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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 Statement of Issues
Against:

Case No. 1000953

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14 **REVERE ACADEMY OF JEWELRY**
ARTS; ALAN REVERE, OWNER

STATEMENT OF ISSUES

15 Application for Renewal of Approval to
16 Operate an Institution Non-Accredited

17 Respondent.

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 March 19, 2012, the Bureau for Private Postsecondary Education
24 (Bureau) received an Application for Renewal of Approval to Operate an Institution Non-
25 Accredited (application number 24580) from Revere Academy of Jewelry Arts; Alan Revere,
26 Owner ("Respondent"). On or about April 24, 2012, the Bureau issued Respondent a deficiency
27 letter. The Bureau issued Respondent a subsequent deficiency letter on or about September 30,
28

1 2013. Between January 30, 2014 and December 8, 2014, Respondent and the Bureau
2 communicated and corresponded regarding Respondent's application.

3 3. On or about July 23, 2015, the Bureau issued Respondent a Notice of Denial of
4 Application for Renewal of Approval to Operate. On or about August 14, 2015, Respondent
5 requested an administrative hearing regarding the Bureau's denial of its application.

6 JURISDICTION

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

10 5. California Business and Professions Code section 118, subdivision (b) provides:

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

18 6. Section 94886 provides:

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

23 7. Section 94887 provides:

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

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.
9 Regardless of any information you may have relating to completion rates, placement rates,
10 starting salaries, or license exam passage rates, this fact sheet contains the information as
11 calculated pursuant to 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

17 10. Section 94920 states, in part:

18 “An institution that does not participate in the federal student financial aid programs shall
19 do all of the following:

20 . . .

21 “(b) Institutions shall refund 100 percent of the amount paid for institutional charges, less a
22 reasonable deposit or application fee not to exceed two hundred fifty dollars (\$250), if notice of
23 cancellation is made through attendance at the first class session, or the seventh day after
24 enrollment, whichever is later.

25 ”

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1 11. California Code of Regulations, title 5, section 71745 states, in part:

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 ...

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

14 12. California Code of Regulations, title 5, section 71800 states, in part:

15 “In addition to the requirements of section 94911 of the Code, an institution shall provide to
16 each student an enrollment agreement that contains at the least the following information:

17 ...

18 “(d) Date by which the student must exercise his or her right to cancel or withdraw, and the
19 refund policy, including any alternative method of calculation if approved by the Bureau pursuant
20 to section 94921 of the Code.

21”

22 13. California Code of Regulations, title 5, section 74112 states, in part:

23 ...

24 “(d) Completion Rates. Reporting of completion rates for an institution’s Annual Report
25 and Performance Fact Sheet shall include, for each educational program, the number of students
26 who began program as defined in subdivision (b), the number of students available for
27 graduation, number of graduates, and completion rate(s). An optional column may be added to
28 include completion rate data for students completing within 101-150% of the published program

length. For an institution reporting completion data pursuant to section 94929(b) of the Code, completion data shall be separately reported for each program. The Performance Fact Sheet shall disclose, if true, that the completion data is being reported for students completing within 150% of the published program length, and that data is not being separately reported for students completing the program within 100% of the published program length.

“Completion rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

“Completion Rates (includes data for the two calendar years prior to reporting)

“Name of Educational Program (Program Length)

<i>Calendar Year</i>	<i>Number of Students Who Began Program(1)</i>	<i>Students Available for Graduation(2)</i>	<i>Graduates(3)</i>	<i>Completion Rate(4)</i>
20XX	100	98	70	71%
20XY	80	80	55	69%

“Students Completing After Published Program Length - 150% Completion Rate

“Name of Educational Program (Program Length)

<i>Calendar Year</i>	<i>Number of Students Who Began Program(1)</i>	<i>Students Available for Graduation(2)</i>	<i>150% Graduates(5)</i>	<i>150% Completion Rate(6)</i>
20XX	100	98	25	26%
20XY	80	80	23	29%

“1 ‘Number of Students Who Began Program’ is the number of students who began the program who are scheduled to complete the program within the reporting calendar year.

“2 ‘Students available for graduation’ is the number of students who began program minus the number of ‘Students unavailable for graduation,’ which means those students who have died, been incarcerated, or called to active military duty.

“3 ‘Graduates’ is the number of students who completed the program within 100% of the published program length.

1 “4 ‘Completion Rate’ is the number of Graduates divided by the Number of Students
2 Available for Graduation.

3 “5 ‘150% Graduates’ is the number of students who completed the program within 101-
4 150% of the published program length.

5 “6 ‘150% Completion Rate’ is the number of students who completed the program in the
6 reported calendar year within 101-150% of the published program length divided by the Number
7 of Students Available for Graduation in the published program length period.

8 “(e) Placement Rates.

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

12 “(2) Placement is measured six months from the graduation date of each student.

13 Reporting of placement rates shall include for each educational program: the number of students
14 who began the program, the number of graduates as defined in subdivision (b), graduates
15 available for employment, graduates employed in the field and placement rate(s).

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

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

22 “References to the Code are to the California Education Code where the California Private
23 Postsecondary Education Act of 2009 is located.

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1 “Placement rates shall be included in the Performance Fact Sheet in a format substantially
 2 similar to the chart below, including the footnoted information below (dates, numbers, and other
 3 data shown are for example only):

4 “Placement Rates (includes data for the two calendar years prior to reporting)

5 “Name of Educational Program (Program Length)

6	7	8	9	10	11	12	13
<i>Calend ar Year</i>	<i>Number of Students Who Began Program(1)</i>	<i>Number of Graduates(2)</i>	<i>Graduates Available for Employment(3)</i>	<i>Graduat es Employe d in the Field(4)</i>	<i>Placeme nt Rate % Employe d in the Field(5)</i>	<i>Graduat es Employe d in the Field an average of less than 32 hours per week</i>	<i>Graduat es Employe d in the Field at least 32 hours per week</i>
20XX	100	70	70	55	79%	5	50
20XY	80	55	55	20	36%	9	11

14 “1 ‘Number of Students Who Began Program’ means the number of students who began the
 15 program who are scheduled to complete the program within the reporting calendar year.

16 “2 ‘Number of Graduates’ is the number of students who have completed the program
 17 within 100% of the published program length.

18 “3 ‘Graduates available for employment’ means the number of graduates minus the number
 19 of graduates unavailable for employment. ‘Graduates unavailable for employment’ means
 20 graduates who, after graduation, die, become incarcerated, are called to active military duty, are
 21 international students that leave the United States or do not have a visa allowing employment in
 22 the United States, or are continuing their education in an accredited or bureau-approved
 23 postsecondary institution.

24 “4 ‘Graduates employed in the field’ means graduates who report that they are gainfully
 25 employed within six months of graduation in a position for which the skills obtained through the
 26 education and training provided by the institution are required or provided a significant advantage
 27 to the graduate in obtaining the position.

1 “5 Placement Rate is calculated by dividing the number of graduates gainfully employed in
2 the field by the number of graduates available for employment.”

3 ...

4 “(g) Salary and Wage Information.

5 “All Salary and Wage Information shall be reported to the Bureau pursuant to section
6 94929.5(c) of the Code and, if required by section 94910(d) of the Code, shall be included in the
7 Performance Fact Sheet, for each educational program, in a format substantially similar to the
8 chart below, including the footnoted information (dates, numbers, salaries, and other data shown
9 are for example only).

10 “Salary and Wage Information (includes data for the two calendar years prior to reporting)

11 “Name of Educational Program (Program Length)

Calendar Year	Graduates Available for Employment(1)	Graduates Employed in the Field(2)	Annual Salary and Wages Reported by Graduates Employed in the Field(3)				Students Not Reporting Salary
			\$15,000.0 - \$20,000.0	\$20,001.0 - \$25,000.0	\$25,001.0 - \$30,000.0	\$30,001.0 - \$35,000.0	
20XX	100	70	5	40	6	3	16
20XY	80	55	5	7	3	5	35

19 “1 ‘Graduates available for employment’ means the number of graduates minus the
20 number of graduates unavailable for employment. Graduates unavailable for employment means
21 graduates who, after graduation, die, become incarcerated, are called to active military duty, are
22 international students that leave the United States or do not have a visa allowing employment in
23 the United States, or are continuing their education in an accredited or bureau-approved
24 postsecondary institution.

25 “2 ‘Graduates employed in the field’ means graduates who are gainfully employed within
26 six months of graduation in a position for which the skills obtained through the education and
27 training provided by the institution are required or provided a significant advantage to the
28 graduate in obtaining the position.

1 statements Respondent offered on or about October 3, 2014 are not “current” and demonstrate a
2 ratio of current assets to current liabilities of less than 1.25 to 1.00. (Cal. Code Regs., title 5, §§
3 71745, subd. (a)(6) and 74115, subd. (d)).

4 THIRD CAUSE FOR DENIAL OF APPLICATION

5 (Catalog)
6 (Cal. Educ. Code §§ 94909, subd. (a)(8)(B) and 94920, subd. (b))

7 17. Respondent’s application is subject to denial because the catalog it offered with its
8 application contains a non-compliant refund policy. (Cal. Educ. Code §§ 94909, subd. (a)(8)(B)
9 and 94920, subd. (b)). In particular, Respondent’s proposed enrollment agreement states on page
10 12 that a refund of tuition is pro-rated after the program begins. Pursuant to Education Code
11 section 94920, subdivision (b), institutions are required to refund 100 percent of the amount paid
12 for institutional charges, less a reasonable deposit or application fee not to exceed two hundred
13 fifty dollars (\$250), if notice of cancellation is made through attendance at the first class session,
14 or the seventh day after enrollment, whichever is later. Respondent’s refund policy does not
15 appear to allow for situations where the withdrawing student may still be in the seven day period
16 but instruction had already begun.

17 FOURTH CAUSE FOR DENIAL OF APPLICATION

18 (School Performance Fact Sheet)
19 (Cal. Educ. Code § 94910, subs. (f) and (g);
20 Cal. Code Regs., title 5, § 74112, subs. (d), (e), and (g))

21 18. Respondent’s application is subject to denial because the School Performance Fact
22 Sheet it offered with its application does not contain the disclosures required by Education Code
23 section 94910, subdivisions (f) and (g), and California Code of Regulations, title 5, section
24 74112, subdivisions (d), (e), and (g).

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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 Respondent's Application for Renewal of Approval to Operate an Institution Non-Accredited (application number 24580); and
2. Taking such other and further action as deemed necessary and proper.

DATED: 11/10/15



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

SF2015900710