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BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
STATE OF CALIFORNIA

In the Matter of the First Amended Statement of Issues Against: **BAY AREA VIDEO COALITION** **2727 Mariposa Street, 2nd Floor** **San Francisco, CA 94110** **School Code No. 3806101** **Institution Code No. 3806101** Respondent.	Case No. 999859 **FIRST AMENDED STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

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

2. On the following dates, the Bureau issued an approval to operate the following programs to Bay Area Video Coalition (Respondent).

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Approved Program Name	Approval Date
Beginning Avid Certification Program	6/17/1999
Beginning Digital Post Production Certification Program	6/17/1999
Beginning Multimedia Certification Program	6/17/1999
Beginning Video Production Certification Program	6/17/1999
Intermediate Avid Certification Program	6/17/1999
Intermediate Digital Post Production Certification Program	6/17/1999
Intermediate Multimedia Certification Program	6/17/1999
Intermediate Video Production Certification Program	6/17/1999
Media link – Web Development	1/15/2002
Video Core	8/6/2002
Video Editing	8/6/2002
Video Graphic	8/6/2002
Video Production	8/6/2002
Web Core	8/6/2002
Web Design	8/6/2002
Web Streaming	8/6/2002

3. Respondent's approval to operate expired on October 20, 2011 and has not been renewed.

4. On or about October 12, 2011, the Bureau received an Application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions from Respondent. On or about October 5, 2011, Marc Vogl, Respondent's Executive Director, certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied Respondent's renewal application on or about July 9, 2014.

JURISDICTION

5. This First Amended Statement of Issues is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau under the authority of the following laws. All section references are to the Education Code[1] unless otherwise indicated.

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

STATUTORY PROVISIONS

7. Section 94891 of the Code provides, in pertinent part:

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

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

. . ."

8. Section 94913 of the Code provides, in pertinent part:

"(a) An institution that maintains an Internet Web site shall provide on that Internet Web site all of the following:

. . .

"(2) A School Performance Fact Sheet for each educational program offered by the institution.

. . ."

REGULATORY PROVISIONS

9. California Code of Regulations, title 5, section 70000, subdivision (c) states: " 'Chief academic officer' means the person primarily responsible for the administration of an institution's

[1] Effective January 1, 2015, in accordance with SB1247, the California Private Postsecondary Education Act of 2009 was amended. Because the conduct at issue in this case occurred before January 1, 2015, however, all citations are to the previous version of the California Private Postsecondary Education Act of 2009 that was in effect in 2014.

academic affairs including the supervision of faculty, development of educational programs and curricula, and implementation of the institution's mission, purposes and objectives."

10. California Code of Regulations, title 5, section 71475 provides, in pertinent part:

"(b) An institution seeking to renew its Approval to Operate pursuant to section 94891 of the Code shall, prior to its expiration, complete and submit to the Bureau the 'Application for Renewal of Approval to Operate and Offer Educations Programs for Non-Accredited Institutions,' Form Application 94891 (rev. 2/10).

. . .

"(e) The institution shall submit at the time it applies for renewal current financial statements that meet the requirements of section 74115 as follows: (1) for an institution with annual gross revenues of $500,000 and over, statements shall be audited; (2) for an institution with annual gross revenues less than $500,000, statements shall be reviewed.

. . .

"(j) The institution shall provide in the application a description of the job duties and responsibilities of each administrative and faculty position. If there have been no substantive changes since the last submission, the institution may so state and is not required to submit documentation.

"(k) The institution shall identify in the application the chief executive officer, chief operating officer, and chief academic officer and describe their education, experience, and qualifications to perform their duties and responsibilities. If there have been no substantive changes since the last submission, the institution may so state and is not required to submit documentation.

. . ."

11. California Code of Regulations, title 5, section 71730 provides, in pertinent part:

"(a) Each institution shall have a chief executive officer, a chief operating officer and chief academic officer. One person may serve more than one function.

"(b) The duties, responsibilities, and performance evaluation criteria for each administrator shall be set forth in a personnel manual or other writing maintained by the institution.

. . .

"(e) The chief academic officer shall possess a degree or equivalent acceptable experience at least equal to the highest qualifications required of the institution's faculty. Chief academic officers employed on the date of implementation of these regulations, who do not meet the qualifications for their positions, shall have three years to earn the necessary degrees or experience to qualify them for their position.

. . ."

12. California Code of Regulations, title 5, section 71745 provides, in pertinent 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 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.

. . ."

13. California Code of Regulations, title 5, section 74115 provides, in pertinent part:

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

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

/ / /

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

. . .

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

. . ."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Failure to Submit Properly Prepared Audited Financial Statements)

14. Respondent's renewal application is subject to denial under California Code of Regulations, title 5, section 71475, subdivision (e) in that Respondent failed to comply with the requirement under California Code of Regulations, title 5, section 74115, subdivision (b)(1) that Respondent's audited financial statements be conducted and prepared in accordance with the generally accepted accounting principles established by the American Institute of Certified Public Accountants.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Failure to Document Sufficient Assets and Financial Resources)

15. Respondent's renewal application is subject to denial under California Code of Regulations, title 5, sections 71475, subdivision (e), 74115, subdivision (b)(3), and 71745, subdivision (a)(6), in that Respondent's audited financial statements fail to demonstrate that Respondent maintained 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.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Inadequate Job Description for Chief Academic Officer)

16. Respondent's renewal application is subject to denial under California Code of Regulations, title 5, sections 71475, subdivision (j) and 71730, subdivision (b) in that the description of the job duties and responsibilities of Respondent's chief academic officer

submitted with Respondent's renewal application is not consistent with the duties and responsibilities of that position as described in California Code of Regulations, title 5, section 70000, subdivision (c).

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Unqualified Chief Academic Officer)

17. Respondent's renewal application is subject to denial under California Code of Regulations, title 5, sections 71475, subdivision (k) and 71730, subdivision (e) in that the biography of Respondent's chief academic officer submitted with Respondent's renewal application does not demonstrate that Respondent's chief academic officer possesses a degree or equivalent acceptable experience at least equal to the highest qualifications required of Respondent's faculty.

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Failure to Provide School Performance Fact Sheet on Website)

18. Respondent's renewal application is subject to denial under section 94913, subdivision (a)(2) of the Code in that Respondent failed to provide on its website a School Performance Fact Sheet for each educational program Respondent offers.

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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 for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions submitted by Bay Area Video Coalition;

2. Taking such other and further action as is deemed necessary and proper.

DATED: 06-11-15

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

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