

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 HELENE E. ROUSE
Deputy Attorney General
4 State Bar No. 130426
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-3005
6 Facsimile: (213) 897-2804
Attorneys for Complainant
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 Statement of Issues
Against:

Case No. 1001458

12 **CALIFORNIA INSTITUTE OF**
13 **LOCKSMITHING,**

STATEMENT OF ISSUES

14 **Renewal of Approval to Operate Applicant**

15 **Institution Code Number 1905991**

16 Respondent.
17

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 May 31, 2012, the Bureau for Private Postsecondary Education (the
24 Bureau) received an application for a Renewal of Approval to Operate an Institution Non-
25 Accredited from California Institute of Locksmithing (Respondent, CIL and/or the Institution),
26 Institution Code Number 1905991.

27 3. On or about May 29, 2012, J. Corey Friedman, President of the Institution, certified
28 under penalty of perjury to the truthfulness of all statements, answers, and representations in the

1 application. The Bureau denied the application, on or about February 9, 2016.

2 **JURISDICTION**

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

6 **STATUTORY PROVISIONS¹**

7 5. Section 94886 states:

8 Except as exempted in Article 4 (commencing with Section 94874) or in
9 compliance with the transition provisions in Article 2 (commencing with Section
10 94802), a person shall not open, conduct, or do business as a private postsecondary
11 educational institution in this state without obtaining an approval to operate under this
12 chapter.

11 6. Section 94887 states:

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

16 7. Section 94891, subdivision (b) states: "To be granted a renewal of an approval to
17 operate, the institution shall demonstrate its continued capacity to meet the minimum operating
18 standards."

19 **REGULATORY PROVISIONS**

20 8. California Code of Regulations, title 5, section 71700 states that "The Bureau may
21 request that an institution document compliance with the standards set forth in the Act and this
22 Division to obtain and maintain an approval to operate."

23 ///

24 ///

25 ///

26 ¹ On October 11, 2009, the California Private Postsecondary Education Act (Act) of 2009
27 was signed into law. (Educ. Code, §§94800, et seq.) The Act was recently amended, effective
28 January 1, 2015. (See: Senate Bill No. 1247.) This Statement of Issues is based on the post-
amendment version of the Act.

1 9. California Code of Regulations, title 5, section 71745, subdivisions (a)(4) and (a)(5),
2 states as follows:

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

5 * * * *

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

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

8 10. California Code of Regulations, title 5, section 74115, states:

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

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

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

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

19 (3) The financial statements shall establish that the institution meets the
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 potential
liability for the institution, the financial statements shall reflect the liability or
potential liability.

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

25 (c) Work papers for the financial statements shall be retained for five
26 years from the date of the statements and shall be made available to the Bureau upon
request.

27 ///

28 ///

1 **FACTUAL BACKGROUND**

2 11. On or about May 31, 2012, the Bureau received Application No. 24881, the
3 “Application for Renewal of Approval to Operate and Offer Educational Programs for Non-
4 Accredited Institutions” (application for renewal) from Respondent. Along with the Application,
5 Respondent submitted -financial documents, which were not reviewed or audited by a Certified
6 Public Accountant (CPA), with its application for renewal.

7 12. On or about June 8, 2012, the Bureau issued a letter to Respondent, stating that the
8 application for renewal was incomplete and requesting additional documents, including but not
9 limited to financial resources and statements.

10 13. On or about October 7, 2015, the Bureau issued a deficiency letter to Respondent
11 which included a request for additional information, including but not limited to a request for
12 current financial statements consisting of a Balance Sheet, Cash Flow Statement and an Income
13 Statement, prepared by a licensed CPA. The letter noted a profit and loss statement had been
14 provided, but that the statements provided for review did not meet the minimum standards of the
15 Bureau for financial statements.

16 14. On or about October 19, 2015, the Bureau received a letter from an attorney,
17 which stated that he had reconciled the books and records and prepared the corporate tax returns
18 for Friedman College (dba CIL) for at least the past 10 years, using QuickBooks, and including
19 an Income Statement (Profit and Loss for tax year 2014), a Balance Sheet as of December 31,
20 2014 and Statement of Cash Flows (for calendar year 2014) for Friedman College.

21 15. In an e-mail dated November 6, 2015, the Bureau notified the Institution that its
22 response packet submitted in reply to the deficiency letter had been reviewed, but there were still
23 some corrections which were needed before the application process could be completed. In this
24 e-mail, the Bureau renewed its request for a complete set of financial statements prepared by a
25 CPA in accordance with generally accepted accounting principles established by the American
26 Institute of Certified Public Accountants, which were current, in that they were completed no
27 sooner than 120 days prior to the time of submission to the Bureau, and covering no less than the
28 most recent complete fiscal year.

1 16. On or about November 17, 2015, the Bureau received an e-mail communication
2 from a representative of the Institution, stating she was having a “hard time getting a cpa to do the
3 financials” and asking if the Bureau would accept a tax return. On the same day, the Bureau
4 replied to the e-mail, indicating that the regulations state the financials can only be done by a
5 licensed CPA, and providing an extension of time for a few weeks for the Institution to find a
6 CPA.

7 17. On or about November 23, 2015, the Bureau received a response from the
8 Institution to its request for additional documents and information to complete the application for
9 renewal, without any financial statements. On or about January 21, 2016, the Bureau received a
10 letter dated January 19, 2016 from the Institution, enclosing a set of financials for the Institution,
11 for the year ended December 31, 2014.

12 18. On or about February 9, 2016, the Bureau sent the Institution a “Notice of Denial
13 of Application for Renewal of Approval to Operate” via regular and certified mail, which denied
14 the application because it was incomplete, in that the financial statements were not reviewed or
15 audited by a CPA. Furthermore, the Notice indicated that the Income Statement, Balance Sheet
16 and Statement of Cash Flows for the year ended December 31, 2014, which were submitted on
17 October 28, 2015, were not “current” because they were completed more than 120 days after
18 submission to the Bureau. In addition, the Notice stated that the compiled financials showed that
19 the Institution cannot pay all operating expenses due within 30 days.

20 19. In an email to the Bureau dated February 23, 2016, Respondent requested a
21 hearing to appeal the denial of the Institution’s application.

22 20. On or about March 28, 2016, Respondent submitted an “Application for Change of
23 Business Organization/Control/Ownership” to remove Arnold Friedman as the Vice President and
24 Owner due to this death.

25 21. On or about May 3, 2016, the Bureau received additional financial statements from
26 Respondent, consisting of: (1) for the year ending December 31, 2014: a Balance Sheet, a
27 Statement of Income, a Statement of Cash Flows, a Statement of Shareholder’s Deficiency, Notes
28 to Financial Statements, and Financial Statements; and (2) for the year ending December 31,

1 2015: a Balance Sheet, a Statement of Income, a Statement of Cash Flows, a Statement of
2 Shareholder's Equity, and Notes to Financial Statements.

3 **CAUSE FOR DENIAL OF APPLICATION**

4 **(Failure to Submit Adequate Financial Statements)**

5 22. Respondent's application is subject to denial under Section 94891, subdivision (b),
6 in that the Institution:

7 (a) Failed to provide financial statements that show that Respondent has the ability
8 to pay timely refunds, in violation of California Code of Regulations, title 5, sections 74115,
9 subdivisions (a)(3) and 71745, subdivision (a)(4).

10 (b) The compiled financial statements indicate the Institution cannot pay all
11 operating expenses due within 30 days, in violation of California Code of Regulations, title 5,
12 74115, subdivisions (a)(3) and 71745, subdivision (a)(5).

13 (c) Respondent incorporates by reference herein Paragraphs 11-21, above.

14 **PRAYER**

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

- 18 1. Denying the application of California Institute of Locksmithing, Institution Code
19 Number 1905991, for a Renewal of Approval to Operate; and
20 2. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 9/26/16


JOANNE WENZEL

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

23
24
25
26 LA2016600748
52212598.docx