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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. 999515

13 **CYBER INSURANCE GROUP CORP.,**
14 **A CALIFORNIA CORPORATION,**
DBA CYBER INSURANCE SCHOOL CORP.

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about January 7, 2013, the Bureau for Private Postsecondary Education
23 received an Application for Verification of Exempt Status (Application) from Cyber Insurance
24 Group Corp. doing business as Cyber Insurance School Corp. (Respondent).

25 3. On or about January 3, 2013, Respondent certified under penalty of perjury to the
26 truthfulness of all statements, answers, and representations in the application. The Bureau denied
27 the Application on July 15, 2013. On January 27, 2014, in Orange County Superior Court Case
28 No. 30-2014-00701565, captioned *Cyber Insurance Group Corp. a California Corporation,*

1 *doing business as Cyber Insurance School Corp. vs. The Bureau for Private Postsecondary*
2 *Education*, Cyber Insurance Group Corp. filed a Petition for Writ of Mandamus, pursuant to Code
3 of Civil Procedure section 1085, to challenge the denial by the Bureau of its Application under
4 the California Private Postsecondary Education Act of 2009 (the Act) [California Education
5 Code, Title 3, Division 10, Part 59, Chapter 8 “Private Postsecondary Institutions,” section 94800
6 et seq.] On July 3, 2014, Respondent requested that the Bureau provide an administrative hearing
7 on the denial of the Application. On July 9, 2014, the Superior Court issued an order granting the
8 Bureau’s demurrer to the Petition for Writ of Mandamus, and dismissing Respondent’s Petition
9 for Writ of Mandamus.

10 **JURISDICTION/STATUTORY AUTHORITIES**

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

15 5. Business and Professions Code section 477 states in relevant part:

16 As used in this division:

17 (a) “Board” includes “bureau,” “commission,” “committee,” “department,”
18 “division,” “examining committee,” “program,” and “agency.”

19 (b) “License” includes certificate, registration or other means to engage in a
20 business or profession regulated by this code.

21 6. Business and Professions Code section 478 states in relevant part:

22 (a) As used in this division, “application” includes the original documents or
23 writings filed and any other supporting documents or writings including
24 supporting documents provided or filed contemporaneously, or later, in support of
25 the application whether provided or filed by the applicant or by any other person in
26 support of the application.

27 (b) As used in this division, “material” includes a statement or omission
28 substantially related to the qualifications, functions, or duties of the business or
profession.

7. Business and Professions Code section 480 states in relevant part:

(a) A board may deny a license regulated by this code on the grounds that
the applicant has one of the following:

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(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license.

8. Education Code section 94801 states:

The Legislature finds and declares all of the following:

(a) In 2007, more than 400,000 Californians attended more than 1,500 private postsecondary schools in California.

(b) Private postsecondary schools can complement the public education system and help develop a trained workforce to meet the demands of California businesses and the economy.

(c) Numerous reports and studies have concluded that California's previous attempts at regulatory oversight of private postsecondary schools failed to ensure student protections or provide effective oversight of private postsecondary schools. Previous laws and regulatory oversight were allowed to expire on June 30, 2007, with some skeletal functions, continued by urgency legislation, that were allowed to expire on June 30, 2008.

(d) It is the intent of the Legislature in enacting this chapter to ensure all of the following:

(1) Minimum educational quality standards and opportunities for success for California students attending private postsecondary schools in California.

(2) Meaningful student protections through essential avenues of recourse for students.

(3) A regulatory structure that provides for an appropriate level of oversight.

(4) A regulatory governance structure that ensures that all stakeholders have a voice and are heard in policymaking by the new bureau created by this chapter.

(5) A regulatory governance structure that provides for accountability and oversight by the Legislature through program monitoring and periodic reports.

(6) Prevention of the deception of the public that results from conferring, and use of, fraudulent or substandard degrees.

(e) The Legislature advises future policymakers to continually and carefully evaluate this chapter and its administration and enforcement. Where there are deficiencies in the law or regulatory oversight, the Governor and the Legislature should act quickly to correct them.

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9. Education Code section 94827 states:

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

10. Education Code section 94843 states:

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

11. Education Code section 94847 states:

“License and examination preparation” means instruction designed to assist students to prepare for an examination for licensure, or offered for the sole purpose of providing continuing education in subjects licensees are required to take as a condition of continued licensure.

12. Education Code section 94848 states:

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

13. Education 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.

14. Education 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.

15. Education 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:

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

3 ...

4 (f) An institution that does not award degrees and that solely provides
5 educational programs for total charges of two thousand five hundred dollars
6 (\$2,500) or less when no part of the total charges is paid from state or federal
7 student financial aid programs. The bureau may adjust this cost threshold based
8 upon the California Consumer Price Index and post notification of the adjusted
9 cost threshold on its Internet Web site, as the bureau determines, through the
10 promulgation of regulations, that the adjustment is consistent with the intent of this
11 chapter.

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13 16. Education Code section 94875 states:

14 The Bureau for Private Postsecondary Education, as established by Section 6
15 of Chapter 635 of the Statutes of 2007, is continued in existence and shall
16 commence operations. This chapter establishes the functions and responsibilities
17 of the bureau, for the purposes of Section 6 of Chapter 635 of the Statutes of 2007.
18 The bureau shall regulate private postsecondary educational institutions through
19 the powers granted, and duties imposed, by this chapter. In exercising its powers,
20 and performing its duties, the protection of the public shall be the bureau's highest
21 priority. If protection of the public is inconsistent with other interests sought to be
22 promoted, the protection of the public shall be paramount.

23 17. Education Code section 94877 states:

24 (a) The bureau shall adopt, on or before January 1, 2011, and shall enforce,
25 regulations to implement this chapter pursuant to the Administrative Procedure
26 Act in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
27 Title 2 of the Government Code.

28 (b) The bureau shall develop and implement an enforcement program,
pursuant to Article 18 (commencing with Section 94932) to implement this
chapter. The enforcement program shall include a plan for investigating
complaints filed with the bureau.

(c) The bureau shall establish a program to proactively identify unlicensed
institutions, identify material or repeated violations of this chapter and regulations
implementing this chapter, and take all appropriate legal action.

18. Education Code section 94885 states:

The bureau shall, by January 1, 2011, adopt by regulation minimum
operating standards for an institution that shall reasonably ensure that all of the
following occur:

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

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

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

3 (d) The institution maintains a withdrawal policy and provides refunds.

4 (e) The directors, administrators, and faculty are properly qualified.

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

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

9 (h) Adequate records and standard transcripts are maintained and are available
10 to students.

11 (i) The institution is maintained and operated in compliance with this chapter
12 and all other applicable ordinances and laws.

13 19. Education Code section 94886 states:

14 Except as exempted in Article 4 (commencing with Section 94874) or in
15 compliance with the transition provisions in Article 2 (commencing with Section
16 94802), a person shall not open, conduct, or do business as a private postsecondary
17 educational institution in this state without obtaining an approval to operate under
18 this chapter.

19 20. Education Code section 94892 states:

20 If an agency of this state other than the bureau or of the federal government
21 provides an approval to offer an educational program and the institution already
22 has a valid approval to operate issued by the bureau, that agency's educational
23 program approval may satisfy the requirements of this article without any further
24 review by the bureau. The bureau may incorporate that educational program into
25 the institution's approval to operate when the bureau receives documentation
26 signifying the conferral of the educational program approval by that agency.

27 21. Education Code section 94899 states:

28 If an institution offers an educational program in a profession, occupation,
trade, or career field that requires licensure in this state, the institution shall have
an educational program approval from the appropriate state licensing agency to
conduct that educational program in order that a student who completes the
educational program, except as provided in Section 94905, is eligible to sit for any
required licensure examination.

22. Education Code section 94932 states:

The bureau shall determine an institution's compliance with the requirements
of this chapter [the California Private Postsecondary Education Act of 2009,
Education Code section 94800, et seq.]. The bureau shall have the power to require
reports that institutions shall file with the bureau in addition to the annual report, to
send staff to an institution's sites, and to require documents and responses from an

1 institution to monitor compliance. When the bureau has reason to believe that an
2 institution may be out of compliance, it shall conduct an investigation of the
3 institution. If the bureau determines, after completing an investigation, that an
4 institution has violated any applicable law or regulation, the bureau shall take
5 appropriate action pursuant to this article.

6 23. Education Code section 94933 states:

7 The bureau shall provide an institution with the opportunity to remedy
8 noncompliance, impose fines, place the institution on probation, or suspend or
9 revoke the institution's approval to operate, in accordance with this article, as it
10 deems appropriate based on the severity of an institution's violations of this
11 chapter, and the harm caused to students.

12 24. Education Code section 94937 states:

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

16 (1) Obtaining an approval to operate by fraud.

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

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

25 (c) The bureau may seek reimbursement pursuant to Section 125.3 of the
26 Business and Professions Code.

27 (d) An institution shall not be required to pay the cost of investigation to
28 more than one agency.

29 25. Education Code section 94940 states:

30 As consequence of an adverse administrative action against an institution,
31 the institution may request a hearing pursuant to Article 10 (commencing with
32 Section 11445.10) of Chapter 4.5 or Chapter 5 (commencing with Section 11500)
33 of Part 1 of Division 3 of Title 2 of the Government Code.

34 26. Education Code section 94943 states:

35 The following violations of this chapter are public offenses:

36 (a) Knowingly operating a private postsecondary institution without an
37 approval to operate is an infraction subject to the procedures described in Sections
38 19.6 and 19.7 of the Penal Code.

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1 (b) Knowingly providing false information to the bureau on an application
2 for an approval to operate is an infraction subject to the procedures described in
3 Sections 19.6 and 19.7 of the Penal Code.

4 (c) Knowingly submitting, to the bureau, false information that is required to
5 be reported pursuant to Article 16 (commencing with Section 94928) is an
6 infraction subject to the procedures described in Sections 19.6 and 19.7 of the
7 Penal Code.

8 27. Insurance Code section 1749 states, with bold emphasis added:

9 The department shall require all new applicants for license as a property
10 broker-agent, casualty broker-agent, limited lines automobile insurance agent,
11 personal lines broker-agent, life-only agent, or accident and health agent to meet
12 prelicensing education standards as follows:

13 (a) Require a minimum of 20 hours of prelicensing study as a prerequisite to
14 qualification for a **property broker-agent license**. The curriculum for satisfying
15 this requirement shall be approved by the curriculum board and submitted to the
16 commissioner for final approval. Any additions to the minimum requirements
17 provided by this section shall be approved by the curriculum board pursuant to
18 Section 1749.1 and certified by the department.

19 (b) Require a minimum of 20 hours of prelicensing study as a prerequisite to
20 qualification for a **casualty broker-agent license**. The curriculum for satisfying
21 this requirement shall be approved by the curriculum board and submitted to the
22 commissioner for final approval. Any additions to the minimum requirements
23 provided by this section shall be approved by the curriculum board pursuant to
24 Section 1749.1 and certified by the department.

25 (c) Require a minimum of 20 hours of prelicensing study as a prerequisite
26 for qualification for a **personal lines broker-agent license**. The curriculum for
27 satisfying this requirement shall be approved by the curriculum board and
28 submitted to the commissioner for final approval. Any additions to the minimum
requirements provided by this section shall be approved by the curriculum board
pursuant to Section 1749.1 and certified by the department.

(d) Require a minimum of 20 hours of prelicensing study as a prerequisite
for qualification for a **life-only agent license**. The curriculum for satisfying this
requirement shall be approved by the curriculum board and submitted to the
commissioner for final approval. Any additions to the minimum requirements
provided by this section shall be approved by the curriculum board pursuant to
Section 1749.1 and certified by the department.

(e) Require a minimum of 20 hours of prelicensing study as a prerequisite
for qualification for a **limited lines automobile insurance agent license**. The
curriculum for satisfying this requirement shall be approved by the curriculum
board and submitted to the commissioner for final approval. Any additions to the
minimum requirements under this section shall be approved by the curriculum
board pursuant to Section 1749.1 and certified by the department.

(f) Require a minimum of 20 hours of prelicensing study as a prerequisite for
qualification for an **accident and health insurance agent license**. The curriculum
for satisfying this requirement shall be approved by the curriculum board and
submitted to the commissioner for final approval. Any additions to the minimum
requirements under this section shall be approved by the curriculum board

1 pursuant to Section 1749.1 and certified by the department. This curriculum shall
2 also include instruction in workers' compensation and general principles of
employers' liability.

3 **(g) In addition to the 20 hours of prelicensing education required to**
4 **qualify for a license** as a property broker-agent, casualty broker-agent, personal
5 lines broker-agent, a life-only agent, or an accident and health agent, or the 20
6 hours of prelicensing education required to qualify for a license as a limited lines
7 automobile insurance agent, the department shall require 12 hours of study on
8 ethics and this code. Where an applicant seeks a license for more than one of the
9 following license types: a property broker-agent license, a casualty broker-agent
license, a personal lines broker-agent license, a life-only license, or an accident
and health license, the applicant shall only be required to complete one 12-hour
course on ethics and this code. The curriculum for satisfying this requirement shall
be approved by the curriculum board and submitted to the commissioner for final
approval.

10 (h) An applicant for a life-only agent license, an accident and health license,
11 a personal lines broker-agent license, or a limited lines automobile insurance agent
12 license, who is currently licensed as a nonresident in this state shall be required to
13 complete only the course of study on ethics and this code, as required by this
section. Additionally, any applicant for that license holding one or more of the
designations specified in subdivisions (a) to (p), inclusive, of Section 1749.4 shall
be exempted from any requirement for courses in general insurance that would
otherwise be a condition of issuance of the license.

14 (i) An applicant for a property broker-agent or casualty broker-agent license
15 who is currently licensed as a nonresident in this state shall be required to
16 complete only the course of study on ethics and this code, as required by
17 subdivision (g). Additionally, any applicant for a license holding one or more of
the designations specified in subdivisions (a) to (p), inclusive, of Section 1749.4,
shall be exempted from any requirement for courses in general insurance that
would otherwise be a condition of issuance of a license.

18 (j) An applicant for a property broker-agent or casualty broker-agent license
19 or both who is licensed as a personal lines agent shall complete a minimum of 20
20 hours of prelicensing study as a prerequisite for each of these licenses. The
21 curriculum for satisfying this requirement shall be approved by the curriculum
board and submitted to the commissioner for final approval. The applicant shall
not be required to repeat any prelicensing requirements completed as a prerequisite
to being licensed as a personal lines agent.

22 (k) Review and approval of prelicensing courses not conducted in a
23 classroom, as referenced in subdivisions (a) to (j), inclusive, shall include an
24 evaluation of the safeguards in place to ensure that the student completing the
25 course is the person enrolled in the course, methods used to monitor the student's
attendance are adequate, methods for the student to interact with the entity
providing the training exist, and methods used to record the times spent
completing the course are adequate.

26 (l) Prelicensing certificates of completion expire three years from the
27 completion date of the course, whether or not a license is issued.

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REGULATIONS

28. 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;

(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), ... 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(d)(2) ... , 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

1 approved to operate by the Bureau, unless it has been issued such an
2 approval; and

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

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

7 (1) Signatories:

8 (A) Each owner of the institution, or

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

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

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

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

17 _____
18 (Date) (Signature)

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

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

23 29. California Code of Regulations, title 5, section 71340 states:

24 (a) The institution shall include in the Form Application 94886 any material
25 facts, which have not otherwise been disclosed in the Form Application 94886 that
26 without inclusion would cause the information in the Form Application 94866 to
27 be false, misleading or incomplete or that might reasonably affect the Bureau's
28 decision to grant an approval to operate. In this context, a fact would be
"material" if it would alter the Bureau's determination concerning the institution's
ability to comply with any applicable provisions of the Act.

(b) The institution may also include in the Form Application 94886 any
other facts which the institution would like the Bureau to consider in deciding
whether to grant an approval to operate.

30. California Code of Regulations, title 5, section 71400 states:

(a) Action by the Bureau shall not commence until a completed Form
Application 94886 for approval to operate, or for verification of exemption, has
been submitted to the Bureau for its review.

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1 (b) Within 30 days after receipt of a Form Application 94886 for approval to
2 operate as required by Article 1, or for verification of exemption, the Bureau shall
3 notify the institution in writing that the application is complete and has been
4 accepted for filing or that the application is not complete. If the application is not
complete, the Bureau shall specify in the notice what additional information or
documents are needed from the institution in order for the application to be
deemed complete.

5 (c) The Bureau shall consider an application to be complete if it appears that
6 the institution has submitted all of the information, documents, and fees required
7 by the Act and by Article 2 of this chapter. This includes any additional documents
the Bureau may request to determine if the institution's proposed implementation
meets the minimum operating standards of Section 94885 of the Code.

8 (d) Pursuant to section 94887 of the Code, the Bureau will either grant or
9 deny an application. When specific minor deficiencies are identified during
10 processing but the institution is substantially in compliance with the requirements
11 of the Code and this Division, a provisional or conditional authorization to operate
12 may be granted for a period not to exceed six (6) months, to permit the institution
13 to correct those deficiencies identified. If those deficiencies are not corrected after
14 the first period of provisional approval, or the condition upon which an approval
15 may be granted is not satisfied, the provisional or conditional authorization to
operate may be extended for a period not to exceed six (6) months if the program
demonstrates to the Bureau a good faith effort and ability to correct the
deficiencies. A provisional or conditional authorization to operate shall expire at
the end of its stated period and the application shall be deemed denied, unless the
deficiencies are removed prior to its expiration and an approval to operate has been
granted before that date.

16 31. California Code of Regulations, title 5, section 71400.5 provides:

17 (a) The inclusion of false or misleading information, or the intentional or
18 negligent omission of pertinent information on any application may result in the
19 denial of the application or a delay in processing, and may be grounds for action
pursuant to Article 18 of the Act.

20 (b) In addition to denying an application pursuant to section 94887 of the
21 Code, the Bureau may deny any application based on any act that constitutes
grounds for the denial of a license under Section 480 of the Business and
Professions Code, incorporated herein by reference.

22 (c) The proceedings under this section shall be conducted in accordance with
23 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
the Government Code.

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

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

3 32. Respondent's Application is subject to denial under Education Code section 94874,
4 subdivision (d)(2), in that Respondent failed to qualify for that exemption. The circumstances are
5 as follows:

6 a. On or about January 3, 2013, Respondent filed an Application for Verification
7 of Exempt Status under Education Code section 94874, subdivision (d)(2) with the Bureau.
8 Except as exempted in Article 4, a private postsecondary educational institution shall not operate
9 without Bureau approval. (Education Code section 94886.) A student of an institution subject to
10 Bureau approval is afforded full consumer protection by the Act. A student of an exempt
11 institution is afforded limited consumer protection by the Act. The Bureau is authorized to grant
12 an Education Code section 94874(d)(2) exemption to an institution offering only “[c]ontinuing
13 education or license examination preparation” that is “approved, certified, or sponsored by . . . [a]
14 government agency, other than the bureau, that licenses persons in a particular profession,
15 occupation, trade, or career field.” (Education Code section 94874(d)(2).) Provided its
16 educational programs were below the \$2,500 threshold, Petitioner was qualified for exemption
17 under Education Code section 94874, subdivision (f). Under an Education Code section 94874(f)
18 exemption, however, Petitioner may not receive any student financial aid as payment for its
19 educational programs. With an Education Code section 94874(d)(2) exemption, Petitioner could
20 afford its students limited consumer protection by the Act and still receive student financial aid as
21 payment for its educational programs. However, Respondent did not qualify for that exemption.
22 Without an Education Code section 94874(d)(2) exemption, Respondent would be required to
23 obtain Bureau approval to operate, and afford its students full consumer protection by the Act, in
24 order to receive student financial aid as payment for its educational programs. (Education Code
25 sections 94886 and 94874.)

26 b. In response to question 3 in Respondent’s Application for Verification of
27 Exempt Status, “Identify the basis for the exemption(s) to which the entity is entitled, and provide
28 the required information,” Respondent’s Chief Executive Officer, Chief Financial Officer, and

1 Chief Operations Officer certified under penalty of perjury that Respondent was “An institution
2 offering continuing education or license examination preparation.”

3 c. At the time Respondent filed its Application, Respondent held “pre-licensing
4 education provider” certification No. 276766 issued by the California Department of Insurance
5 for the period August 28, 2012 to August 31, 2014.

6 d. On or about August 28, 2012, the California Department of Insurance notified
7 Respondent upon certification, that as an approved prelicensing provider, Respondent was
8 authorized to train people for a new occupation, and therefore was subject to the California
9 Education Code.

10 e. On or about September 26, 2012, the California Department of Insurance
11 approved Respondent’s prelicensing education course entitled, “California Property/Casualty
12 Broker-Agent Insurance Course,” which was required prelicensing study for qualification for a
13 California property broker-agent license under Insurance Code section 1749(a), and a California
14 casualty broker-agent license under Insurance Code section 1749(b).

15 f. On or about January 2, 2013, the California Department of Insurance approved
16 Respondent’s prelicensing education course entitled, “Personal Lines Broker-Agent Insurance
17 Course,” which is required prelicensing study for qualification for a California personal lines
18 broker-agent license under Insurance Code section 1749(c).

19 g. On or about August 6, 2013, the California Department of Insurance notified
20 Respondent that as “pre-licensing education provider,” Respondent was authorized to offer
21 required prelicensing education courses in accordance with California Code of Insurance section
22 1749.

23 h. At the time Respondent filed its Application with the Bureau, Respondent was
24 not certified as a continuing education provider with the California Department of Insurance, and
25 did not provide continuing education.

26 i. On July 15, 2013, the Bureau denied Respondent’s Application. In the denial
27 letter, the Bureau explained: “The Bureau’s determination was based on the analysis that the
28 institution does not solely provide continuing education or license examination preparation

1 programs. The institution provides postsecondary educational programs requiring program
2 approval; therefore the programs offered do not meet the requirements specified in the Act under
3 Section 94827 or Section 94847.”

4 j. By letter, dated August 13, 2013, the Bureau notified Respondent that it would
5 have to offer only license examination preparation or continuing education to qualify for
6 exemption under Education Code section 94874(d)(2)(A). The Bureau advised Respondent that
7 because it offered education programs that impart new information, and are not limited to
8 teaching how to take an examination, it did not qualify for exemption under Education Code
9 section 94874, subdivision (d)(2)(A).

10 k. At the time Respondent filed its Application with the Bureau, Respondent did
11 not award degrees. As long as Respondent solely provided educational programs for total charges
12 of two thousand five hundred dollars (\$2,500) or less, and no part of the total charges were paid
13 from state or federal student financial aid programs, Respondent qualified for exemption under
14 Education Code section 94874, subdivision (f).

15 l. By letter, dated August 16, 2013, Respondent’s chief executive officer, one-
16 third owner, member of the board of directors, and a signatory on Respondent’s Application,
17 provided the Bureau with copies of portions of Respondent’s website, including the Home Page
18 to the Shopping Cart. The website excerpts included a shopping cart of Respondent’s “courses
19 for sale” including the following required prelicensing insurance education courses in California
20 in accordance with California Code of Insurance section 1749:

- 21 (1) “Property and Casualty Pre-Licensing Class \$375.00;”
- 22 (2) “Limited Auto-Pre-Licensing Class \$325.00;”
- 23 (3) “Personal-Lines Pre-Licensing Class \$325.00;” and
- 24 (4) “Property and Casualty Broker/Agent Prelicensing Class \$275.00.”

25 m. By letter, to the Bureau dated August 17, 2013, Respondent’s second chief
26 executive officer, one-third owner, and member of the board of directors, and another signatory
27 on Respondent’s Application, provided additional copies of Respondent’s website offering
28 required prelicensing study for insurance licenses, including: a property broker-agent license; a

1 casualty broker-agent license; and a personal lines broker license. Respondent's chief executive
2 officer confirmed to the Bureau that Respondent offered two different types of "EXAM
3 preparation classes," (emphasis in original), including:

4 (1) pre-licensing education courses regulated by the California Department of
5 Insurance "where an applicant must attend the class on set hours to obtain certificate of
6 completion, to be able to take his/her State License EXAM;" (emphasis in original) and

7 (2) those who already attended mandatory pre-licensing education courses
8 regulated by the California Department of Insurance to be able to take his/her state license
9 examination, but failed to pass on their first try, "where the applicants get to practice on EXAM
10 Simulators and re-study the EXAM Prep courses more than the mandated minimum required
11 hours by Reg[ulation]." (Emphasis in original.)

12 n. By letter, to Respondent dated August 30, 2013, the Bureau advised:

13 The Bureau fully acknowledges that Cyber has been approved by the
14 Department of Insurance as a pre-licensing education provider. (See Ins. Code
15 §1749.) A review of the relevant information, however, reflects that Cyber
16 provides more than license [sic] preparation classes. As a starting point, please
17 note that state law defines "license and examination preparation" as "instruction
18 designed to assist students to prepare for an examination for licensure, or offered
19 for the sole purpose of providing continuing education in subjects licensees are
20 required to take as a condition of continued licensure. (Ed. Code, §94847.)

21 An Analysis of the information provided by Cyber reveals that it offers "pre-
22 licensure courses" in at least the following areas:

- 23 (1) "Fire, Property and Casualty" for 52 hours total;
- 24 (2) "Limited Auto" for 32 hours total;
- 25 (3) "Personal-Lines" for 32 hours total;
- 26 (4) "Property and Casualty Broker Agent" for 52 hours total; and
- 27 (5) "California Automobile Producer" for 52 hours total.

28 ...
29 Accordingly, the Bureau cannot consider Cyber as providing only license
30 and examination preparation instruction, and therefore, the first condition of the
31 exemption is not satisfied. For this reason, the Bureau issued its denial of the
32 application for verification of exemption on July 15, 2013.

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1 d. The required minimum preclicensing study as a prerequisite for qualification for
2 insurance licenses that Respondent provided was not instruction designed to assist students to
3 prepare for an examination for licensure, or offered for the sole purpose of providing continuing
4 education in subjects licensees are required to take as a condition of continued licensure.

5 **THIRD CAUSE FOR DENIAL OF APPLICATION**

6 **(Knowingly Making a False Statement of Fact)**

7 34. Respondent's application is subject to denial under California Code of Regulations,
8 title 5, sections 71400.5, subdivision (b), and Business and Professions Code section 480,
9 subdivision (c) in that Respondent knowingly made false statements of fact as set forth in
10 paragraphs 32 through 33 above, which are incorporated here by this reference.


11 **PRAYER**

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

15 1. Denying the Application of Cyber Insurance Group Corp. dba Cyber Insurance
16 School Corp. for Verification of Exempt Status from Cyber Insurance Group Corp., doing
17 business as Cyber Insurance School Corp.;

18 2. Taking such other and further action as deemed necessary and proper.

19
20 DATED: 9/16/14


21 JOANNE WENZEL
22 Chief
23 Bureau for Private Postsecondary Education
24 Department of Consumer Affairs
25 State of California
26 *Complainant*

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