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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 Statement of Issues
Against:

Case No. 1002167

12 **CALIFORNIA AMERICAN UNIVERSITY**

STATEMENT OF ISSUES

13 **Application for Renewal of Approval to**
14 **Operate and Offer Educational Programs**
15 **for Non-Accredited Institutions**

16 **Application Number 24659**
17 **School Code 1924741**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Complainant Leeza Rifredi brings this Statement of Issues solely in her official
23 capacity as the Deputy Chief of the Bureau for Private Postsecondary Education ("Bureau"),
24 Department of Consumer Affairs.

25 2. On or about April 3, 2012, the Bureau received an Application for Renewal of
26 Approval to Operate and Offer Educational Programs for Non-Accredited Institutions from
27 California American University ("Respondent"). On or about March 30, 2012, John Charity and
28 Theresa Woo certified under penalty of perjury to the truthfulness of all statements, answers, and

1 representations in the application. The Bureau denied the application on September 8, 2016 and
2 Respondent timely appealed.

3 JURISDICTION

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

7 4. Section 94875 authorizes the Bureau to regulate private postsecondary educational
8 institutions under the California Private Postsecondary Education Act of 2009, Education Code
9 sections 94800 through 94950.

10 STATUTES¹

11 5. Section 94887 states:

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

17 6. Section 94891, subdivision (b), states:

18 “(b) To be granted a renewal of an approval to operate, the institution shall demonstrate its
19 continued capacity to meet the minimum operating standards.”

20 REGULATIONS

21 7. California Code of Regulations, title 5, section 71475, subdivision (e), states:

22 “(e) The institution shall submit at the time it applies for renewal current financial
23 statements that meet the requirements of section 74115 as follows: (1) for an institution with
24 annual gross revenues of \$500,000 and over, statements shall be audited; (2) for an institution
25 with annual gross revenues less than \$500,000, statements shall be reviewed.”

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27 ¹ The California Private Postsecondary Education Act of 2009 was recently amended,
28 effective January 1, 2017. See, Senate Bill No. 1247. This Statement of Issues is based on the
post-amendment version of the Act.

1 8. California Code of Regulations, title 5, section 71700, states:

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

4 9. California Code of Regulations, title 5, section 71745, states, in pertinent part:

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

7 ...

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

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

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

19 10. California Code of Regulations, title 5, section 74115, states, in pertinent part:

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

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

27 ...

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

3 **FACTUAL BACKGROUND**

4 11. On or about April 3, 2012, the Bureau received Respondent’s Application for
5 Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited
6 Institutions. The Bureau assigned it Application Number 24659.

7 12. Following a number of subsequent responsive submittals and documents from
8 Respondent, the Bureau denied Respondent’s application on September 8, 2016.

9 13. On or about October 13, 2016, the Bureau received Respondent’s request for an
10 administrative hearing and certain financial documents.

11 14. On or about February 21, 2017, the Bureau received current, compiled financial
12 statements from Respondent prepared by a licensed certified public accountant for the year ended
13 December 31, 2016.

14 **CAUSE FOR DENIAL OF APPLICATION**

15 **(Failure to Meet Minimum Operating Standards – Financial Resources and Statements)**

16 15. Respondent’s application is subject to denial under sections 94887 and 94891 in
17 conjunction with California Code of Regulations, title 5, sections 71475, subdivision (e); 71745,
18 subdivisions (a)(4), (a)(5), and (a)(6); and 74115, subdivision (b)(1) and (b)(3), in that
19 Respondent failed to provide compliant financial statements as follows:

- 20 a. The financial statements are not reviewed financial statements;
- 21 b. The financial statements do not include the required balance sheet, an income
22 statement and a cash flow statement;
- 23 c. The financial statements were not prepared in accordance with the generally
24 accepted accounting principles established by the American Institute of Certified
25 Public Accountants; and
- 26 d. The financial statements fail to provide the ratio of current assets to current
27 liabilities and demonstrate Respondent’s ability to pay all operating expenses.

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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 the application of California American University for 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: 9/12/2017



LEEZA RIFREDI
Deputy Bureau Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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