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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. 999531

13 **ACCELERATED TECHNICAL**
14 **TRAINING INSTITUTE; GENE KELLY,**
15 **50% Owner; and PAULA KELLY, 50%**
Owner

STATEMENT OF ISSUES

16 **Application for Approval to Operate an**
17 **Institution Non-Accredited Applicant**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Joanne Wenzel (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 March 15, 2012, the Bureau for Private Postsecondary Education
26 (Bureau) received an Application for Approval to Operate an Institution Non-Accredited
27 (application number 24574) from Accelerated Technical Training Institute; Gene Kelly, 50%

1 Owner; and Paula Kelly, 50% Owner (Respondent). On or about September 14, 2012, the Bureau
2 issued a deficiency letter to Respondent explaining the deficiencies in its application.

3 3. On or about June 21, 2013, the Bureau issued to Respondent an additional letter
4 explaining the deficiencies in its application. On or about November 25, 2013, the Bureau
5 received an addendum to the Application from Respondent. On or about January 15, 2014, the
6 Bureau issued to Respondent a Notice of Denial of Application for Approval to Operate. On or
7 about March 10, 2014, Respondent sent the Bureau a letter requesting an administrative hearing.

8 JURISDICTION

9 4. This Statement of Issues is brought before the Director of the Department of
10 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
11 authority of the following laws. All section references are to the Education Code unless
12 otherwise indicated.

13 STATUTORY & REGULATORY PROVISIONS¹

14 5. Code section 94834 states:

15 “‘Distance education’ means transmission of instruction to students at a location separate
16 from the institution.”

17 6. Code section 94838 states:

18 “‘Educational program approval’ means authorization by the bureau, another government
19 agency of this state, or a federal government agency, to provide educational programs, and is an
20 element of an approval to operate.”

21 7. Code section 94887 states:

22 “An approval to operate shall be granted only after an applicant has presented sufficient
23 evidence to the bureau, and the bureau has independently verified the information provided by the
24 applicant through site visits or other methods deemed appropriate by the bureau, that the
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26
27 ¹ The California Private Postsecondary Education Act of 2009 was recently amended, effective
28 January 1, 2015. See Senate Bill No. 1247. This Statement of Issues is based on the pre-
amendment version of the Act.

1 applicant 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 8. Code of Regulations, title 5, section 71250 states:

4 “The Form Application 94886 shall include a statement that the institution has contracted
5 with sufficient duly qualified faculty members who meet the qualifications of section 71720.”

6 9. Code of Regulations, title 5, section 71700 states:

7 “The Bureau may request that an institution document compliance with the standards set
8 forth in the Act and this Division to obtain and maintain an approval to operate.”

9 10. Code of Regulations, title 5, section 71710 states, in part:

10 “In order to meet its mission and objectives, the educational program defined in section
11 94837 of the Code shall be comprised of a curriculum that includes:

12 “... .

13 “(c) course or module materials that are designed or organized by duly qualified faculty.

14 For each course or module, each student shall be provided with a syllabus or course outline that
15 contains:

16 “(1) a short, descriptive title of the educational program;

17 “(2) a statement of educational objectives;

18 “(3) length of the educational program;

19 “(4) sequence and frequency of lessons or class sessions;

20 “(5) complete citations of textbooks and other required written materials;

21 “(6) sequential and detailed outline of subject matter to be addressed or a list of skills to be
22 learned and how those skills are to be measured;

23 “(7) instructional mode or methods.

24 “... .”

25 11. Code of Regulations, title 5, section 71715, subdivision (d), states, in part:

26 “(d) Distance education as defined in section 94834 of the Code, does not require the
27 physical presence of students and faculty at the same location but provides for interaction
28 between students and faculty by such means as telecommunication, correspondence, electronic

1 and computer augmented educational services, postal service, and facsimile transmission. In
2 addition to the other requirements of this chapter and the Act, an institution offering distance
3 education shall:

4 “(1) ensure that the educational program offered through distance education is appropriate
5 for delivery through distance education methods;

6 “. . .

7 “(3) ensure that the materials and programs are current, well organized, designed by faculty
8 competent in distance education techniques and delivered using readily available, reliable
9 technology;

10 “(4) provide for meaningful interaction with faculty who are qualified to teach using
11 distance education methods;

12 “. . .”

13 12. Code of Regulations, title 5, section 71720, subdivision (b), states, in part:

14 “(b) Instructors in an Educational Program Not Leading to a Degree.

15 “(1) An institution shall employ instructors who possess the academic, experiential and
16 professional qualifications to teach, including a minimum of three years of experience, education
17 and training in current practices of the subject area they are teaching. If an instructor does not
18 possess the required three years of experience, education and training in the subject area they are
19 teaching, the institution shall document the qualifications the instructor possesses that are
20 equivalent to the minimum qualifications.

21 “(2) Each instructor shall maintain their knowledge by completing continuing education
22 courses in his or her subject area, classroom management or other courses related to teaching.

23 “. . .”

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1 13. Code of Regulations, title 5, section 71810, subdivision (b), states, in part:

2 “(b) The catalog shall contain the information prescribed by Section 94909 of the Code and
3 all of the following:

4 “... ”

5 “(6) The institution’s policies and practices regarding any form of financial aid, including
6 all consumer information which the institution is required to disclose to the student under any
7 state or federal financial aid program;

8 “... ”

9 “(15) Policies on the retention of student records.

10 **CAUSES FOR DENIAL OF APPLICATION**

11 **FIRST CAUSE FOR DENIAL OF APPLICATION**

(Instruction and Degrees Offered)

12 (Cal. Educ. Code § 94887; Cal. Code Regs., title 5, § 71710, subd. (c))

13 14. Respondent’s application is subject to denial because it fails to demonstrate that the
14 course syllabi submitted by the Respondent are designed or organized by duly qualified faculty.
15 (Cal. Educ. Code § 94887; Cal. Code Regs., title 5, § 71710, subd. (c)). In particular, Respondent
16 submitted course syllabi for Certified Multi-Trade Technician (CMTT) Level I and II developed
17 and designed mostly by the National Center for Construction Education and Research (NCCER)
18 and Respondent’s faculty members. Respondent failed to submit evidence that NCCER and
19 Respondent’s faculty are duly qualified to develop the CMTT curriculum. Respondent has
20 therefore failed to provide evidence that it has the capacity to meet the minimum operating
21 standards.

22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

(Duly Qualified Faculty)

23 (Cal. Educ. Code § 94887; Cal. Code Regs., title 5, §§ 71250 and
24 71720, subs. (b)(1) and (b)(2))

25 15. Respondent’s application is subject to denial because it fails to include the requisite
26 information regarding its faculty. Respondent has therefore failed to provide evidence that it has
27 the capacity to meet the minimum operating standards. In particular:
28

1 a. Respondent failed to provide a list of duly qualified faculty to teach CMTT
2 Level I and II. Instead, Respondent stated that the faculty will “be retained contingent upon
3 approval by the Bureau for Private Postsecondary Education.” (Cal. Educ. Code § 94887; Cal.
4 Code Regs., title 5, §§ 71250 and 71720, subs. (b)(1) and (b)(2)).

5 b. The Bureau was unable to determine from Respondent’s application if the
6 faculty (Trade Professionals) that may be actually employed by Respondent met the minimum
7 qualification for “duly qualified faculty” because Respondent failed to submit resumes, CMTT or
8 NCCER certificates, transcripts for continuing education courses and degrees for the following
9 faculty members listed in Respondent’s catalog: G.B. (Plumbing), W.W. (Locksmith), M.C.
10 (Electrical), R.R. (Welding), and D.H. (Machining).² (Cal. Educ. Code § 94887; Cal. Code
11 Regs., title 5, § 71720, subs. (b)(1) and (b)(2)).

12 c. The Bureau was unable to determine if the faculty (Trade Professionals) listed
13 by Respondent in its application are actually employed by Respondent. Respondent failed to
14 submit contract agreements for the following faculty members listed in Respondent’s catalog:
15 G.B. (Plumbing), W.W. (Locksmith), M.C. (Electrical), R.R. (Welding), and D.H. (Machining).
16 (Cal. Educ. Code § 94887; Cal. Code Regs., title 5, § 71250).

17 THIRD CAUSE FOR DENIAL OF APPLICATION

(Catalog)

18 (Cal. Educ. Code § 94887; Cal. Code Regs., title 5, §§ 71810, subs. (b)(6) and (b)(15))

19 16. Respondent’s application is subject to denial because it fails to include the requisite
20 information in its proposed catalog. Respondent has therefore failed to provide evidence that it
21 has the capacity to meet the minimum operating standards. In particular:

22 a. Respondent’s proposed catalog does not contain the institution’s policies and—
23 practices, including required disclosures regarding any form of financial aid program. (Cal.
24 Educ. Code § 94887; Cal. Code Regs., title 5, § 71810, subd. (b)(6)).

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27 ² In the interests of privacy, proposed faculty members’ initials, rather than full names, have been
28 used. These individuals’ full names were included in the Notice of Denial of Application for
Approval to Operate.

1 b. The policy on retention of student records, on page 59 of Respondent’s
2 proposed catalog, is not in compliance with Education Code section 94900. Respondent’s
3 proposed catalog states that “transcripts will be maintained permanently,” but failed to add that
4 student’s certificates will also be maintained permanently. (Cal. Educ. Code § 94887; Cal. Code
5 Regs., title 5, § 71810, subd. (b)(15)).

6 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

7 (Distance Education)

8 (Cal Educ. Code §§ 94834 and 94887;

9 Cal. Code Regs., title 5, § 71715, subds. (d)(1), (3), and (4))

10 17. Respondent’s application is subject to denial because it fails to include evidence that
11 its educational program CMTT Level I complies with legal requirements. (Cal Educ. Code §§
12 94834 and 94887; Cal. Code Regs., title 5, § 71715, subds. (d)(1), (3), and (4)). Respondent has
13 therefore failed to provide evidence that it has the capacity to meet the minimum operating
14 standards. In particular:

15 a. On page seven (7) of Respondent’s proposed catalog, Respondent disclosed
16 that “the videos in this course are to be used for developing trade knowledge prior to learning
17 and/or practicing hands-on application.” But Respondent proposes to issue a certificate certifying
18 that a student “has successfully completed a comprehensive program of study in the following
19 seven (7) trades plus Core Curriculum: Plumbing, Locksmithing, Carpentry, Masonry, Electrical,
20 Welding and Machining.” According to the disclosure, the videos do not deliver or provide the
21 hands-on practice necessary for application. (Cal. Educ. Code § 94887; Cal. Code Regs., title 5,
22 § 71715, subd. (d)(1)).

23 b. The Bureau was unable to determine if faculty (Trade Professionals) that may
24 be actually employed by Respondent meet the minimum qualification as “duly qualified faculty”
25 competent in distance education techniques and able to use readily available, reliable technology.
26 Respondent failed to submit resumes (which contain faculty experience teaching and developing
27 distance education), CMTT or NCCER certificates, transcripts for continuing education courses
28 and degrees. (Cal. Educ. Code § 94887; Cal. Code Regs., title 5, § 71715, subd. (d)(3)).


1 c. Respondent's distance education does not provide computer augmented
2 services for students and faculty to have meaningful interactions. In response to Code of
3 Regulations, title 5, section 71715, subdivision (d)(4), Respondent submitted the definition
4 developed by an accrediting agency, Distance Education and Training Council (DETC).
5 Respondent implied that, since DETC's definition does not have a requirement of "providing
6 meaningful interaction," it is not necessary for Respondent to implement such a component.
7 (Cal. Educ. Code § 94887; Cal. Code Regs., title 5, § 71715, subd. (d)(4)).

8 **PRAYER**

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

- 12 1. Denying the Application for Approval to Operate an Institution Non-Accredited of
13 Accelerated Technical Training Institute; Gene Kelly, 50% Owner; and Paula Kelly, 50% Owner;
14 and
15 2. Taking such other and further action as deemed necessary and proper.

16 DATED: 3/11/19

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18 JOANNE WENZEL
19 Chief
20 Bureau for Private Postsecondary Education
21 Department of Consumer Affairs
22 State of California
23 Complainant

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