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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
Against:
12 **ALEXANDER TRAINING INSTITUTE OF**
13 **LOS ANGELES**
14 **Verification of Exempt Status Applicant**
15 **Institution Code Number 1917381**
16 Respondent.

Case No. 1001765

STATEMENT OF ISSUES

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 November 1, 1987, the Bureau for Private Postsecondary Education
24 (Bureau) issued Full Approval to Operate Institution Code Number 1917381 to Alexander
25 Training Institute of Los Angeles (Respondent and/or the Institution). Said Full Approval expired
26 on February 28, 2013, and has not been renewed.

1 3. On or about March 11, 2016, the Bureau received an “Application for a Verification
2 of Exempt Status, Application # 29083” (Application) from Alexander Training Institute of Los
3 Angeles (Respondent).

4 4. On or about March 10, 2016, Lyn Charlsen Klein certified under penalty of perjury to
5 the truthfulness of all statements, answers, and representations in the application. The Bureau
6 denied the Application on March 21, 2016.

7 **JURISDICTION/STATUTORY PROVISIONS**

8 5. This Statement of Issues is brought before the Director of the Department of
9 Consumer Affairs (Director) for the Bureau, under the authority of the Act [California Education
10 Code, Title 3, Division 10, Part 59, Chapter 8 “Private Postsecondary Institutions,” section 94800
11 et seq.], including the following laws. All section references are to the Education Code (Code)
12 unless otherwise indicated.

13 6. Code section 94827 states:

14 “Continuing education” means instruction in subjects that licensees are
15 required to take solely for the purpose of continued licensure, or to enhance their
16 skills and knowledge within their particular profession, occupation, trade, or career
field.

17 7. Code section 94843 states:

18 “Institution” means any private postsecondary educational institution,
19 including its branch campuses and satellite locations.

20 8. Code section 94847 states:

21 “License and examination preparation” means instruction designed to
22 assist students to prepare for an examination for licensure. “License and examination
23 preparation” does not include an educational program designed to instruct students in
the skills and knowledge necessary to satisfy the qualifications for licensure.

24 9. Code section 94848 states:

25 “Licensure” includes any license, certificate, permit, or similar credential
26 that a person must hold to lawfully engage in a profession, occupation, trade, or
career field.

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10. Code section 94857 states:

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

11. Code section 94858 states:

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

12. Code section 94874 states in relevant part:

The following are exempt from this chapter:

...

(d) An institution offering either of the following:

...

(2) Continuing education or license examination preparation, if the institution or the program is approved, certified, or sponsored by any of the following:

(A) A government agency, other than the bureau, that licenses persons in a particular profession, occupation, trade, or career field.

(B) A state-recognized professional licensing body, such as the State Bar of California, that licenses persons in a particular profession, occupation, trade, or career field.

(C) A bona fide trade, business, or professional organization.

...

13. Code section 94885 states:

(a) The bureau shall adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur:

(1) The content of each educational program can achieve its stated objective.

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

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

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

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

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

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

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

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

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

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

16 (ii) An accreditation plan, approved by the bureau, for the institution to
17 become fully accredited within five years of the bureau's issuance of a provisional
18 approval to operate to the institution.

19 The provisional approval to operate to an unaccredited degree-offering
20 institution shall be in compliance with Section 94885.5.

21 14. Code section 94886 states:

22 Except as exempted in Article 4 (commencing with Section 94874) or in
23 compliance with the transition provisions in Article 2 (commencing with Section
24 94802), a person shall not open, conduct, or do business as a private postsecondary
25 educational institution in this state without obtaining an approval to operate under this
26 chapter.

27 REGULATORY PROVISIONS

28 15. California Code of Regulations, title 5, section 71395 states in relevant part:

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

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

(1) The name, telephone number of the institution, and its website
address;

(2) The physical address of the institution's primary administrative
location in California;

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(3) The mailing address of the institution;

(4) The name, address, email address, and telephone number of an individual who will function as the institution's contact person for the purposes of the application;

(5) Identification of the type of exemption or exemptions for which the institution believes it qualifies;

...

(7) If an institution is claiming an exemption under section 94874(d)(2), 94874(g), 94874(h), 94874(i), 94874(j) or 94874.1 of the Code, a letter from that entity indicating the validity of the accreditation or approval, and the name and contact information for a representative of that entity;

(8) If an institution is claiming an exemption under section 94874(a), 94874(b), 94874(d)(1), 94874(d)(2), 94874(e), 94874(g), for each educational program offered or proposed to be offered by the institution, the following information:

(A) The title and description of the educational program;

(B) The full title and description of any diploma, certificate, degree or other similar title awarded to students who complete the program; and

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

...

(14) A statement that the applicant understands that a verification of exemption obtained from the Bureau is not an Approval to Operate issued pursuant to section 94886 or 94890 of the Code, and that the institution is prohibited from advertising, claiming, or implying that it has been approved to operate by the Bureau, unless it has been issued such an approval; and

(15) Any material facts as defined by section 71340(a) of this Chapter.

(c) The application shall be signed and dated, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, as follows:

(1) Signatories:

(A) Each owner of the institution, or

(B) If the institution is incorporated, the chief executive officer of the corporation and each person who owns or controls 25 percent or more of the stock or interest in the institution, or

(C) Each member of the governing body of a nonprofit corporation.

(2) The declaration shall be in the following form:

1 "I declare under penalty of perjury under the laws of the State of
California that the foregoing and all attachments are true and correct.

2 _____
3 _____
4 (Date)

5 (Signature)"

6 (d) Each signatory to the application shall provide his or her name, title,
7 ownership interest, and address.

8 (e) An applicant shall submit to the Bureau the completed form required
by subdivision (a) of this section, and a fee provided in section 74004.

9 **CAUSE FOR DENIAL OF APPLICATION**

10 **(Failure to Qualify for Exemption)**

11 16. Respondent's Application is subject to denial under Code section 94874, subdivision
12 (d)(2), in that Respondent failed to qualify for that exemption. The circumstances are as follows:

13 a. On or about March 11, 2016, Respondent filed an Application under Code
14 section 94874, subdivision (d)(2) with the Bureau. Except as exempted in Article 4, a private
15 postsecondary educational institution shall not operate without Bureau approval, pursuant to Code
16 section 94886. A student of an institution subject to Bureau approval is afforded full consumer
17 protection by the Act. A student of an exempt institution is afforded limited consumer protection
18 by the Act. The Bureau is authorized to grant a Code section 94874(d)(2) exemption to an
19 institution offering only "[c]ontinuing education or license examination preparation" that is
20 "approved, certified, or sponsored by . . . [a] government agency, other than the bureau, that
21 licenses persons in a particular profession, occupation, trade, or career field." (Code section
22 94874(d)(2).) With a Code section 94874(d)(2) exemption, Petitioner could afford its students
23 limited consumer protection by the Act and still receive student financial aid as payment for its
24 educational programs. However, Respondent did not qualify for that exemption. Without a Code
25 section 94874(d)(2) exemption, Respondent would be required to obtain Bureau approval to
26 operate, and afford its students full consumer protection by the Act, in order to receive student
27 financial aid as payment for its educational programs. (Code sections 94886 and 94874.)

1 b. In response to question 3 in Respondent’s Application, “Identify the basis for
2 the exemption(s) to which the entity is entitled, and provide the required information,”
3 Respondent’s President, Part Owner and Member of the Board of Directors certified under
4 penalty of perjury that Respondent was “An institution offering continuing education or license
5 examination preparation . . .”

6 c. On March 21, 2016, the Bureau notified Respondent that it was denying its
7 request for an exemption, because the Institution did not demonstrate that it met the qualifications
8 for exemption from regulations under Code section 94874, subdivision (d)(2). The Bureau’s
9 decision was based on the analysis that the Institution does not solely provide continuing
10 education or license examination preparation programs. Although the Institution offers a program
11 to certified Alexander Technique teachers, which consists of seminars and post-graduate studies
12 to refresh their skills on the technique, this is the only program that appears to be continuing
13 education. The Institution provides a six-week Provisional Interval Program and a Three-Year
14 Teacher Training Course to educate students on the Alexander Technique. The three-year
15 program will lead to certification as a teacher of the Alexander Technique. In addition, it appears
16 that the Institution’s programs are available to the general public, and not solely offered to
17 licensed teachers.

18 **PRAYER**

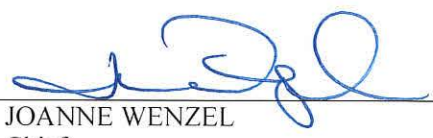
19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Director of the Department of Consumer Affairs issue a
21 decision:

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1. Denying the application of Alexander Training Institute of Los Angeles for a Verification of Exempt Status; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 1/3/17



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

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