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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. 1000840

12 **SECURITY DEFENSE, INC.,**
13 **MARIA JUAREZ**
14 **School Code: 58707763**

STATEMENT OF ISSUES

15 **Renewal of Approval to Operate and Offer**
Educational Programs for Non-Accredited
16 **Institutions Applicant**

17 Respondent.

18
19
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about June 4, 2012, the Bureau for Private Postsecondary Education received
26 an application for Renewal of Approval to Operate and Offer Educational Programs for Non-
27 Accredited Institutions from Security Defense, Inc.; Maria Juarez, owner (Respondent). On or
28 about May 18, 2012, Maria Juarez certified under penalty of perjury to the truthfulness of all

1 statements, answers, and representations in the application. The Bureau denied the application on
2 May 22, 2015.

3 4 JURISDICTION

5 3. This Statement of Issues is brought before the Director of the Department of
6 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
7 authority of the following laws.¹ All section references are to the Education Code, unless
8 otherwise indicated.

9 4. Education Code (hereinafter "Code") Section 94886 states:

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

14 5. Section 94887 of the Code states:

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

20 6. Section 94891 of the Code states:

21 "(a) The bureau shall adopt by regulation the process and procedures whereby an institution
22 may obtain a renewal of an approval to operate.

23 (b) To be granted a renewal of an approval to operate, the institution shall demonstrate its
24 continued capacity to meet the minimum operating standards.

25 ¹ On October 11, 2009, the Bureau for Private Postsecondary Education Act of 2009 (SB
26 48 and hereinafter, "the Act") was signed into law. The Act, which became operative on January
27 1, 2010, established the Bureau for Private Postsecondary Education (hereinafter "Bureau"). The
28 California Private Postsecondary Education Act of 2009 was recently amended, effective January
1, 2015. See Senate Bill No. 1247. This Statement of Issues is based on the amended version of
the Act.

1 (c) (1) An institution that is denied renewal of an approval to operate may file an appeal in
2 accordance with the procedures established by the bureau pursuant to Section 94888.

3 (2) An institution that has filed an appeal of a denial of a renewal application may continue
4 to operate during the appeal process, but must disclose in a written statement, approved by the
5 bureau, to all current and prospective students, that the institution's application for renewal of
6 approval to operate was denied by the bureau because the bureau determined the application did
7 not satisfy the requirements to operate in California, that the institution is appealing the bureau's
8 decision, and that the loss of the appeal may result in the institution's closure.

9 (3) If the bureau determines that the continued operation of the institution during the appeal
10 process poses a significant risk of harm to students, the bureau shall make an emergency decision
11 pursuant to its authority provided in Section 94938."

12 13 **STATUTORY PROVISIONS**

14 7. Section 94885 of the Code states:

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

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

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

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

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

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

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

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

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

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

3 ...

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

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

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

13 8. Section 94909(a)(15) of the Code states:

14 "(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a
15 prospective student, either in writing or electronically, with a school catalog containing, at a
16 minimum, all of the following:

17 (15) The following statement:

18 "NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS
19 EARNED AT OUR INSTITUTION

20 The transferability of credits you earn at (name of institution) is at the complete discretion
21 of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or
22 certificate) you earn in (name of educational program) is also at the complete discretion of the
23 institution to which you may seek to transfer. If the (credits or degree, diploma, or certificate) that
24 you earn at this institution are not accepted at the institution to which you seek to transfer, you
25 may be required to repeat some or all of your coursework at that institution. For this reason you
26 should make certain that your attendance at this institution will meet your educational goals. This
27 may include contacting an institution to which you may seek to transfer after attending (name of
28 institution) to determine if your (credits or degree, diploma, or certificate) will transfer."

1 9. Section 94910 of the Code states:

2 “Except as provided in subdivision (d) of Section 94909 and Section 94910.5, prior to
3 enrollment, an institution shall provide a prospective student with a School Performance Fact
4 Sheet containing, at a minimum, the following information, as it relates to the educational
5 program:

6 (a) Completion rates, as calculated pursuant to Article 16 (commencing with Section
7 94928).

8 (b) Placement rates for each education program as calculated pursuant to Article 16
9 (commencing with Section 94928), if the educational program is designed to lead to, or the
10 institution makes any express or implied claim related to preparing students for, a particular
11 career, occupation, vocation, job, or job title.

12 (c) License examination passage rates for programs leading to employment for which
13 passage of a state licensing examination is required, as calculated pursuant to Article 16
14 (commencing with Section 94928).

15 (d) Salary or wage information, as calculated pursuant to Article 16 (commencing with
16 Section 94928).

17 (e) If a program is too new to provide data for any of the categories listed in this
18 subdivision, the institution shall state on its fact sheet: “This program is new. Therefore, the
19 number of students who graduate, the number of students who are placed, or the starting salary
20 you can earn after finishing the educational program are unknown at this time. Information
21 regarding general salary and placement statistics may be available from government sources or
22 from the institution, but is not equivalent to actual performance data.”

23 (f) All of the following:

24 (1) A description of the manner in which the figures described in subdivisions (a) to (d),
25 inclusive, are calculated or a statement informing the reader of where he or she may obtain a
26 description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are
27 calculated.

28

1 (2) A statement informing the reader of where he or she may obtain from the institution a
2 list of the employment positions determined to be within the field for which a student received
3 education and training for the calculation of job placement rates as required by subdivision (b).

4 (3) A statement informing the reader of where he or she may obtain from the institution a
5 list of the objective sources of information used to substantiate the salary disclosure as required
6 by subdivision (d).

7 (g) The following statements:

8 (1) This fact sheet is filed with the Bureau for Private Postsecondary Education. Regardless
9 of any information you may have relating to completion rates, placement rates, starting salaries,
10 or license exam passage rates, this fact sheet contains the information as calculated pursuant to
11 state law.

12 (2) Any questions a student may have regarding this fact sheet that have not been
13 satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary
14 Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and
15 fax numbers).

16 (h) If the institution participates in federal financial aid programs, the most recent three-
17 year cohort default rate reported by the United States Department of Education for the institution
18 and the percentage of enrolled students receiving federal student loans.

19 (i) Data and information disclosed pursuant to subdivisions (a) to (d), inclusive, is not
20 required to include students who satisfy the qualifications specified in subdivision (d) of Section
21 94909, but an institution shall disclose whether the data, information, or both provided in its fact
22 sheet excludes students pursuant to this subdivision. An institution shall not actively use data
23 specific to the fact sheet in its recruitment materials or other recruitment efforts of students who
24 are not California residents and do not reside in California at the time of their enrollment.”

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REGULATORY PROVISIONS

10. California Code of Regulations Title 5, Section 71745 states:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 11. California Code of Regulations Title 5, Section 71810 states, in pertinent part:

6 “(a) Each institution shall provide a catalog pursuant to section 94909 of the Code, which
7 shall be updated annually. Annual updates may be made by the use of supplements or inserts
8 accompanying the catalog. If changes in educational programs, educational services, procedures,
9 or policies required to be included in the catalog by statute or regulation are implemented before
10 the issuance of the annually updated catalog, those changes shall be reflected at the time they are
11 made in supplements or inserts accompanying the catalog.

12 (b) The catalog shall contain the information prescribed by Section 94909 of the Code and
13 all of the following:

14 (1) The specific beginning and ending dates defining the time period covered by the
15 catalog;

16 ...

17 (13) Housing information including all of the following:

18 ...

19 (B) The availability of housing located reasonably near the institution’s facilities and an
20 estimation of the approximate cost or range of cost of the housing.”

21 12. California Code of Regulations Title 5, Section 74112 states, in pertinent part:

22 “(a) Format. The format for the Performance Fact Sheet shall be in at least 12 pt. type, in an
23 easily readable font, with 1.15 line spacing. The Performance Fact Sheet shall contain all and
24 only the information required or specifically permitted by section 94910 of the Code or this
25 chapter.

26 (b) In addition to the definitions contained in section 94928 of the Code:

27 (1) "Number of Students Who Began Program" means the number of students who began a
28 program who are scheduled to complete the program within 100% of the published program

1 length within the reporting calendar year, and includes all the students who remained enrolled
2 after their cancellation period.

3 (2) "Number of Graduates" means the number of students who completed the program
4 within 100% of the published program length within the reporting calendar year.

5 (3) "Graduates Employed in the Field" means those graduates who meet the definition of
6 section 94928(e) of the Code, who have reported their employment to the institution.

7 (c) Reporting periods:

8 (1) An Annual Report shall include data for all educational programs as defined in section
9 94837 of the Code for the previous one calendar year.

10 (2) A Performance Fact Sheet shall be current and available not later than August 1st, and
11 shall report data for the previous two calendar years based upon the "number of students who
12 began program" or the "number of graduates," as defined in subdivision (b), for each reported
13 calendar year.

14 (d) Completion Rates. Reporting of completion rates for an institution's Annual Report and
15 Performance Fact Sheet shall include, for each educational program, the number of students who
16 began program as defined in subdivision (b), the number of students available for graduation,
17 number of graduates, and completion rate(s). An optional column may be added to include
18 completion rate data for students completing within 101-150% of the published program length.
19 For an institution reporting completion data pursuant to section 94929(b) of the Code, completion
20 data shall be separately reported for each program. The Performance Fact Sheet shall disclose, if
21 true, that the completion data is being reported for students completing within 150% of the
22 published program length, and that data is not being separately reported for students completing
23 the program within 100% of the published program length.

24 (e) Placement Rates.

25 (1) Any placement data required by sections 94910(b) and 94929.5(a) of the Code shall be
26 reported for the number of students who began the program as defined in subdivision (b) for each
27 reported calendar year.
28

1 (2) Placement is measured six months from the graduation date of each student. Reporting
2 of placement rates shall include for each educational program: the number of students who began
3 the program, the number of graduates as defined in subdivision (b), graduates available for
4 employment, graduates employed in the field and placement rate(s).

5 (3) Placement rate shall be calculated as follows: the number of graduates employed in the
6 field as defined in subsection 74112(b)(3) divided by the number of graduates available for
7 employment as defined in section 94928(d) of the Code.

8 (4) Graduates employed in the field shall be reported for those graduates employed in the
9 field in a single position that averages under 32 hours per week and those employed in the field in
10 a single position that averages at least 32 hours per week.

11 References to the Code are to the California Education Code where the California Private
12 Postsecondary Education Act of 2009 is located.

13 (f) License Examination Passage Rates. If license examination passage rates are not
14 available from the appropriate state agency, an institution shall collect the information directly
15 from its graduates. If an institution demonstrates that, after reasonable efforts, it is unable to
16 obtain the examination passage information from its graduates, the institution shall report the
17 number of students it could not contact and note in a font the same size as the majority of the data
18 on the Performance Fact Sheet, "License examination passage data is not available from the state
19 agency administering the examination. We were unable to collect data from [enter the number]
20 graduates."

21 Reporting of license examination passage rates for the Annual Report and the Performance
22 Fact Sheet shall include, for each educational program: the number of students completing the
23 program within 150% of published program length in the reported year, the number of
24 documented graduates who passed the first examination, number of documented graduates who
25 failed the first examination, the number of graduates for whom data is not available. An optional
26 column may be added to separately report licensing examination data for students who take and
27 pass the exam after failing initially. The Annual Report shall also include a description of the
28 processes for attempting to contact those students.

1 (g) Salary and Wage Information.

2 All Salary and Wage Information shall be reported to the Bureau pursuant to section
3 94929.5(c) of the Code and, if required by section 94910(d) of the Code, shall be included in the
4 Performance Fact Sheet, for each educational program

5 (h) Documentation supporting all data reported shall be maintained by the institution for at
6 least five years from the time included in either an Annual Report or a Performance Fact Sheet,
7 and shall include at a minimum: student name(s), address, phone number, email address, program
8 completed, program start and completion dates, place of employment and position, salary, hours,
9 and a description of all attempts to contact each student. Documentation shall also include the
10 name, email address, phone number, and position or title of the institution's representative who is
11 primarily responsible for obtaining the students' completion, placement, licensing, and salary and
12 wage data, the date that the information was gathered, and copies of notes, letters or emails
13 through which the information was requested and gathered.”

14
15 **BACKGROUND FACTS**

16 13. On or around June 4, 2012, Respondent submitted an Application for Renewal of
17 Approval to Operate and Institution Non-Accredited (application), which included the following
18 documents in support: Organizational chart, job duties and responsibilities for various personnel,
19 education and experience of the CEO, sample enrollment agreement, statement of financial
20 resources and school catalog.

21 14. On or around July 13, 2012, the Bureau delivered a Notice of Incomplete Application
22 (deficiency letter) to Respondent which outlined incomplete and/or deficient documentation
23 submitted in support of Respondent's application.

24 15. On or around August 1, 2012, Respondent submitted Articles of Incorporation and
25 Bylaws and Respondent's mission statement.

26 16. On or around December 10, 2013, the Bureau delivered a deficiency letter which
27 outlined incomplete and/or deficient documentation relating to Respondent's August 1, 2012
28 submission. Specifically, the Bureau identified deficiencies in the following sections of

1 Respondent's application: Section 4.1, Ownership interest; Section 6, Duties and responsibilities
2 of CEO and Administrative Positions; Section 9, Mission and Objectives; Section 10, Exemplars
3 of Student Agreements; Section 11, Financial Aid Policies, Practices and Disclosures; Section
4 12, Advertising and Other Public Statements; Section 14, Description of Educational Program;
5 Section 15, Instruction in Other Languages (if applicable); Section 16, Financial Resources and
6 Statements; and Section 21, Catalog.

7 17. Respondent was also provided with notice of failure to pay Student Tuition Recovery
8 Fund (STRF) invoices for the 4th Quarter of 2010 and 3rd Quarter of 2013.

9 18. On or around April 21, 2014, Respondent submitted a response to the December 10,
10 2013 deficiency letter and provided copies of paid STRF invoices.

11 19. On or around June 19, 2014, the Bureau delivered a deficiency letter which outlined
12 incomplete and/or deficient documentation relating to Respondent's April 21, 2014 submission.
13 Specifically, the Bureau identified deficiencies in the following sections of Respondent's
14 application: Section 6, Duties and Responsibilities of CEO and Administrative Positions; Section
15 10, Exemplars of Student Agreements; Section 12, Advertising and Other Public Statements;
16 Section 16, Financial Resources and Statements; and Section 21, Catalog.

17 20. On or around September 15, 2014, Respondent submitted a response to the June 19,
18 2014 deficiency letter specifically addressing Sections 6, 10, 16 and 21.

19 21. On or around May 27, 2015, the Bureau issued a Notice of Denial of Application for
20 Renewal of Approval to Operate based on Respondent's inability to demonstrate that it had the
21 continued capacity to satisfy minimum operating standards, as provided below.

22
23 **FIRST CAUSE FOR DENIAL OF APPLICATION**

24 (Failure to Provide Notice of Transferability of Credits and Credentials Earned)

25 22. Respondent's application is subject to denial pursuant to Code §§ 94887, 94891 and
26 94909(a)(15) in that Respondent failed to provide the notice concerning transferability of credits
27 and credentials that specified the program in which the student was enrolled. Complainant
28 incorporates paragraphs 13 – 21, by reference as if fully incorporated herein.


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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 Security Defense, Inc., Maria Juarez, owner, for a Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions;
2. Taking such other and further action as deemed necessary and proper.

DATED: 1/5/16


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

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