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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. 1002513

12 **3G UNIVERSITY**

STATEMENT OF ISSUES

13
14 **Application for Approval to Operate for an**
Institution Non-Accredited

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16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Dr. Michael Marion, Jr. (Complainant) brings this Statement of Issues solely in his
21 official capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
22 Consumer Affairs.

23 2. On or about June 22, 2011, the Bureau for Private Postsecondary Education received
24 an Application for Approval to Operate for an Institution Non Accredited Institution, Application
25 # 23672 from MTI College, predecessor to 3G University (Respondent). On or about June 9,
26 2011, David Pinnell certified under penalty of perjury to the truthfulness of all statements,
27 answers, and representations in the application. The Bureau denied the application on January 13,
28 2017.

1 **JURISDICTION**

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

6 **STATUTORY PROVISIONS**

7 4. Business and Professions Code of 22 defines the term "board" to include "bureau."

8 5. Education Code section 94885¹ states:

9 (a) The bureau shall adopt by regulation minimum operating standards for an institution
10 that shall reasonably ensure that all of the following occur:

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

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

14 (3) The facilities, instructional equipment, and materials are sufficient to enable students to
15 achieve the educational program's goals.

16 (4) The institution maintains a withdrawal policy and provides refunds.

17 (5) The directors, administrators, and faculty are properly qualified.

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

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

22 (8) Adequate records and standard transcripts are maintained and are available to students.

23 (9) The institution is maintained and operated in compliance with this chapter and all other
24 applicable ordinances and laws.

25 (b) Except as provided in Section 94855.1, an institution offering a degree must satisfy one
26 of the following requirements:

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¹ California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

1 (i) Accreditation by an accrediting agency recognized by the United States Department of
2 Education, with the scope of that accreditation covering the offering of at least one degree
3 program by the institution.

4 (ii) An accreditation plan, approved by the bureau, for the institution to become fully
5 accredited within five years of the bureau's issuance of a provisional approval to operate to the
6 institution. The provisional approval to operate to an unaccredited degree-offering institution
7 shall be in compliance with Section 94885.5.

8 6. Education Code Section 94886 states:

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

13 7. Education Code Section 94887 states:

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

19 8. Education Code Section 94943 states:

20 The following violations of this chapter are public offenses:

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

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

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

1 9. Business and Professions Code Section 480 states in pertinent part:
2 (a) A board may deny a license regulated by this code on the grounds that the applicant has
3 one of the following:

4

5 (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
6 benefit himself or herself or another, or substantially injure another.

7

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

11 **REGULATORY PROVISIONS**

12 10. Title 5, CCR, section 71700 states:

13 "The Bureau may request that an institution document compliance with the standards set
14 forth in the Act and this Division to obtain and maintain an approval to operate."

15 11. Title 5, CCR, section 71710 states:

16 In order to meet its mission and objectives, the educational program defined in section
17 94837 of the Code shall be comprised of a curriculum that includes:

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

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

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

- 25 (1) a short, descriptive title of the educational program;
- 26 (2) a statement of educational objectives;
- 27 (3) length of the educational program;
- 28 (4) sequence and frequency of lessons or class sessions;

- 1 (5) complete citations of textbooks and other required written materials;
- 2 (6) sequential and detailed outline of subject matter to be addressed or a list of skills to be
- 3 learned and how those skills are to be measured;
- 4 (7) instructional mode or methods.
- 5 (d) if degree granting, require research of an appropriate degree that utilizes a library and
- 6 other learning resources;
- 7 (e) specific learning outcomes tied to the sequence of the presentation of the material to
- 8 measure the students' learning of the material; and
- 9 (f) evaluation by duly qualified faculty of those learning outcomes.

10 12. Title 5, CCR, section 71400.5 states in pertinent part:

11 (a) The inclusion of false or misleading information, or the intentional or negligent

12 omission of pertinent information on any application may result in the denial of the application or

13 a delay in processing, and may be grounds for action pursuant to Article 18 of the Act.

14 (b) In addition to denying an application pursuant to section 94887 of the Code, the Bureau

15 may deny any application based on any act that constitutes grounds for the denial of a license

16 under Section 480 of the Business and Professions Code, incorporated herein by reference.

17 (c) The proceedings under this section shall be conducted in accordance with Chapter 5

18 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

19 13. Title 5, CCR, section 71715 states:

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

21 (b) The institution shall document that the instruction offered leads to the achievement of

22 the learning objectives of each course.

23 (c) Direct instruction requires the physical presence of one or more students and one or

24 more faculty members at the same location. Direct instruction includes instruction presented in a

25 classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or other physical learning

26 settings consistent with the mission, purposes, and objectives of the institution.

27 (d) Distance education as defined in section 94834 of the Code, does not require the

28 physical presence of students and faculty at the same location but provides for interaction

1 between students and faculty by such means as telecommunication, correspondence, electronic
2 and computer augmented educational services, postal service, and facsimile transmission. In
3 addition to the other requirements of this chapter and the Act, an institution offering distance
4 education shall:

5 (1) ensure that the educational program offered through distance education is appropriate
6 for delivery through distance education methods;

7 (2) assess each student, prior to admission, in order to determine whether each student has
8 the skills and competencies to succeed in a distance education environment;

9 (3) ensure that the materials and programs are current, well organized, designed by faculty
10 competent in distance education techniques and delivered using readily available, reliable
11 technology;

12 (4) provide for meaningful interaction with faculty who are qualified to teach using
13 distance education methods;

14 (5) maintain clear standards for satisfactory academic progress;

15 (6) timely complete student evaluations of learning outcomes by duly qualified faculty,
16 which are appropriate for use with the distance education methods used, and evaluated by duly
17 qualified faculty.

18 (7) employ a sufficient number of faculty to assure that (A) the institution's response to, or
19 evaluation of, each student lesson is returned to the student within 10 days after the lesson is
20 received by the institution; and (B) the institution's response to, or evaluation of, each student
21 project or dissertation is returned to the student within the time disclosed in the catalog; and

22 (8) shall maintain a record of the dates on which lessons, projects, and dissertations were
23 received and responses were returned to each student.

24 14. Title 5, CCR, section 71720 states:

25 a) An Educational Program Leading to a Degree.

26 (1) An institution offering an educational program that leads to a degree shall employ duly
27 qualified faculty sufficient in number to provide the instruction, student advisement, and learning
28 outcomes evaluation necessary for the institution to document its achievement of its stated

1 mission and objectives, and for students to achieve the specific learning objectives of each course
2 offered;

3 (2) Each institution shall develop and implement written policies and procedures providing
4 for; the participation by duly qualified faculty in the conducting of research, development of
5 curricula, academic planning, enforcement of standards of academic quality, pursuit of academic
6 matters related to the institution's mission and objectives, establishment of criteria for contracting
7 with new faculty, and evaluation of faculty credentials;

8 (3) In determining the number of faculty sufficient to satisfy subdivision (a)(1) of this
9 section and to implement the policies established pursuant to subdivision (a)(2) of this section, the
10 institution shall base its faculty requirements on all of the following factors:

11 (A) The educational level and number of students;

12 (B) The number of hours needed for direct interaction between students and faculty
13 per course, quarter, semester, or other term;

14 (C) The number of hours needed to be spent on evaluating written materials prepared
15 by students, such as distance education, papers, and examinations, per course, quarter, semester,
16 or other term;

17 (D) The number of group meetings per course, quarter, semester, or other term;

18 (E) The faculty duties established by the institution as required under subdivision
19 (a)(2) of this section; and

20 (F) The number of hours per week or units per term considered full-time for faculty
21 in the institution.

22 (4) The faculty shall have sufficient expertise to support the institution's awarding of a
23 degree identifying a specialty or major field of emphasis, demonstrated by, at a minimum:

24 (A) That the person possesses one of the following:

25 1. a degree from: an institution approved by the Bureau or previously approved by a
26 predecessor agency of the Bureau; or an accredited institution in the United States or Canada; or
27 other state approved institution that documents that the institution at which the faculty member
28 earned his or her degree is equivalent to an institution that is approved by the Bureau; or an

1 institution outside the United States or Canada and in addition provides a comprehensive
2 evaluation of the degree performed by a foreign credential evaluation service that is a member of
3 the National Association of Credential Evaluation Services (NACES).

4 2. a credential generally recognized in the field of instruction.

5 (B) The degree, professional license, or credential possessed by the person shall be at least
6 equivalent to the level of instruction being taught or evaluated;

7 (5) The institution's faculty as a whole shall possess a diverse educational background
8 which shall be demonstrated in part by earned degrees from a variety of colleges and universities
9 or by credentials generally recognized in the field of instruction;

10 (6) When contracting for educational services, the institution shall maintain control of, and
11 responsibility for, all academic matters, and shall assure that the instruction and faculty satisfy the
12 standards established by the Act and this chapter;

13 (7) The institution shall not employ or continue to employ any faculty who were
14 adjudicated in a judicial or administrative proceeding as having violated any provision of the Act
15 or this chapter or as having committed any act that would constitute grounds for the denial of a
16 license under Section 480 of the Business and Professions Code;

17 (8) Each institution shall have a written Academic Freedom Policy which describes the
18 latitude the institution allows faculty in the classroom so faculty will not inadvertently violate the
19 principles of academic freedom. These policies shall be made available to any person upon
20 request. The institution shall not take adverse action based on a staff member's exercise of
21 academic freedom consistent with the institution's policy; and

22 (9) The institution shall maintain records documenting that each faculty member is duly
23 qualified and was qualified to perform the duties to which the faculty member was assigned,
24 including providing instruction, evaluating learning outcomes, evaluating graduate dissertations,
25 theses, and student projects, and participating on doctoral committees.

26 (b) Instructors in an Educational Program Not Leading to a Degree.

27 (1) An institution shall employ instructors who possess the academic, experiential and
28 professional qualifications to teach, including a minimum of three years of experience, education

1 and training in current practices of the subject area they are teaching. If an instructor does not
2 possess the required three years of experience, education and training in the subject area they are
3 teaching, the institution shall document the qualifications the instructor possesses that are
4 equivalent to the minimum qualifications.

5 (2) Each instructor shall maintain their knowledge by completing continuing education
6 courses in his or her subject area, classroom management or other courses related to teaching.

7 (3) The institution shall not employ or continue to employ an instructor who was
8 adjudicated in a judicial or administrative proceeding as having violated any provision of the Act
9 or this chapter, or as having committed any act that would constitute grounds for the denial of a
10 license under Section 480 of the Business and Professions Code.

11 15. Title 5, CCR, section 71735 states:

12 (a) An institution shall have sufficient facilities and necessary equipment to support the
13 achievement of the educational objectives of all of the courses and educational programs in which
14 students are enrolled. If an institution represents that the educational service will fit or prepare a
15 student for employment in a particular occupation or as described in particular job titles, either of
16 the following conditions shall be met:

17 (1) The equipment used for instruction or provided to the student shall be comparable in
18 model type or features to equipment generally used in those occupations or job titles at the time
19 the instruction is offered.

20 (2) The institution shall establish that the equipment used for instruction or provided to a
21 student is not obsolete and is sufficient for instructional purposes to reasonably assure that a
22 student acquires the necessary level of education, training, skill, and experience to obtain
23 employment in the field of training and to perform the tasks associated with the occupation or job
24 title to which the educational program was represented to lead.

25 (b) An institution's facilities, including heating and cooling, ventilation, lighting,
26 classrooms, laboratories, and campus environs, shall be well-maintained. The institution shall
27 maintain all valid permits required by any public agencies relating to the health and safety of the

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1 institution's facilities and equipment on file, and such permits shall be available to the Bureau
2 upon request.

3 16. Title 5, CCR, section 71745 states:

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

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

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

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

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

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

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

22 (b) At an institution's request, the Bureau may consider the financial resources of a parent
23 company if the parent company, as defined by section 94853 of the Code, meets and maintains all
24 of the following provisions:

25 (1) consents in writing to be sued in California;

26 (2) consents in writing to be subject to the jurisdiction of the Bureau with respect to the
27 institution's regulation under the Act and this Chapter;

28 (3) designates and maintains an agent for service of process, consistent with section 74190;

1 (4) agrees in writing to pay any refund, claim, penalty, or judgment that the institution is
2 obligated to pay; and

3 (5) files financial reports, maintains financial records, and consents in writing to permit the
4 inspection and copying of financial records to the same extent as is required of the institution.

5 (c) An institution shall provide to the Bureau its most current financial statements upon
6 request.”

7 17. Title 5, CCR, section 74115 states in pertinent part:

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

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

15 **FIRST CAUSE FOR DENIAL OF APPLICATION**

16 (Failure to Meet Minimum Operating Standards – Educational Program and Instruction)

17 18. Respondent’s application is subject to denial under Education Code sections 94885,
18 94886 and 94887 and 5, California Code of Regulations (CCR) section 71710 and 71715 in that
19 the institution has not met minimum operating standards as it has not sufficiently demonstrated a
20 fully developed curriculum that is ready to be delivered. Instead, the curriculum and course
21 syllabi was plagiarized from another institution.

22 19. Respondent’s application is further subject to denial for a violation of Education Code
23 section 94943 and 5, CCR section 71400.5 for providing false and misleading information on an
24 application where it represented that the curriculum that had been developed by American Public
25 University System (APUS) was its own curriculum.

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1 c. The documentation submitted for proposed faculty member C.A.G. does not
2 demonstrate experience in teaching or curriculum development.

3 d. The documentation submitted for proposed faculty member M.F. does not demonstrate
4 experience in the courses that she plans to teach which include: M101 - Business Practices and
5 Principles for Management, M102 - Organizational Behavior and Leadership, and M103 -
6 Communication for Business Managers. Moreover, the documentation contains course numbering
7 which is inconsistent in the catalog and student contract.

8 e. The documentation does not demonstrate that proposed faculty member F.N. is
9 contracted to teach courses in the graduate program.

10 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

11 (Failure to Meet Minimum Operating Standards – Facilities)

12 22. Respondent's application is subject to denial under Education Code sections 94885,
13 94886 and 94887 and 5, CCR sections 71735 in that the Respondent did not demonstrate that
14 there are sufficient facilities to support the achievement of the educational objectives of the
15 educational programs made available to students. The institution does not have sufficient
16 facilities to support the proposed educational programs. Respondent is required to have a
17 "physical presence" in the state of California. The institution's address is identified as 5023 North
18 Parkway, Office/Suite #46 and #47, Desk Space U-2, Calabasas, CA 91302. The physical
19 presence must include facilities, equipment, and personnel available to assist students during
20 regular hours, even when the institution offers distance education.

21 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

22 (Submission of False and Fraudulent Information with Application)

23 23. Respondent's application is subject to denial under Business and Professions Code
24 section 480 subdivision (a)(2) and (d) and Education Code section 94943 subdivision (b) in that
25 Respondent submitted fraudulent and falsified information to obtain an approval to operate. The
26 circumstances are set forth more fully in the paragraphs above and incorporated herein by this
27 reference.

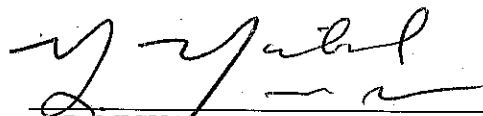
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PRAYER

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 3G University for an Approval to Operate a Non-Accredited Institution; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 11-7-17 
DR. MICHAEL MARION, JR.
Bureau Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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