 of the Code shall, prior to its expiration, complete and submit to the  
34           Bureau the "Application for Renewal of Approval to Operate and Offer  
35           Educations Programs for Non-Accredited Institutions," Form Application  
36           94891 (rev. 2/10). ...

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11. Title 5, CCR, section 71660 states:

An institution shall notify the Bureau of a non-substantive change including: change of location of less than 10 miles; addition of a program related to the approved programs offered by the institution; addition of a new branch five miles or less from the main or branch campus; addition of a satellite; and change of mailing address. All such notifications shall be made within 30 days of the change and sent to the Bureau, in writing, to the address listed in section 70020.

12. Title 5, CCR, section 71700 states, "The Bureau may request that an institution document compliance with the standards set forth in the Act and this Division to obtain and maintain an approval to operate."

13. Title 5, CCR, section 71745 states in part:

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

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

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

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

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

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

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

...

14. Title 5, CCR, section 71800 states in part:

In addition to the requirements of section 94911 of the Code, an institution shall provide to each student an enrollment agreement that contains at the least the following information:

...

1 (b) Period covered by the enrollment agreement.

2 ...

3 (d) Date by which the student must exercise his or her right to cancel or  
4 withdraw, and the refund policy, including any alternative method of  
5 calculation if approved by the Bureau pursuant to section 94921 of the Code.

6 ...

7 15. Title 5, CCR, section 74115 states in part:

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

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

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

18 (2) Financial statements prepared on an annual basis as required by  
19 section 74110(b) shall be prepared in accordance with the generally accepted  
20 accounting principles established by the American Institute of Certified Public  
21 Accountants. Nonprofit institutions shall provide annual financial statements as  
22 required under generally accepted accounting principles for nonprofit  
23 organizations.

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

26 (4) If an audit performed to determine compliance with any federal or  
27 state student financial aid program reveals any failure to comply with the  
28 requirements of the program and the noncompliance creates any liability or

potential liability for the institution, the financial statements shall reflect the  
liability or potential liability.

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

...

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

1 **FACTS**

2 16. On March 13, 2012, the Bureau received an Application for Renewal of Approval to  
3 Operate a Non-Accredited Institution, Application Number 24563, from Respondent. Respondent  
4 had an approval to offer the following non-degree educational programs: Aromatherapy, Clinical  
5 Herbology, Clinical Master Herbalist-Distance Learning, Clinical Master Herbology, Clinical  
6 Nutrition, Clinical Nutrition-Distance Learning, Holistic Health Practitioner, Holistic Health  
7 Practitioner-Distance Learning, Lomi-Lomi/Hawaiian Healing Arts, Massage Technician,  
8 Massage Therapy, Naturopathic Practitioner, Naturopathic Practitioner-Distance Learning,  
9 Professional Hypnotherapy, Spa & Massage Therapist, Sports Therapist & Performance  
10 Enhancement, Thai Massage, Yoga Instructor, Somatics and Movement Therapist.

11 17. From July 1, 2007 through December 31, 2009, there was no regulatory body with  
12 oversight of private postsecondary schools because the former Bureau for Private Postsecondary  
13 and Vocational Education sunsetted on July 1, 2007. On October 11, 2009, the Bureau for  
14 Private Postsecondary Education Act of 2009 (SB 48 and hereinafter, "the Act") was signed into  
15 law. The Act, which became operative on January 1, 2010, established the Bureau.

16 18. On April 24, 2012, the Bureau sent Respondent a letter advising that the Bureau could  
17 not grant Respondent a renewal of approval to operate because of deficiencies in the application,  
18 such as missing information regarding the institution's Articles of Incorporation and Bylaws and  
19 financial resources, among other things. On October 29, 2012, November 6, 2012 and February  
20 27, 2013, the Bureau received Respondent's responses to the deficiency letter.

21 19. On September 30, 2013, the Bureau sent Respondent a second deficiency letter  
22 advising of the deficiencies that remained with Respondent's application. On March 10, 2014,  
23 the Bureau received Respondent's response to the deficiency letter.

24 20. On April 3, 2014, the Bureau sent Respondent a third deficiency letter advising of the  
25 deficiencies that remained with Respondent's application. On November 14, 2014, the Bureau  
26 received Respondent's response to the deficiency letter.

27 21. On June 30, 2015, the Bureau denied Respondent's Application for Renewal of  
28 Approval to Operate a Non-Accredited Institution and sent Respondent a "Notice of Denial."



1           25.   The circumstances are as follows. On March 13, 2012, Respondent submitted bank  
2 statements with its application , however these are not financial statements as defined by title 5,  
3 CCR, section 74115(b). On November 6, 2012, Respondent submitted a profit and loss statement  
4 that was neither reviewed nor audited. On March 10, 2014, Respondent submitted financial  
5 statements that were neither reviewed nor audited. On November 14, 2014, Respondent  
6 submitted its 2012 tax returns. On November 15, 2016, Respondent submitted compiled financial  
7 statements for 2014 and 2015. On November 29, 2016, Respondent once again submitted  
8 compiled financial statements for 2014 and 2015. The financial statements do not meet the  
9 requirement of providing current reviewed or audited financial statements that demonstrate the  
10 financial resources required by title 5, CCR, sections 71745.

11                                      **THIRD CAUSE FOR DENIAL OF APPLICATION**

12           **(Failure to Demonstrate Continued Capacity to Satisfy Minimum Operating Standards**  
13                                      **- Annual Report)**

14           26.   Respondent's application is subject to denial under Education Code sections 94891,  
15 subdivision (b) and 94934, and title 5, CCR, section 71700, for failing to demonstrate its  
16 continued capacity to satisfy minimum operating standards in that Respondent failed to submit  
17 complete Annual Reports for 2011, 2012 and 2013, under penalty of perjury and signed by a  
18 responsible corporate officer.

19                                      **FOURTH CAUSE FOR DENIAL OF APPLICATION**

20           **(Failure to Submit Notification of Non-Substantive Change)**

21           27.   Respondent's application is subject to denial under title 5, CCR, sections 71660 for  
22 failing to notify the Bureau of a non-substantive change to its educational program as follows.  
23 The institution is advertising and offering the Certified Nutritionist Consultant program in it's  
24 Distance Learning Catalog and Residential Court Catalog for 2016 a program that has not been  
25 approved by the Bureau. Respondent failed to submit a notification of a non-substantive change  
26 including addition of a program related to the approved programs offered by the institution within  
27 30 days of the change to the Bureau.

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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 Natural Healing Institute of Naturopathy, Inc., Steve Schechter, Owner, a Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions; and,
2. Taking such other and further action as deemed necessary and proper.

DATED: 12-2-2016

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

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