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

11 In the Matter of the Statement of Issues
12 Against:
13
14 **ZOOM GRAPHICS SCHOOL OF**
DESIGN;
15
16 **Applicant for Renewal of Approval to**
Operate and Offer Educational Programs
for a Non-Accredited Institution
17
18 **School Code: 1501111**
Respondent.

Case No. 1001978

STATEMENT OF ISSUES

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 May 29, 2012, the Bureau for Private Postsecondary Education
26 (“Bureau”) received an Application for Renewal of Approval to Operate and Offer Educational
27 Program for a Non-Accredited Institution (“Application”) from Zoom Graphics School of Design
28

1 (“Respondent”). On or about May 25, 2012, Rick R. Garcia certified under penalty of perjury to
2 the truthfulness of all statements, answers, and representations in the application.

3 3. On or about August 28, 2012, the Bureau issued a deficiency letter to Respondent.

4 4. On or about October 10, 2012, the Bureau received a response to the deficiency letter.

5 5. On or about February 25, 2016, the Bureau issued a second deficiency letter to
6 Respondent.

7 6. On or about March 24, 2016, the Bureau received a response to the second deficiency
8 letter.

9 7. On or about June 24, 2016, the Bureau denied Respondent’s application

10 8. On or about July 25, 2016, the Bureau received a letter from Respondent requesting
11 an administrative hearing regarding the denial of his Application.

12 JURISDICTION

13 9. This Statement of Issues is brought before the Director of the Department of
14 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
15 authority of the following laws. All section references are to the Education Code¹ unless
16 otherwise indicated.

17 10. California Education Code section 94891 states:

18 “(a) The bureau shall, by January 1, 2011, adopt by regulation the process and procedures
19 whereby an institution may obtain a renewal of an approval to operate.

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

22 11. California Education Code section 94929.7 states:

23 “(a) The information used to substantiate the rates and information calculated pursuant to
24 Sections 94929 and 94929.5 shall do both of the following:

25
26 ¹ Effective January 1, 2015, in accordance with SB1247, the California Private
27 Postsecondary Education Act of 2009 was updated. Because the conduct at issue in this case
28 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.

1 (1) Be documented and maintained by the institution for five years from the date of the
2 publication of the rates and information.

3 (2) Be retained in an electronic format and made available to the bureau upon request.

4 (b) An institution shall provide a list of employment positions used to determine the number
5 of graduates employed in the field for purposes of calculating job placement rates pursuant to this
6 article.

7 (c) The bureau shall identify the specific information that an institution is required to
8 document and maintain to substantiate rates and information pursuant to this section.”

9 **REGULATIONS**

10 12. California Code of Regulations, title 5, section 71700 states that, “The Bureau may
11 request that an institution document compliance with the standards set forth in the Act and this
12 Division to obtain and maintain an approval to operate.”

13 13. California Code of Regulations, title 5, section 71475 states, in pertinent part:

14 ...

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

19 ...

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

24 ...

25 (kk) An incomplete application filed under this section will render the institution
26 ineligible for renewal.”

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14. California Code of Regulations, title 5, section 71745 states, 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:

....

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

....

15. California Code of Regulations, title 5, section 74112 states, in pertinent part:

....

“(h) Completion Rates. Reporting of completion rates for an institution's Annual Report and Performance Fact Sheet shall include, for each educational program, the number of students who began the program as defined in subdivision (d)(1) of this section, the number of students available for graduation, number of on-time graduates, and completion rate(s). An optional table may be added to include completion rate data for students completing within 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 and 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. Programs that are more than one year in length which are reporting 150% Completion Rate will provide four calendar years of data.

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

On-time Completion Rates (Graduation Rates) (includes data for the two calendar years prior to reporting)

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Name of Educational Program (Program Length)

	<i>Number of</i>	<i>Students</i>	<i>Number of</i>	<i>On-time</i>
<i>Calendar</i>	<i>Students Who</i>	<i>Available for</i>	<i>On-time</i>	<i>Completion</i>
<i>Year</i>	<i>Began the</i>	<i>Graduation</i>	<i>Graduates</i>	<i>Rate</i>
	<i>Program</i>			

20XX	100	98	70	71%
20XY	80	80	55	69%

Students Completing Within 150% of the Published Program Length

Name of Educational Program (Program Length)

	<i>Number of</i>	<i>Students</i>	<i>150%</i>	<i>150%</i>
<i>Calendar</i>	<i>Students Who</i>	<i>Available for</i>	<i>150%</i>	<i>Completion</i>
<i>Year</i>	<i>Began the</i>	<i>Graduation</i>	<i>Graduates</i>	<i>Rate</i>
	<i>Program</i>			

20XX	100	98	95	97%
20XY	80	80	78	98%
*20XZ	90	90	87	97%
*20YA	87	85	74	87%

*Included only if program is more than one year in length

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information."

....

1 16. California Code of Regulations, title 5, section 74115 states, in pertinent part:

2

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

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

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10 **FIRST CAUSE FOR DENIAL OF APPLICATION**

11 **(Failure to Provide Financial Resources and Statements)**

12 17. Respondent's application is subject to denial under California Code of Regulations,
13 title 5, sections 71475 subdivision (e), 71745 subdivision (a)(5), and 74115 subdivision (b)(3), in
14 that in support of the Respondent's application, Respondent failed to provide financial resources
15 and statements. The circumstances are as follows:

16 a. Respondent provided the institution's Financial Statements for January through
17 December of 2015. However, the Financial Statements for January through December 2015
18 display \$2,319.00 for cash and cash equivalents and \$92,150.00 for operating expenses, which
19 does not satisfy the 30-day operating expense test.

20 b. Respondent failed to document that the institution has at all times sufficient assets
21 and financial resources to pay all operating expenses due within 30 days.

22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

23 **(Failure to Provide School Performance Fact Sheets)**

24 18. Respondent's application is subject to denial under California Code of Regulations,
25 title 5, section 74112 subdivision (h), and California Education Code 94929.7, in that in support
26 of the Respondent's application, Respondent failed to provide supporting data for the School
27 Performance Fact Sheets. The circumstances are that Respondent failed to provide
28 documentation to support data reported on the School Performance Fact Sheets submitted with

1 the Application for Renewal of Approval to Operate an Institution Non-Accredited received on
2 May 29, 2012.


3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Director of the Department of Consumer Affairs issue a
6 decision:

- 7 1. Denying the application of Zoom Graphics School of Design, for a Renewal of
8 Approval to Operate and Offer Educational Program for Non-Accredited Institutions;
9 2. Taking such other and further action as deemed necessary and proper.

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DATED: 12/29/16


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

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