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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 Accusation Against:

Case No. 1000393

13 **CORINTHIAN COLLEGES, INC., DBA**
14 **EVEREST COLLEGE AND WYOTECH**
(CALIFORNIA SCHOOLS ONLY); JACK
15 **MASSIMINO, CHAIRMAN AND CEO**
16 **6 Hutton Centre Dr., Ste. 400**
Santa Ana, CA 92707

FIRST AMENDED ACCUSATION

17 **Approval to Operate Institution Code**
18 **Numbers 1900741 (1045 W. Redondo Beach**
Blvd., #275, Gardena, CA 90247); 1900731
19 **(2215 W. Mission Rd., Alhambra, CA**
91803); 1904591 (18040 Sherman Wy., Ste.
20 **400, Reseda, CA 91335); (continued on page**
21 **12)**

Respondents.

22 Complainant alleges:

23 PARTIES

- 24 1. Joanne Wenzel (Complainant) brings this Accusation solely in her official capacity as
25 the Chief of the Bureau for Private Postsecondary Education, Department of Consumer Affairs.
- 26 2. The Bureau granted an approval to operate by means of accreditation to eleven (11)
27 Everest College, Institution Code Numbers 1900741, 1900731, 1904591, 1913561, 1917331,
28 1924201, 3000221, 3303781, 3600141, 3601871, and 98946206; and two (2) WyoTech

1 campuses, Institution Code Numbers 0102871 and 1904031. Obtaining approval by accreditation
2 requires that the institutions' owner obtain accreditation through an accredited agency recognized
3 by the United States Department of Education (USDOE). The listed Everest College and
4 WyoTech institutions are owned by Corinthian Colleges, Inc. (CCI), a California corporation.
5 CCI is directed and managed by its CEO and Chairman, Jack Massimino. Unless otherwise
6 stated, the Everest College and WyoTech institutions listed in the caption, CCI, and Mr.
7 Massimino are referenced in this Accusation collectively as "Respondent."

8 JURISDICTION

9 3. This Accusation is brought before the Director of the Department of Consumer
10 Affairs (Director) for the Bureau for Private Postsecondary Education, under the authority of the
11 following laws.

12 4. Business and Professions Code section 118 states, in part:

13 ...

14 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
15 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
16 order of a court of law, or its surrender without the written consent of the board, shall not, during
17 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
18 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
19 provided by law or to enter an order suspending or revoking the license or otherwise taking
20 disciplinary action against the licensee on any such ground.

21 "(c) As used in this section, 'board' includes an individual who is authorized by any
22 provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,'
23 'registration,' and 'permit.'"

24 5. Business and Professions Code section 477 states:

25 "As used in this division:

26 "(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,'
27 'examining committee,' 'program,' and 'agency.'

1 10. Code of Regulations, title 5, section 71745 states:

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

4 “(1) Provide all of the educational programs that the institution represented it would
5 provide.

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

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

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

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

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

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

23 “(1) consents in writing to be sued in California;

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

26 “(3) designates and maintains an agent for service of process, consistent with section
27 74190;

28

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 11. Code of Regulations, title 5, section 74110 states:

8 “(a) The annual report required by section 94934 of the Code shall include the information
9 required by section 94934 for all educational programs offered in the prior calendar year.

10 “(b) In addition to the information required by section 94934 provided under penalty of
11 perjury, the institution shall have annual financial statements prepared for the institution's prior
12 fiscal year and signed under penalty of perjury, and shall submit a hard copy under separate cover
13 of such statements in conjunction with its annual report. The form, content and mode of
14 preparation of financial statements shall comply with section 74115 of this Division. The Bureau
15 may request that the institution immediately make available for inspection to a representative of
16 the Bureau, these financial statements at the offices of the institution.

17 “(c) An institution shall file its annual report by September 1st. The Bureau may extend the
18 period for filing if the institution demonstrates evidence of substantial need but in no case longer
19 than 60 days. The institution shall not change the date of its filing its annual report because of a
20 change in the fiscal year without the Bureau's approval.

21 “(d) The annual report shall be electronically filed by submitting the information required
22 by section 94934 of the Code via the Bureau's website, electronically attaching, as directed, the
23 School Performance Fact Sheet and the school catalog. An institution without the capability to
24 submit the information electronically shall inform the Bureau not less than 45 days prior to the
25 date the information is required by subdivision (c), and receive direction on alternative means of
26 submission.”

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28 /////

1 12. Code of Regulations, title 5, section 74115 states:

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

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

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

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

16 “(3) The financial statements shall establish that the institution meets the requirements for
17 financial resources required by Section 71745.

18 “(4) If an audit performed to determine compliance with any federal or state student
19 financial aid program reveals any failure to comply with the requirements of the program and the
20 noncompliance creates any liability or potential liability for the institution, the financial
21 statements shall reflect the liability or potential liability.

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

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

27 “(d) ‘Current’ with respect to financial statements means completed no sooner than 120
28 days prior to the time it is submitted to the Bureau, and covering no less than the most recent

1 complete fiscal year. If more than 8 months will have elapsed between the close of the most
2 recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover no
3 less than five months of that current fiscal year.”

4 COST RECOVERY

5 13. Business and Professions Code section 125.3 provides, in part, that the Board may
6 request the administrative law judge to direct a licentiate found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
9 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
10 may be included in a stipulated settlement.

11 FACTUAL BACKGROUND

12 *I. Respondent Fails to Produce Current Financial Statements*

13 14. On July 7, 2014, CCI entered into an Operating Agreement with the USDOE that,
14 among other things, required CCI to produce certain documents by specified deadlines, teach out
15 and close twelve (12) of its schools, and pursue selling the remainder of its Title IV-eligible
16 schools.

17 15. On September 16, 2014, CCI filed with the United States Securities and Exchange
18 Commission a Form 10-K stating an inability to produce current financial statements:

19 The efforts required to comply with the terms of the Operating Agreement have
20 put significant constraints on [CCI's] resources, **preventing it from obtaining
21 and compiling the information required to complete and file its Annual
22 Report on Form 10-K for the fiscal year ended June 30, 2014. . . . In addition,
23 the uncertain outcome of the school sales that [CCI] is pursuing creates
24 uncertainties regarding the valuation of [CCI's] assets, as well as its financial
25 condition and results of operations as of and for the fiscal year ended June
26 30, 2014.**¹

24 16. As of July 9, 2014, Everest College began notifying its students of a possible sale of
25 the school. Respondent also informed its institutions' students about pending state and federal
26 regulatory investigations, warning “[I]f an enforcement action is taken, it could negatively impact

27 ¹ [https://www.sec.gov/Archives/edgar/data/1066134/000110465914066574/a14-](https://www.sec.gov/Archives/edgar/data/1066134/000110465914066574/a14-17861_4nt10k.htm)
28 [17861_4nt10k.htm](https://www.sec.gov/Archives/edgar/data/1066134/000110465914066574/a14-17861_4nt10k.htm) (emphasis added)

1 our ability to operate this school and your ability to complete your program at this school as
2 expected.” Respondent also requested that its institutions’ students confirm, by signature, receipt
3 of this caveat before signing enrollment agreements.

4 17. Under Education Code section 94934, Respondent is required to provide the Bureau
5 with its current financial statements no later than September 1 for each year. “Current,” in
6 describing financial statements, “means completed no sooner than 120 days prior to the time it is
7 submitted to the Bureau, and covering no less than the most recent complete fiscal year.” Cal.
8 Code Regs., title 5, § 74115, subd. (d).

9 18. Respondent did not submit current financial statements by September 1, 2014, and
10 indicated it could not produce current financial statements. Specifically, on December 24, 2015,
11 Bureau Compliance Inspector Brian Brisco conducted a review of the consolidated financial
12 statements that Respondent had most recently submitted for Everest College and WyoTech.
13 Based on his review, Compliance Inspector Brisco found that Respondent did not submit
14 “current” financial statements. Rather, the financial statements Respondent offered were for the
15 2012- 2013 fiscal year and were prepared on September 3, 2013.

16 19. On December 23, 2014, Bureau Compliance Manager Wayne Brenner sent an email
17 to CCI’s Vice President of Accreditation and Licensing, John Andrews, requesting a copy of
18 Respondent’s most recent audited financial statements. On December 31, 2014, Mr. Andrews
19 responded via an email indicating that Respondent was not able to provide current financial
20 statements:

21 As previously disclosed in a Report on Form 8-K filed with the [SEC], on July 7,
22 2014, [CCI] entered into an Operating Agreement, subsequently amended [] with
23 the [USDOE] which became effective July 8, 2014, and which, among other
24 things, required [CCI] to produce certain documents within certain time periods,
25 provide certain financial and other information to an independent Monitor and
26 subject a large part of the Company’s operations and financial activities oversight
27 by that Monitor, teach out and close 12 of its schools, and pursue selling the
28 remainder of its Title IV-eligible schools. The efforts required to comply with the
29 terms of the Operating Agreement have put significant constraints on [CCI’s]
30 resources, **preventing it from obtaining and compiling the information
31 required to complete and file its Annual Report on Form 10-K for the fiscal
32 year ended June 30, 2014 in a timely manner.**²

² Emphasis added.

1 20. Between January 2015 and February 2015, the Bureau conducted unannounced
2 compliance inspections of the eleven (11) Everest and two (2) WyoTech campuses referenced by
3 institution code in the caption of this Accusation. During those inspections, the institutions failed
4 to and could not provide current financial statements as required by Code of Regulations, title 5,
5 section 74115, subdivision (d).

6 ***II. Regulatory Action by the United States Department of Education***

7 21. On March 3, 2015, the USDOE issued a Letter Of Credit Request to Jack Massimino,
8 which allows CCI to continue to participate in Title IV provided that it posts an irrevocable letter
9 of credit in the amount of \$34,506,372.

10 22. On April 14, 2015, the USDOE issued a Notice Of Intent To Fine Heald College.
11 Non-party Heald College is owned by CCI. Through the Notice, the USDOE fined Heald College
12 \$29,665,000.00 based on findings that Heald College failed to meet the fiduciary standard of
13 conduct by misrepresenting its placement rates to current and prospective students and its
14 accreditors and by failing to comply with federal regulations requiring the complete and accurate
15 disclosure of its placement rates.

16 ***III. The Bureau Issues an Emergency Decision and Commences This Disciplinary Action;***
17 ***CCI Closes its Campuses and Files for Bankruptcy***

18 23. On April 17, 2015, the Bureau issued Respondent a Notice Of Emergency Decision,
19 pursuant to Code of Regulations, title 5, section 75150, subdivision (d) and Government Code
20 section 11460.50. This Notice informed Respondent that, effective at the close of business on
21 April 23, 2015, an Emergency Decision would be issued requiring that Respondent “cease
22 enrollment of any new students in all programs” at the Everest College and WyoTech campuses
23 referenced by institution code in the caption of this Accusation. Pursuant to Code of
24 Regulations, title 5, section 75150, subdivision (f), the Bureau offered Respondent the
25 opportunity to state its opposition to the Emergency Decision at a hearing on April 22 before the
26 Director of Consumer Affairs. Respondent declined to be heard. The Bureau’s Emergency
27 Decision became effective on April 23, 2015.

1 24. As part of its Emergency Decision, and pursuant to Government Code section
2 11460.60, subdivisions (a) and (b), on April 24, 2015, the Bureau filed and served an Accusation
3 against Respondent. This Accusation did not seek revocation or suspension of Respondent's
4 approvals to operate. Instead, it sought an order sustaining the Bureau's Emergency Decision
5 and requiring Respondent to pay the Bureau's reasonable investigative and enforcement costs.
6 Two days later, on April 26, CCI announced the immediate closure of all of its institutions.
7 Nearly a week later, on May 4, CCI filed a voluntary chapter 11 petition in the Bankruptcy Court
8 for the District of Delaware (Case No. 15-10952). The petition lists assets of approximately
9 \$19.2 million and liabilities of \$143.1 million.

10 FIRST CAUSE FOR DISCIPLINE
11 (Possession of Sufficient Financial Resources)
 (Cal. Code Regs., title 5, § 71745, subs. (a) and (b))

12 25. Respondent has subjected its approvals to operate to disciplinary action for failing or
13 being unable to demonstrate that its institutions meet the requirements for financial resources
14 required by Code of Regulations, title 5, section 71745, subdivisions (a) and (b). The
15 circumstances are set forth in paragraphs 14 through 24, above.

16 SECOND CAUSE FOR DISCIPLINE
17 (Failure to Provide Financial Statements Upon Request)
18 (Educ. Code § 94934, subd. (a)(9); Cal. Code Regs., title 5, §§ 71745, subd. (c);
 74110, subd. (b) and (c); and 74115)

19 26. Respondent has subjected its approvals to operate to disciplinary action for failing to
20 produce "current" financial statements. (Educ. Code § 94934, subd. (a)(9); Cal. Code Regs., title
21 5, §§ 71745, subd. (c); 74110, subd. (b) and (c); and 74115). The circumstances are set forth in
22 paragraphs 14 through 24, above.

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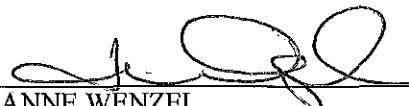
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PRAYER

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. Revoking or suspending Respondent's institution code numbers 0102871, 1900741, 1900731, 1904031, 1904591, 1913561, 1917331, 1924201, 3000221, 3303781, 3600141, 3601871, and 98946206;
2. Ordering Respondent to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/16/15



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

SF2015900232

1 **Approval to Operate Institution Code Numbers (continued from caption):**

2 1913561 (12801 Crossroads Pkwy South, City of Industry, CA 91746);

3 1917331 (3000 S. Robertson Blvd., Ste. 300, Los Angeles, CA 90034);

4 1924201 (1231 Cabrillo Ave., Ste. 201, Torrance, CA 90501);

5 3000221 (511 N. Brookhurst St., Ste. 300, Anaheim, CA 92801);

6 3303781 (1819 S. Excise Ave., Ontario, CA 91761-8525);

7 3600141 (217 E. Club Center Dr., #A, San Bernardino, CA 92408);

8 3601871 (1460 S. Millikin Ave., Ontario, CA 91761);

9 98946206 (500 Santa Ana Blvd., Santa Ana, CA 92701);

10 0102871 (200 Whitney Pl., Fremont, CA 94539); and

11 1904031 (2161 Technology Pl., Long Beach, CA 90810)

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