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7

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

10  
11 In the Matter of the Accusation Against:

Case No. 998896

12 **HANS ACADEMY OF MASSAGE;**  
13 **SUN YO HAN, OWNER**  
14 **1930 Wilshire Blvd., Suite 302**  
**Los Angeles, CA 90057**

**A C C U S A T I O N**

15 **Approval to Operate Institutional Programs**  
**Certificate Code. 1936441**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about April 16, 2012, the Bureau issued an Approval to Operate Institutional  
24 Programs Certificate Code 1936441 to Hans Academy of Massage ("Respondent School"); Sun  
25 Yo Han, Owner (collectively "Respondents"). The Approval to Operate Institutional Programs  
26 Certificate Code was at all times relevant to the charges brought herein and will expire on April  
27 16, 2017, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Director of the Department of Consumer Affairs  
3 (“Director”) for the Bureau, under the authority of the following laws.

4 4. Section 118, subdivision (b), of the Business and Professions Code provides that the  
5 suspension/expiration/surrender/cancellation of a license shall not deprive the Director of  
6 jurisdiction to proceed with a disciplinary action during the period within which the license may be  
7 renewed, restored, reissued or reinstated.

8 5. Section 94815 of the Education Code<sup>1</sup> states: “Annual report’ means the yearly  
9 report required to be filed by institutions.”

10 6. Section 94932 of the Education Code states:

11 “The bureau shall determine an institution's compliance with the requirements of this  
12 chapter. The bureau shall have the power to require reports that institutions shall file with the  
13 bureau in addition to the annual report, to send staff to an institution's sites, and to require  
14 documents and responses from an institution to monitor compliance. When the bureau has reason  
15 to believe that an institution may be out of compliance, it shall conduct an investigation of the  
16 institution. If the bureau determines, after completing an investigation, that an institution has  
17 violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this  
18 article.”

19 7. Section 94893 of the Education Code states:

20 “If an institution intends to make a substantive change to its approval to operate, the  
21 institution shall receive prior authorization from the bureau. Except as provided in subdivision (a)  
22 of Section 94896, if the institution makes the substantive change without prior bureau  
23 authorization, the institution's approval to operate may be suspended or revoked.”

24 8. Section 94894 of the Education Code states:  
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27 <sup>1</sup> The California Private Postsecondary Education Act of 2009 was recently amended, effective January 1,  
28 2015. See Senate Bill No. 1247. This Accusation is based on the pre-amendment version of the Act.

1           “The following changes to an approval to operate are considered substantive changes and  
2 require prior authorization:

3           “(a) A change in educational objectives, including an addition of a new diploma or a degree  
4 educational program unrelated to the approved educational programs offered by the institution.

5           “(b) A change in ownership

6           “(c) A change in control.

7           “(d) A change in business organization form.

8           “(e) A change of location.

9           “(f) A change of name.

10          “(g) A significant change in the method of instructional delivery.

11          “(h) An addition of a separate branch more than five miles from the main or branch  
12 campus.”

13          9. Section 94897 of the Education Code states in pertinent part:

14          "An institution shall not do any of the following:

15          ....

16          "(j) In any manner make an untrue or misleading change in, or untrue or misleading  
17 statement related to, a test score, grade or record of grades, attendance record, record indicating  
18 student completion, placement, employment, salaries, or financial information, including any of the  
19 following:

20          ...

21          "(3) Any other record or document required by this chapter or by the bureau.”

22          "(k) Willfully falsify, destroy, or conceal any document of record while that document of  
23 record is required to be maintained by this chapter.”

24          10. Section 94926 of the Education Code states:

25          "At least 30 days prior to closing, the institution shall notify the bureau in writing of its  
26 intention to close. The notice shall be accompanied by a closure plan, which shall include, but not  
27 necessarily be limited to, all of the following:

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1           "(a) A plan for providing teach-outs of educational programs, including any agreements with  
2 any other postsecondary educational institutions to provide teach-outs.

3           "(b) If no teach-out plan is contemplated, or for students who do not wish to participate in a  
4 teach-out, arrangements for making refunds within 45 days from the date of closure, or for  
5 institutions that participate in federal student financial aid programs arrangements for making  
6 refunds and returning federal student financial aid program funds.

7           "(c) If the institution is a participant in federal student financial aid programs, it shall provide  
8 students information concerning these programs and institutional closures.

9           "(d) A plan for the disposition of student records. "

10          11.       Section 94927 of the Education Code states:

11           "An institution shall be considered in default of the enrollment agreement when an  
12 educational program is discontinued or canceled or the institution closes prior to completion of the  
13 educational program. When an institution is in default, student institutional charges may be  
14 refunded on a pro rata basis if the bureau determines that the school has made provision for  
15 students enrolled at the time of default to complete a comparable educational program at another  
16 institution at no additional charge to the students beyond the amount of the total charges in the  
17 original enrollment agreement. If the institution does not make that provision, a total refund of all  
18 institutional charges shall be made to students."

19          12.       Section 94927.5 of the Education Code states:

20           "(a) Prior to closing, an institution shall provide the bureau with the following:

21           "(1) Pertinent student records, including transcripts, as determined by the bureau,  
22 pursuant to regulations adopted by the bureau.

23           "(2) If the institution is an accredited institution, a plan for the retention of records and  
24 transcripts, approved by the institution's accrediting agency, that provides information as to how a  
25 student may obtain a transcript or any other information about the student's  
26 coursework and degrees completed.

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1           “(b) Subdivision (a) applies to all private postsecondary institutions, including institutions  
2 that are otherwise exempt from this chapter pursuant to Article 4 (commencing with Section  
3 94874).”

4           13.       Section 94929 of the Education Code states, in pertinent part:

5           “(a) An institution shall annually report to the bureau, as part of the annual report, and  
6 publish in its School Performance Fact Sheet, the completion rate for each program. Except as  
7 provided in subdivision (b), the completion rate shall be calculated by dividing the number of  
8 graduates by the number of students available for graduation.”

9           14.       Section 94929.5 of the Education Code states:

10          “(a) An institution shall annually report to the bureau, as part of the annual report, and shall  
11 publish in its School Performance Fact Sheet, all of the following:

12          “(1) The job placement rate, calculated by dividing the number of graduates employed in  
13 the field by the number of graduates available for employment for each program that is either  
14 (1) designed, or advertised, to lead to a particular career, or (2) advertised or promoted with  
15 any claim regarding job placement.

16          “(2) The license examination passage rates for the immediately preceding two years for  
17 programs leading to employment for which passage of a state licensing examination is  
18 required, calculated by dividing the number of graduates who pass the examination by the  
19 number of graduates who take the licensing examination the first time that the examination is  
20 available after completion of the educational program. The institution shall use state agency  
21 licensing data to calculate license examination passage rates. If those data are unavailable,  
22 the institution shall calculate the license examination passage rate in a manner consistent with  
23 regulations adopted by the bureau.

24          “(3) Salary and wage information, consisting of the total number of graduates employed in  
25 the field and the annual wages or salaries of those graduates stated in increments of five  
26 thousand dollars (\$5,000).

27          “(4) If applicable, the most recent official three-year cohort default rate reported by the  
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1 United States Department of Education for the institution and the percentage of enrolled  
2 students receiving federal student loans.

3 “(b) Nothing in this section shall limit the bureau's authority to collect information from an  
4 institution to comply with this section and ensure, by regulation and other lawful means, that the  
5 information required by this section, and the manner in which it is collected and reported, is all of  
6 the following:

7 “(1) Useful to students.

8 “(2) Useful to policymakers.

9 “(3) Based upon the most credible and verifiable data available.

10 “(4) Does not impose undue compliance burdens on an institution.”

11 15. Section 94937 of the Education Code states:

12 “(a) As a consequence of an investigation, and upon a finding that an institution has  
13 committed a violation, the bureau may place an institution on probation or may suspend or revoke  
14 an institution’s approval to operate for:

15 “(1) Obtaining an approval to operate by fraud.

16 “(2) A material violation or repeated violations of this chapter or regulations adopted  
17 pursuant to this chapter that have resulted in harm to students. For purposes of this paragraph,  
18 “material violation” includes, but is not limited to, misrepresentation, fraud in the inducement of a  
19 contract, and false or misleading claims or advertising, upon which a student reasonably relied in  
20 executing an enrollment agreement and that resulted in harm to the student.

21 “(b) The bureau shall adopt regulations, within one year of the enactment of this chapter,  
22 governing probation and suspension of an approval to operate.

23 “(c) The bureau may seek reimbursement pursuant to Section 125.3 of the Business and  
24 Professions Code.

25 “(d) An institution shall not be required to pay the cost of investigation to more than one  
26 agency.”

27 **COST RECOVERY PROVISION**

28 16. Business and Professions Code section 125.3. states in pertinent part:



1           “(a) those subject areas that are necessary for a student to achieve the educational  
2 objectives of the educational program in which the student is enrolled;

3           “(b) subject areas and courses or modules that are presented in a logically organized  
4 manner or sequence to students;

5           “(c) course or module materials that are designed or organized by duly qualified faculty.  
6 For each course or module, each student shall be provided with a syllabus or course outline that  
7 contains:

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

9                   “(2) a statement of educational objectives;

10                  “(3) length of the educational program;

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

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

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

15                  “(7) instructional mode or methods.

16           “(d) if degree granting, require research of an appropriate degree that utilizes a library and  
17 other learning resources;

18           “(e) specific learning outcomes tied to the sequence of the presentation of the material to  
19 measure the students' learning of the material; and

20           “(f) evaluation by duly qualified faculty of those learning outcomes.”

21           20. California Code of Regulations, title 5, section 71715 provides in pertinent part:

22                   “(a) Instruction shall be the central focus of the resources and services of the institution.

23                   ...

24                   “(c) Direct instruction requires the physical presence of one or more students and one or  
25 more faculty members at the same location. Direct instruction includes instruction presented in a  
26 classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or other physical learning  
27 settings consistent with the mission, purposes, and objectives of the institution.”

28           21. California Code of Regulations, title 5, section 71745 provides in pertinent part:





1           24. Further investigation with the assistance of the San Gabriel Police Department  
2 revealed that Respondent School was operated and controlled by Connie Kim, a.k.a. Hee Jung  
3 Kim, owner of Westlake College, formerly known as Manhattan College, which listed the same  
4 address as Respondent School, but a different suite number. On or about May 14, 2013, pursuant  
5 to a warranted search of one of Connie Kim's vacated offices, Connie Kim was found to be in  
6 possession of Respondent School's business cards, Respondent School's blank Certificates of  
7 Transcripts, student files containing documents from Respondent School, Sun Y. Han's  
8 identification card and blank checks from Respondent School's bank account. The Bureau was  
9 not able to locate Sun Y. Han.

10           25. During the warranted search, student I.L. arrived at the location to demand a refund  
11 from Connie Kim. She advised the DOI investigator and the detectives that on or about July 2,  
12 2012, she paid Connie Kim \$2,700 to attend massage therapy courses at Manhattan College and to  
13 obtain her massage therapist license, however, she never received any course schedule or a  
14 certificate. The IRS Form No. 1098-T shows that I.L. paid \$2,700 to Manhattan College, located  
15 at 1930 Wilshire Blvd., #300, Los Angeles, CA 90057.

16           26. The DOI investigator found I.L.'s student file in the vacated office during the search.  
17 The file contained an Enrollment Agreement form for Manhattan College signed and dated by I.L.  
18 on July 2, 2012, along with an Application for Certificate to the California Massage Therapy  
19 Council signed and dated by I.L. on July 30, 2012. This Application listed Respondent School as  
20 the school that I.L. attended. I.L.'s transcript was found in the file which showed that I.L.  
21 completed five (5) courses at Respondent School from July 11, 2011 to December 30, 2011  
22 although I.L. never attended any classes and never received her license.

23           27. In or about September 2014, correspondence mailed by the Bureau to Respondent  
24 School at 1930 Wilshire Blvd., Suite 302, Los Angeles, CA 90057 was returned and marked as  
25 "address unknown" and "return to sender".

26           28. Since 2011, Respondent School had not submitted any annual reports to the Bureau.

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**FIRST CAUSE FOR DISCIPLINE**

**(Change of Ownership without Approval)**

7 29. Respondents are subject to disciplinary action under Education Code sections 94893  
8 and 94894 in that Respondents made substantive changes without prior authorization. The  
9 circumstances are as follows:

10 30. In or about July 2012, Respondents allowed Connie Kim to take control and  
11 ownership of Respondent School without the prior approval of the Bureau.

12 31. In or about May 2013, the address of record of Respondent School located at 1930  
13 Wilshire Blvd., Suite 302, Los Angeles, CA 90057 was vacated without the prior approval of the  
14 Bureau.

15 32. In or about September 2014, correspondence mailed by the Bureau to Respondent  
16 School at 1930 Wilshire Blvd., Suite 302, Los Angeles, CA 90057 was returned and marked as  
17 "address unknown" and "return to sender".

18 33. Complainant refers to and incorporates all the allegations contained in paragraphs 22-  
19 28 as though set forth fully.

**SECOND CAUSE FOR DISCIPLINE**

**(False Documents)**

22 34. Respondents are subject to disciplinary action under Education Code section 94897,  
23 subdivisions (j)(3), and (k) in that Respondents made false documents related to I.L.'s student's  
24 record. The circumstances are as follows:

25 35. A transcript was prepared for I.L. on Respondent School's stationary for the period of  
26 July 11, 2011 to December 30, 2011 although I.L. never attended any classes and never received  
27 her license.

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1 42. On or about May 9, 2013, the DOI investigator visited Respondent School at the  
2 address listed on the Application: 1930 Wilshire Blvd., Suite 302, Los Angeles, CA 90057. The  
3 premise was vacated.

4 43. In or about September 2014, correspondence mailed by the Bureau to Respondent  
5 School at 1930 Wilshire Blvd., Suite 302, Los Angeles, CA 90057 was returned and marked as  
6 "address unknown" and "return to sender".

7 44. Complainant refers to and incorporates all the allegations contained in paragraphs 22-  
8 28 as though set forth fully.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Failure to Submit Annual Report)**

11 45. Respondents are subject to disciplinary action under Education Code sections 94929,  
12 subdivision (a) and 94929.5 in that Respondents failed to submit annual reports to the Bureau for  
13 the years 2012-2014.

14 46. Complainant refers to and incorporates all the allegations contained in paragraphs 22-  
15 28 as though set forth fully.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Failure to Provide Courses and Refund Fees)**

18 47. Respondents are subject to disciplinary action under Education Code sections 94926,  
19 subdivision (b), 94927 and 94937, subdivisions (a)(2) and (b) in conjunction with California Code  
20 of Regulations, title 5, sections 75100, 71710, 71715, 71745, subdivisions (a)(1), (a)(3), (a)(4), in  
21 that Respondents committed a material violation and/or repeated violations that have resulted in  
22 financial harm to student I.L. The circumstances are as follows:

23 48. On or about July 2, 2012, Connie Kim received a \$2,700 payment from student I.L. to  
24 provide massage therapy courses and to assist I.L. to obtain her massage therapist license. A  
25 transcript was prepared for I.L. on Respondent School's stationary for the period of July 11, 2011  
26 to December 30, 2011 although I.L. never attended any classes and never received her license.

27 49. Complainant refers to and incorporates all the allegations contained in paragraphs 22-  
28 45 as though set forth fully.


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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. Revoking or suspending the Approval of Institutional Programs Certificate Code 1936441, issued to Hans Academy of Massage; Sun Yo Han, Owner;
2. Ordering Hans Academy of Massage; Sun Yo Han, Owner; to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to Education Code section 94937, subdivision (c) and Business and Professions Code section 125.3;
3. Ordering Hans Academy of Massage; Sun Yo Han, Owner to make restitution to student I.L. pursuant to Education Code section 94927;
4. Taking such other and further action as deemed necessary and proper.

DATED: 3/11/15

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

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