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BEFORE THE
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
DEPARTMENT OF CONSUMER AFFAIRS

In the Matter of the First Amended Accusation Against: **California Union University-Fullerton; Samuel Chai Cho Oh, Owner** 905 South Euclid Street Fullerton, CA 92632 **Institution Code No. 1920741** Respondent.	Case No. 997104 **FIRST AMENDED** **A C C U S A T I O N** (Amendments are in bold)

Complainant alleges:

PARTIES

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

2. On or about May 4, 2007, the Bureau for Private Postsecondary Education issued an Approval to Operate California Union University-Fullerton to Samuel Chai Cho Oh, Owner (Respondent). The Approval to Operate was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless extended.

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JURISDICTION

3. This First Amended Accusation is brought before the Bureau for Private Postsecondary Education (hereinafter "Bureau"), Department of Consumer Affairs under the authority of the following laws. All section references are to the Education Code (Code) unless otherwise indicated.

4. Section 94932 provides:

> The bureau shall determine an institution's compliance with the requirements of this chapter. 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 institution to monitor compliance. When the bureau has reason to believe that an institution may be out of compliance, it shall conduct an investigation of the institution. If the bureau determines, after completing an investigation, that an institution has violated any applicable law or regulation, the bureau shall take appropriate actions pursuant to this article.

5. Section 94937 provides:

> (a) As a consequence of an investigation, and upon a finding that an institution has committed a violation, the bureau may place an institution on probation or may suspend or revoke an institution's approval to operate for:
>
> . . .
>
> (2) A material violation or repeated violations of this chapter or regulations adopted pursuant to this chapter that have resulted in harm to students. For purposes of this paragraph, "material violation" includes, but is not limited to, misrepresentation, fraud in the inducement of a contract, and false or misleading claims or advertising, upon which a student reasonably relied in executing an enrollment agreement that resulted in harm to the student....

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

STATUTORY PROVISIONS AND REGULATIONS

7. Business and Professions Code section 23.7 defines "license" as license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

8. Business and Professions Code section 23.8 defines "licentiate" as any person authorized by license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

9. Business and Professions Code section 141 provides:

> (a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.
>
> (b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

10. Section 482 of the Business and Professions Code states:

> Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:
>
> (a) Considering the denial of a license by the board under Section 480; or
>
> (b) Considering suspension or revocation of a license under Section 490.
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> Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

11. Section 490 of the Business and Professions Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

12. Section 493 of the Business and Professions Code states:

> Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

13. Education Code section 94851 defines "owner" as an individual in the case of a sole proprietorship, partners in a partnership, members in a limited liability company, or shareholders in a corporation.

14. Education Code section 94856 defines "person in control" as a person who, by his or her position's authority or conduct, directs the management of an institution.

15. Education Code section 94897 states:

An institution shall not do any of the following:

...

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

. . .

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

16. Title 5, California Code of Regulations, section 71730, subdivision (g) states:

The institution shall not employ or continue to employ any administrative personnel who were adjudicated in a judicial or administrative proceeding as having violated any provision of the Act or this chapter or as having committed any act that would constitute grounds for the denial of a license under Section 480 of the Business and Professions Code.

17. Title 5, California Code of Regulations, section 74120, states:

In determining whether any of the grounds for denial set forth in Section 480 of the Business and Professions Code exist, a crime or act shall be considered substantially related to the qualifications, functions, or duties of any owner, corporate director or member of the governing board, officer, administrator, or instructor under any of the following circumstances:

(a) The crime or act involves any violation of the Act or this chapter, the closure of an institution, fraud or misrepresentation, breach of fiduciary duty, any type of forgery or theft, or any type of dishonesty causing any financial loss.

(b) The crime, to a substantial degree, evidences present or potential unfitness to perform the functions and duties authorized or required by the Act or this chapter in a manner consistent with the public health, safety, or welfare, including a crime prohibited by Title 8 (commencing with Section 187) or Title 9 (commencing with Section 261) of the Penal Code.

18. Title 5, California Code of Regulations, section 74130, states:

> In determining whether any of the grounds for denial set forth in Section 480 of the Business and Professions Code exist, the Bureau shall consider evidence of rehabilitation and present eligibility for any approval or certificate issued by the Bureau, including all of the following factors:
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> (a) The nature and severity of the acts or crimes under consideration as grounds for denial;
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> (b) Evidence of any acts committed after the acts or crimes under consideration as grounds for denial that also could be considered grounds for denial;
>
> (c) The time that has elapsed since commission of the acts or crimes described in subdivisions (a) and (b);
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> (d) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant;
>
> (e) Evidence of any rehabilitation submitted by the applicant;
>
> (f) Total criminal record;
>
> (g) Evidence, if any, of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

COST RECOVERY

19. Business and Professions Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

20. Education Code section 94937 provides, in pertinent part, that the Bureau may seek reimbursement pursuant to section 125.3 of the Business and Professions Code but that an institution shall not be required to pay the cost of investigation to more than one agency.

FIRST CAUSE FOR DISCIPLINE

(January 6, 2011 Conviction of Fraud, Misuse of Visas, Transactions in Criminally Derived Proceeds)

21. Respondent is subject to disciplinary action under Business and Professions Code sections 141 and 490 in that Respondent, the President and CEO of California Union University, was convicted of a crime that is substantially related to the qualifications, functions, and duties of the person in control of a private postsecondary educational institution in that on January 6, 2011,

Respondent was convicted on his guilty plea of ten counts of violation of 18 U.S.C. section 1546(a), fraud and misuse of visas and other immigration documents; violation of 18 U.S.C. section 1957(a), engaging in monetary transactions involving unlawfully derived funds (money laundering); and violation of 18 U.S.C. 2(a) and (b), aiding and abetting and causing these acts to be done.

22. The circumstances are as follows. Respondent Oh was the founder and President of Respondent California Union University (hereinafter "CUU") in Fullerton, California. In his capacity as founder and President, Respondent operated, controlled and managed the activities of CUU. CUU was authorized by the United States immigration officials to participate as an educational institution in the non-immigrant, F-1 Visa Student Exchange Visitor Program, whereby foreign or alien students may enter and remain in the United Stated for a period of time for educational purposes. For each foreign student attending CUU, CUU was required to issue a Form I-20 Certificate of Eligibility for Non-immigrant Student Certificate known as the Form I-20 Certificate. The Form I-20 Certificate verifies that the foreign student 1) was a bona fide student of CUU, 2) had been accepted for and would be required to pursue, a full course of study at CUU and 3) had provided proof of financial responsibility to remain in the United States and pay the required tuition.

23. Respondent Oh was the designated school official responsible for ensuring that CUU complied with the laws and regulations governing CUU's participation in the F-1 Student Visa Program and was therefore responsible for issuance of Form I-20 Certificates to foreign students who had been admitted for study at CUU. Respondent Oh was also responsible for the accuracy of the representations in the Form I-20 Certificates.

24. From at least as early as June, 2007 to in or around October, 2009, Respondent issued hundreds of Form I-20 Certificates that falsely represented that certain aliens were bona fide students who had been accepted for and would be required to pursue, a full course of study at CUU, had provided proof of financial responsibility to remain in the United States and paid the required tuition. Respondents Oh and CUU obtained substantial sums of money that were paid to

them in the form of "tuition" payments from aliens who were not in fact studying at CUU and had no legitimate right to obtain or maintain an F-1 Student Visa.

25. The Form I-20 Certificates subscribed by Respondent Oh under penalty of perjury, contained false statements in that the subject aliens did not attend any classes at CUU as represented, and were not required to do so. Indeed, CUU did not hold classes or employ teachers. CUU used false documents such as school transcripts to support the fraudulent Form I-20 Certificates. Respondent Oh knew the Form I-20 Certificates contained false statements and further knew that the Form I-20 Certificates would be used by student aliens for lawful entry in to the United States or as evidence of authorized stay in the United States. The Form I-20 Certificates include those with the following dates:

a. June 27, 2007 - signed by Respondent regarding "student" alien K.C.C;

b. August 27, 2007 – signed by Respondent regarding Respondent regarding "student" alien Y.R.S;

c. August 25, 2008 – signed by Respondent regarding "student" alien J.H.C;

d. October 3, 2008 – signed by Respondent regarding "student" alien M.S.K.;

e. March 3, 2009 - signed by Respondent regarding "student" alien K.M.;

f. May 29, 2009 - signed by Respondent regarding "student" alien E.H.;

g. June 17, 2009 - signed by Respondent regarding "student" alien S.J.;

h. July 14, 2009 - signed by Respondent regarding "student" alien S.H.S.;

i. July 21, 2009 - signed by Respondent regarding "student" alien S.H.Y.

26. On or about June 15, 2009, Respondent Oh transferred $150,000 by check from Hanni Bank, account number 11814586 in the name of "Union Presbytery in USA dba California Union University" to East West Bank, account number 20225975, held in the name of M.L.C., knowing that the funds represented proceeds obtained from unlawful activity, specifically, "tuition" payments from aliens who were not in fact studying at CUU and had no legitimate right to obtain or maintain an F-1 Student Visa.

27. On or about June 15, 2009, Respondent Oh transferred $50,000 by check from Wells Fargo Bank, account number 1838185260 in the name of "Newland Presbyterian Church" to East

West Bank, account number 20225975, held in the name of M.L.C., knowing that the funds represented proceeds obtained from unlawful activity, specifically, "tuition" payments from aliens who were not in fact studying at CUU and had no legitimate right to obtain or maintain an F-1 Student Visa.

28. Sentencing is scheduled for May 9, 2011 before the United States District Court, Central District of California, Southern Division.

SECOND CAUSE FOR DISCIPLINE

(Employment of Administrative Personnel Who Committed Fraud)

29. Respondent is subject to disciplinary action under title 5, California Code of Regulations, section 71730, subdivision (g), in that California Union University employed administrative personnel who committed acts constituting grounds for the denial of a license under Section 480 of the Business and Professions Code in that California Union University employed Respondent Oh as the President and CEO of California Union University and who was convicted of fraud, misuse of visas, and engaging in transactions involving criminally derived proceeds, as more fully set forth in paragraphs 21-28 above, and incorporated herein as though set forth in full.

THIRD CAUSE FOR DISCIPLINE

(Making Untrue Statements Regarding Student Attendance)

30. Respondent is subject to disciplinary action under Education Code section 94897, subdivision (j), in that California Union University by and through Respondent Oh, the President and CEO of California Union University, made untrue statements regarding the attendance of alien students at California Union University on Form I-20 Certificates that verified that the foreign student 1) was a bona fide student of CUU, 2) had been accepted for and would be required to pursue, a full course of study at CUU, and 3) had provided proof of financial responsibility to remain in the United States and pay the required tuition, as more fully set forth in paragraphs 21-28 above, and incorporated herein as though set forth in full.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Bureau for Private Postsecondary Education issue a decision:

1. Revoking Samuel Chai Cho Oh's Approval to Operate California Union University-Fullerton;

2. Ordering Samuel Chai Cho Oh, owner of California Union University-Fullerton, to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and Education Code section 94937; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: 4/19/11

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

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