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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**

FIRST AMENDED
STATEMENT OF ISSUES

16 **SCHOOL CODE: 3710431**

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

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

23 1. Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official
24 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
25 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
of attendance, the estimated total charges for the entire educational program,
27 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
 shall include the following information for educational programs offered in the
 reporting period:

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

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

8 (3) The degree levels and diplomas offered.

9 (4) The Student Performance Fact Sheet, as required pursuant to Section
10 94910.

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

12 (6) The total charges for each educational program by period of
13 attendance.

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

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

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

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

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

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

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

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

 ...

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

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

4 12. Title 5, CCR, section 71745 states in part:

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

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

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

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

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

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

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

26 ...

27 13. Title 5, CCR, section 71800 states in part:

28 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:

...
...

(b) Period covered by the enrollment agreement.

...
...

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

...
...

1 14. Title 5, CCR, section 74115 states in part:

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

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

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

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

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

20 (4) If an audit performed to determine compliance with any federal or
21 state student financial aid program reveals any failure to comply with the
22 requirements of the program and the noncompliance creates any liability or
23 potential liability for the institution, the financial statements shall reflect the
24 liability or potential liability.

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

28 ...

(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.

14 15. Title 5, CCR, section 76215 states in part:

15 (a) A qualifying institution shall include the following statement on both its
16 enrollment agreement for an educational program and its current schedule of
17 student charges:

18 "You must pay the state-imposed assessment for the Student Tuition
19 Recovery Fund (STRF) if all of the following applies to you:

1 1. You are a student in an educational program, who is a California
2 resident, or are enrolled in a residency program, and prepay all or part of
3 your tuition either by cash, guaranteed student loans, or personal loans,
4 and

5 2. Your total charges are not paid by any third-party payer such as an
6 employer, government program or other payer unless you have a separate
7 agreement to repay the third party.

8 You are not eligible for protection from the STRF and you are not
9 required to pay the STRF assessment, if either of the following applies:

10 1. You are not a California resident, or are not enrolled in a residency
11 program, or

12 2. Your total charges are paid by a third party, such as an employer,
13 government program or other payer, and you have no separate agreement
14 to repay the third party.”

15 (b) In addition to the statement described under subdivision (a) of this section, a
16 qualifying institution shall include the following statement on its current
17 schedule of student charges:

18 “The State of California created the Student Tuition Recovery Fund
19 (STRF) to relieve or mitigate economic losses suffered by students in
20 educational programs who are California residents, or are enrolled in a
21 residency programs attending certain schools regulated by the Bureau for
22 Private Postsecondary and Vocational Education.

23 You may be eligible for STRF if you are a California resident or are
24 enrolled in a residency program, prepaid tuition, paid the STRF

25 assessment, and suffered an economic loss as a result of any of the
26 following:

27 1. The school closed before the course of instruction was completed.

28 2. The school's failure to pay refunds or charges on behalf of a student to
a third party for license fees or any other purpose, or to provide
equipment or materials for which a charge was collected within 180 days
before the closure of the school.

3. The school's failure to pay or reimburse loan proceeds under a federally
guaranteed student loan program as required by law or to pay or
reimburse proceeds received by the school prior to closure in excess of
tuition and other costs.

4. There was a material failure to comply with the Act or this Division
within 30 days before the school closed or, if the material failure began
earlier than 30 days prior to closure, the period determined by the Bureau.

5. An inability after diligent efforts to prosecute, prove, and collect on a
judgment against the institution for a violation of the Act.”

However, no claim can be paid to any student without a social security number or
a taxpayer identification number.

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."


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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: 12/11/10



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

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