

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1188
6 Facsimile: (415) 703-5480
E-mail: Nicholas.Tsukamaki@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

Case No. 998998

13 **ANAT BANIEL, Owner**
14 **THE ANAT BANIEL METHOD**
4330 Redwood Highway Suite 350
15 San Rafael, CA 94903
School Code No. 2101521

STATEMENT OF ISSUES

16 Respondent.

17
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 (Bureau), Department of
22 Consumer Affairs.

23 ///

24 ///

25 ///

26 ///

27 ///

28

1 2. On the following dates, the former Bureau for Private Postsecondary and Vocational
 2 Education¹ issued an approval to operate the following programs to The Anat Baniel Method,
 3 Anat Baniel, owner (School Code No. 2101521) (Respondent):

Approved Program Name	Approval Date
Anat Baniel Method of Feldenkrais Training Program (Stage I)	06/05/2001
Anat Baniel Method of Anti-Aging Training Program (Stage II)	06/05/2001
Anat Baniel Method of Anti-Aging and Rejuvenation	07/02/2004
Anat Baniel Method of Breathing and Voice	07/02/2004
Anat Baniel Method for High Performers: Musicians, Athletes, and CEO's	07/02/2004
Anat Baniel Method for Parents of Children with Special Needs	07/24/2004
Anti-Aging and Rejuvenation: A Workshop for Professionals	07/02/2004
Anti-Aging and Rejuvenation: An advanced seminar for Anat Baniel method and Feldenkrais Method Prac	07/02/2004
Overcome Back Pain	07/02/2004
Overcome Joint Pain	07/02/2004
Overcome Neck Pain	07/02/2004
Working with Back Pain Sufferers	07/02/2004
Working with Breathing and Voice: A Workshop for Professionals	07/02/2004
Working with Children: Seminar for Anat Baniel Method and Feldenkrais Method Practition	07/02/2004
Working with High Performers: An advanced Seminar for Anat Baniel method and Feldenkrais method Practition	07/02/2004
Working with Joint Pain Sufferers	07/02/2004
Working with Neck Pain Sufferers	07/02/2004

3. Respondent's approval to operate expired on July 1, 2011, and has not been renewed.

¹ The former Bureau for Private Postsecondary and Vocational Education sunsetted on July 1, 2007. On October 11, 2009, the Private Postsecondary Education Act of 2009 (AB 48) was signed into law. The Act, which became operative on January 1, 2010, established the Bureau for Private Postsecondary Education.

1 for the transfer of credits earned in the program of instruction. If the institution has not entered
2 into an articulation or transfer agreement with any other college or university, the institution shall
3 disclose that fact.

4 ...
5 “(16) A statement specifying whether the institution, or any of its degree programs, are
6 accredited by an accrediting agency recognized by the United States Department of Education. . .
7 .
8 ...”

9 8. Section 94910 of the Education Code provides in relevant part:
10 “Prior to enrollment, an institution shall provide a prospective student with a School
11 Performance Fact Sheet containing, at a minimum, the following information, as it relates to the
12 educational program:

13 ...
14 “(b) Placement rates for each educational program, as calculated pursuant to Article 16
15 (commencing with Section 94928), if the educational program is designed to lead to, or the
16 institution makes any express or implied claim related to preparing students for, a recognized
17 career, occupation, vocation, job, or job title.

18 ...
19 “(f) All of the following:

20 ...
21 “(2) A statement informing the reader of where he or she may obtain from the institution a
22 list of the employment positions determined to be within the field for which a student received
23 education and training for the calculation of job placement rates as required by subdivision (b).

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

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

“(g) The following statements:

“(1) ‘This fact sheet is filed with the Bureau for Private Postsecondary Education.

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

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

...”

9. Section 94920 of the Education Code provides in relevant part:

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

“(a) The institution shall advise each student that a notice of cancellation shall be in writing, and that a withdrawal may be effectuated by the student’s written notice or by the student’s conduct, including, but not necessarily limited to, a student’s lack of attendance.

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

...”

REGULATORY PROVISIONS

10. California Code of Regulations, title 5, section 71745 provides in relevant part:

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

...

“(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

1 institution participating in Title IV of the federal Higher Education Act of 1965, meet the
2 composite score requirements of the U.S. Department of Education. For the purposes of this
3 section, current assets does not include: intangible assets, including goodwill, going concern
4 value, organization expense, startup costs, long-term prepayment of deferred charges, and non-
5 returnable deposits, or state or federal grant or loan funds that are not the property of the
6 institution but are held for future disbursement for the benefit of students. Unearned tuition shall
7 be accounted for in accordance with general accepted accounting principles.

8 ...”

9 11. California Code of Regulations, title 5, section 71810 provides in relevant part:

10 ...

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

13 ...

14 “(15) Policies on the retention of student records.”

15 12. California Code of Regulations, title 5, section 74115 provides in relevant part:

16 ...

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

20 ...

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

23 ...”

24 13. California Code of Regulations, title 5, section 76215 states:

25 “(a) A qualifying institution shall include the following statement on both its enrollment
26 agreement for an educational program and its current schedule of student charges:

27 ‘You must pay the state-imposed assessment for the Student Tuition Recovery Fund
28 (STRF) if all of the following applies to you:

1 1. You are a student in an educational program, who is a California resident, or are enrolled
2 in a residency program, and prepay all or part of your tuition either by cash, guaranteed student
3 loans, or personal loans, and

4 2. Your total charges are not paid by any third-party payer such as an employer,
5 government program or other payer unless you have a separate agreement to repay the third party.

6 You are not eligible for protection from the STRF and you are not required to pay the STRF
7 assessment, if either of the following applies:

8 1. You are not a California resident, or are not enrolled in a residency program, or

9 2. Your total charges are paid by a third party, such as an employer, government program or
10 other payer, and you have no separate agreement to repay the third party.'

11 ...”

12 **FIRST CAUSE FOR DENIAL OF APPLICATION**

13 (Failure to Meet Requirements of Education Code – Cancellation Fee)

14 14. Respondent is ineligible for renewal of its approval to operate in that the enrollment
15 agreement Respondent submitted with its renewal application states that in the event students
16 seek a refund of institutional charges, they are required to pay a \$250 cancellation fee in addition
17 to a \$250 non-refundable application fee, in violation of Education Code section 94920,
18 subdivision (b).

19 **SECOND CAUSE FOR DENIAL OF APPLICATION**

20 (Failure to Meet Requirements of Code of Regulations – Student Tuition Recovery Fund)

21 15. Respondent is ineligible for renewal of its approval to operate in that the enrollment
22 agreement Respondent submitted with its renewal application does not contain the language
23 required by California Code of Regulations, title 5, section 76215, subdivision (a) regarding the
24 Student Tuition Recovery Fund.

25 ///

26 ///

27 ///

28 ///

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Meet Requirements of Code of Regulations – Insufficient Assets**
3 **and Financial Resources)**

4 16. Respondent is ineligible for renewal of its approval to operate in that Respondent
5 failed to document that it has sufficient assets and financial resources to maintain a ratio of
6 current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal
7 year, in violation of California Code of Regulations, title 5, sections 71745, subdivision (a)(6) and
8 74115, subdivision (b)(3).

9 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

10 **(Failure to Meet Requirements of Education Code – School Performance Fact Sheet)**

11 17. Respondent is ineligible for renewal of its approval to operate in that the School
12 Performance Fact Sheet Respondent submitted with its renewal application does not contain the
13 information required by Education Code section 94910, subdivisions (b), (f)(2), (f)(3), (g)(1), and
14 (g)(2).

15 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

16 **(Failure to Meet Requirements of Education Code and**
17 **Code of Regulations – School Catalog)**

18 18. Respondent is ineligible for renewal of its approval to operate in that the school
19 catalog Respondent submitted with its renewal application (1) does not contain the language
20 required by Education Code section 94909, subdivision (a)(3)(A); (2) does not contain a detailed
21 description of Respondent's policy regarding admissions requirements for ability-to-benefit
22 students as required by Education Code section 94909, subdivision (a)(8)(A); (3) states that in the
23 event students seek a refund of institutional charges, they are required to pay a \$250 cancellation
24 fee in addition to a \$250 non-refundable application fee, in violation of Education Code section
25 94920, subdivision (b); (4) does not contain the language required by Education Code section
26 94909, subdivision (a)(16); and (5) does not contain policies on the retention of student records as
27 required by California Code of Regulations, title 5, section 71810, subdivision (b)(15).


28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions submitted by The Anat Baniel Method, Anat Baniel, owner;
2. Taking such other and further action as deemed necessary and proper.

DATED: April 4, 2014 
JOANNE WENZEL
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

SF2013405363