

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 MARICHELE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3154
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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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. 1000838

13
14 **NEWPORT PSYCHOANALYTIC**
INSTITUTE; NEWPORT CENTER FOR
15 **PSYCHOANALYTIC STUDIES, OWNER,**
16 **BARRY ROSS, CEO**

STATEMENT OF ISSUES

17 **School Code: 3008151**

18 Respondent.

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 April 2, 2012, the Bureau for Private Postsecondary Education
26 (hereinafter "Bureau") received an Application for Renewal of Approval to Operate an Institution
27 Non-Accredited (Application # 24645) from Newport Psychoanalytic Institute, Newport Center
28 for Psychoanalytic Studies, Owner, Barry Ross, CEO (Respondent). On or about March 23,

1 2012, Barry Ross certified under penalty of perjury to the truthfulness of all statements, answers,
2 and representations in the application. The Bureau denied the application on June 5, 2015.

3 **JURISDICTION**

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

8 4. Education Code Section 94886 states:

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

14 5. Education Code Section 94887 states:

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

21 **STATUTORY AND REGULATORY PROVISIONS**

22 6. Education Code (hereinafter "Code") section 94891, subdivision (b) stated that "[t]o
23 be granted a renewal of an approval to operate, the institution shall demonstrate its continued
24 capacity to meet the minimum operating standards."

25 7. Code section 94885 states in pertinent part:

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

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

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8. Code section 94909 states in pertinent part:

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

...

(9) The schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program.

...

(14) A description of the student's rights and responsibilities with respect to the Student Tuition Recovery Fund. This statement shall specify that it is a state requirement that a student who pays his or her tuition is required to pay a state-imposed assessment for the Student Tuition Recovery Fund. This statement shall also describe the purpose and operation of the Student Tuition Recovery Fund and the requirements for filing a claim against the Student Tuition Recovery Fund.

(15) The following statement:

“NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS EARNED AT OUR INSTITUTION

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

...

9. Code section 94934 states in pertinent part:

(a) As part of the compliance program, an institution shall submit an annual report to the bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year, or another date designated by the bureau, and it shall include the following information for educational programs offered in the reporting period:

(1) The total number of students enrolled by level of degree or for a diploma.

(2) The number of degrees, by level, and diplomas awarded.

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(3) The degree levels and diplomas offered.

(4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

(5) The school catalog, as required pursuant to Section 94909.

(6) The total charges for each educational program by period of attendance.

(7) A statement indicating whether the institution is, or is not, current in remitting Student Tuition Recovery Fund assessments.

(8) A statement indicating whether an accrediting agency has taken any final disciplinary action against the institution.

(9) Additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter.

...

10. Title 5, California Code of Regulations ("CCR"), section 70000 states in pertinent part:

...

(w) "Quarter unit" means either of the following:

(1) At least ten (10) hours of college or university level instruction during a quarter plus a reasonable period of time outside of instruction which an institution requires a student to devote to preparation for planned learning experiences, such as preparation for instruction, study of course material, or completion of educational projects; or

(2) Planned learning experiences equivalent to the learning and preparation described in paragraph (1) as determined by duly qualified faculty responsible for evaluating learning outcomes for the award of unit credits.

...

(z) "Semester unit" means either of the following:

(1) At least fifteen (15) hours of college or university level instruction during a semester plus a reasonable period of time outside of instruction which an institution requires a student to devote to preparation for planned learning experiences, such as preparation for instruction, study of course material, or completion of educational projects; or

(2) Planned learning experiences equivalent to the learning and preparation described in paragraph (1) as determined by duly qualified faculty responsible for evaluating learning outcomes for the award of unit credits.

...

1 11. Title 5, CCR, section 71475 states in pertinent part:

2 ...

3 (b) An institution seeking to renew its Approval to Operate pursuant to section
4 94891 of the Code shall, prior to its expiration, complete and submit to the
5 Bureau the "Application for Renewal of Approval to Operate and Offer
6 Educations Programs for Non-Accredited Institutions," Form Application
7 94891 (rev. 2/10).

8 (c) The application for renewal of approval to operate and offer educational
9 programs for non-accredited institutions shall include all of the following:

10 ...

11 (o) The institution shall include, with its application, exemplars of all student
12 enrollment agreements and instruments of indebtedness.

13 ...

14 (bb) The application shall include a copy of the institution's catalog, in
15 published or proposed-to-be-published form. The catalog shall meet the
16 requirements of the Act and of section 71810.

17 ...

18 12. Title 5, CCR, section 71700 states, "The Bureau may request that an institution
19 document compliance with the standards set forth in the Act and this Division to obtain and
20 maintain an approval to operate."

21 13. Title 5, CCR, section 71710 states in pertinent part:

22 In order to meet its mission and objectives, the educational program defined in
23 section 94837 of the Code shall be comprised of a curriculum that includes:

24 ...

25 (e) specific learning outcomes tied to the sequence of the presentation of the
26 material to measure the students' learning of the material; and

27 (f) evaluation by duly qualified faculty of those learning outcomes.

28 14. Title 5, CCR, section 71720 states in pertinent part:

(a) An Educational Program Leading to a Degree.

(1) An institution offering an educational program that leads to a degree shall employ duly qualified faculty sufficient in number to provide the instruction, student advisement, and learning outcomes evaluation necessary for the institution to document its achievement of its stated mission and objectives, and for students to achieve the specific learning objectives of each course offered;

1 ...

2 (4) The faculty shall have sufficient expertise to support the institution's
3 awarding of a degree identifying a specialty or major field of emphasis,
4 demonstrated by, at a minimum:

5 (A) That the person possesses one of the following:

6 1. a degree from: an institution approved by the Bureau or
7 previously approved by a predecessor agency of the Bureau; or an
8 accredited institution in the United States or Canada; or other state
9 approved institution that documents that the institution at which the
10 faculty member earned his or her degree is equivalent to an
11 institution that is approved by the Bureau; or an institution outside
12 the United States or Canada and in addition provides a
13 comprehensive evaluation of the degree performed by a foreign
14 credential evaluation service that is a member of the National
15 Association of Credential Evaluation Services (NACES).

16 2. a credential generally recognized in the field of
17 instruction.

18 (B) The degree, professional license, or credential possessed by the
19 person shall be at least equivalent to the level of instruction being
20 taught or evaluated;

21 (5) The institution's faculty as a whole shall possess a diverse educational
22 background which shall be demonstrated in part by earned degrees from a
23 variety of colleges and universities or by credentials generally recognized in the
24 field of instruction;

25 ...

26 (9) The institution shall maintain records documenting that each faculty
27 member is duly qualified and was qualified to perform the duties to which the
28 faculty member was assigned, including providing instruction, evaluating
learning outcomes, evaluating graduate dissertations, theses, and student
projects, and participating on doctoral committees.

...

15. Title 5, CCR, 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.

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

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

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

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

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

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

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

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

26 (c) An institution shall provide to the Bureau its most current financial
27 statements upon request.

28 16. Title 5, CCR, section 71800 states in pertinent part:

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

...

(b) Period covered by the enrollment agreement.

...

17. Title 5, CCR, section 71810 in pertinent part:

...

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

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(6) The institution's policies and practices regarding any form of financial aid, including all consumer information which the institution is required to disclose to the student under any state or federal financial aid program;

...

18. Title 5, CCR, section 71865 states in pertinent part:

...

(c)(1) A Doctor of Philosophy degree (Ph.D.) is a research-oriented degree requiring a minimum of three years of full-time graduate education or the equivalent in part-time study. Such a doctoral program shall include substantial instruction in both theory and research at an advanced level in a designated field and specialty, and may only be awarded to a student who has completed a program of study that includes research methodology and demonstrated learning achievement through original research directly attributable to the student. Each educational program leading to a Doctor of Philosophy degree shall involve preparation for scholarship and systematic inquiry.

...

(3) The faculty members who serve on each student's doctoral examining committee shall meet the following qualifications:

...

(C) A minimum of 50% of the faculty on the committee shall have degrees conferred by an institution accredited by an accrediting association recognized by the United States Department of Education or the American Bar Association, unless the accreditation does not exist.

(D) All of the faculty shall have three or more years of field or research experience related to their degrees obtained after they obtained their degrees.

...

19. Title 5, CCR, section 74112 states in pertinent part:

...

(c) Reporting periods:

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

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

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(d) 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 program as defined in subdivision (b), the number of students available for graduation, number of graduates, and completion rate(s). An optional column may be added to 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 Program¹</i>	<i>Students Available for Graduation²</i>	<i>Graduates³</i>	<i>Completion Rate⁴</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 Program¹</i>	<i>Students Available for 150% Graduation²</i>	<i>Graduates³</i>	<i>150% Completion Rate⁴</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.

⁴ "Completion Rate" is the number of Graduates divided by the Number of Students Available for Graduation.

1 ⁵ “150% Graduates” is the number of students who completed the program
within 101-150% of the published program length.

2 ⁶ “150% Completion Rate” is the number of students who completed the
3 program in the reported calendar year within 101-150% of the published
4 program length divided by the Number of Students Available for Graduation in
the published program length period.

5 ...

6 20. Title 5, CCR, section 74115 states in pertinent part:

7 ...

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

10 (1) Audited and reviewed financial statements shall be conducted and
11 prepared in accordance with the generally accepted accounting principles
12 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.

13 (2) Financial statements prepared on an annual basis as required by
14 section 74110(b) shall be prepared in accordance with the generally accepted
15 accounting principles established by the American Institute of Certified Public
16 Accountants. Nonprofit institutions shall provide annual financial statements as
required under generally accepted accounting principles for nonprofit
organizations.

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

18 (4) If an audit performed to determine compliance with any federal or
19 state student financial aid program reveals any failure to comply with the
20 requirements of the program and the noncompliance creates any liability or
potential liability for the institution, the financial statements shall reflect the
liability or potential liability.

21 (5) Any audits shall demonstrate that the accountant obtained an
22 understanding of the institution's internal financial control structure, assessed
any risks, and has reported any material deficiencies in the internal controls.

23 ...

24 (d) “Current” with respect to financial statements means completed no sooner
25 than 120 days prior to the time it is submitted to the Bureau, and covering no
26 less than the most recent complete fiscal year. If more than 8 months will have
elapsed between the close of the most recent complete fiscal year and the time it
27 is submitted, the fiscal statements shall also cover no less than five months of
that current fiscal year.

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1 **FACTS**

2 21. On April 2, 2012, the Bureau received an Application for Renewal of Approval to
3 Operate a Non-Accredited Institution, Application Number 24645, from Respondent. Respondent
4 had been approved to offer the following degree programs: Doctor of Philosophy (Ph.D.) in
5 Psychoanalysis and Doctor of Psychiatry (Psy.D.) in Psychoanalysis. Respondent had also been
6 approved to offer non-degree educational programs in Psychoanalysis and Dynamic
7 Psychotherapy.

8 22. On November 4, 2013, the Bureau sent Respondent a letter advising that the Bureau
9 could not grant Respondent a renewal of approval to operate because of deficiencies in the
10 application, including deficiencies pertaining to the institution's enrollment agreement, school
11 catalog, and financial statements and resources. On February 4, 2014, the Bureau received
12 Respondent's response to the deficiency letter.

13 23. On November 4, 2014, the Bureau sent Respondent a second letter advising that the
14 Bureau could not grant Respondent a renewal of approval to operate because of deficiencies in
15 the application, including deficiencies pertaining to the institution's enrollment agreement, school
16 catalog, and financial statements and resources. On November 13, 2014, the Bureau received
17 Respondent's response to the deficiency letter.

18 24. On February 23, 2015, the Bureau sent Respondent a third letter advising that the
19 Bureau could not grant Respondent a renewal of approval to operate because of deficiencies in
20 the application, including deficiencies pertaining to the institution's organization and
21 management, enrollment agreement, the instruction and degrees offered, the description of the
22 educational programs, school catalog, financial statements and resources, faculty, and graduation
23 or completion document. On March 27, 2015, the Bureau received Respondent's response to the
24 deficiency letter.

25 25. On June 5, 2015, the Bureau denied Respondent's Application for Renewal of
26 Approval to Operate a Non-Accredited Institution and sent Respondent a "Notice of Denial."

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Demonstrate Continued Capacity to Satisfy Minimum Operating Standards**
3 **- Qualifications of Faculty)**

4 26. Respondent's application is subject to denial under Education Code section 94891,
5 subdivision (b), and title 5, CCR, section 71720, subdivisions (a)(1), (4), (5) and (9), and title 5,
6 CCR, section 71865, subdivision (c)(3)(C) and (D) in that Respondent failed to demonstrate that
7 the faculty members identified are duly qualified and of sufficient expertise to provide the
8 instruction and learning outcomes necessary for the institution to achieve its stated mission and
9 objectives, as follows:

10 a. Respondent failed to submit evidence of qualifications such as resumes/curriculum
11 vitae and transcripts for the following faculty members: R.P. and J. S.

12 b. Respondent failed to submit transcripts for all faculty members.

13 c. Respondent failed to submit course assignments and employment contracts to
14 demonstrate that its faculty members are employed by Respondent and that they possess the
15 degree, professional license, or credential, at least equivalent to the level of instruction being
16 taught or evaluated.

17 d. Respondent failed to demonstrate that the faculty members who serve on each
18 student's doctoral examining committee have degrees conferred by an institution accredited by an
19 accrediting association recognized by the U.S. Department of Education. Respondent failed to
20 submit evidence of qualifications, such as transcripts, for all faculty members.

21 e. Respondent failed to demonstrate that the faculty members who serve on each
22 student's doctoral examining committee have three or more years of field or research experience
23 related to their degrees after earning their degrees. Respondent failed to submit evidence of
24 qualifications such as resumes/curriculum vitae containing research experience for all of its
25 faculty members.

26 f. Respondent failed to demonstrate that the faculty as a whole possesses a diverse
27 educational background demonstrated in part by earned degrees from a variety of colleges and
28

1 universities or by credentials generally recognized in the field of instruction. The majority of
2 faculty members have either trained or graduated from Newport Psychoanalytic Institute.

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(Failure to Demonstrate Continued Capacity to Satisfy Minimum Operating Standards**
5 **- Exemplars of Enrollment Agreement)**

6 27. Respondent's application is subject to denial under Education Code section 94891,
7 subdivision (b), and title 5, CCR, section 71800, subdivisions (b) in that the enrollment agreement
8 does not contain the period covered by the enrollment agreement.

9 **THIRD CAUSE FOR DENIAL OF APPLICATION**

10 **(Failure to Demonstrate Continued Capacity to Satisfy Minimum Operating Standards**
11 **- Instruction and Degrees Offered)**

12 28. Respondent's application is subject to denial under Education Code section 94891,
13 subdivision (b), and title 5, CCR, section 71710, subdivisions (e) and (f), and section 70000,
14 subdivisions (w) and (z) as follows:

15 a. Respondent submitted course syllabi for each of the four educational programs:
16 Ph.D. in Psychoanalysis, Psy.D. in Psychoanalysis, Psychoanalysis and Dynamic Psychotherapy.
17 The Bureau randomly reviewed the following eight (8) course syllabi: Psychoanalytic Couples
18 Theory, Relational Psychoanalysis II, Advanced Clinical Issues II, Developmental Theories II,
19 Ego Psychology I, The Writings of Fairbairn and Guntrip, Advanced Philosophical Principles in
20 Psychoanalysis, and Models of the Mind and Technique I. The course syllabi failed to include
21 specific learning outcomes tied to the sequence of the presentation of the material to measure the
22 students' learning of the material and evaluation by duly qualified faculty of those learning
23 outcomes.

24 b. Respondent failed to demonstrate that the number of hours of instruction meets the
25 minimum requirements in that according to the course syllabi, each two-unit trimester course is
26 allotted 15 hours of instruction however pursuant to title 5, CCR, section 70000, subdivisions (w)
27 and (z), each quarter unit requires 10 hours of instruction and each semester unit requires 15
28 hours of instruction.

1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Demonstrate Continued Capacity to Satisfy Minimum Operating Standards**
3 **- Financial Resources and Statements)**

4 29. Respondent's application is subject to denial under Education Code section 94891,
5 subdivision (b), section 94885, and title 5, CCR, section 71745, in that Respondent failed to
6 provide a current, reviewed financial statement conducted and prepared in accordance with the
7 generally accepted accounting principles showing the ratio of current assets to current liabilities
8 of 1.25 to 1.00. "Current" with respect to financial statements is defined in title 5, CCR, section
9 74115, subdivision (d). Respondent submitted financial statements completed on October 8, 2014
10 for the year ending June 30, 2014 and received by the Bureau on March 27, 2015. The financial
11 statements failed to also include no less than five months of the current fiscal year. The
12 submitted financial statements do not clearly state values for current assets and liabilities.

13 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

14 **(Failure to Demonstrate Continued Capacity to Satisfy Minimum Operating Standards**
15 **- Catalog)**

16 30. Respondent's application is subject to denial under Education Code section 94891,
17 subdivision (b), and section 94909 in that that the school catalog contained the following
18 deficiencies:

19 a. The catalog does not contain the required heading related to the "Notice of
20 Transferability of Credits" as required by Code section 94909(a)(15).

21 b. The catalog does not contain the schedule of total charges for the Doctor of
22 Philosophy in Psychoanalysis program as required by Code section 94909(a)(9).

23 c. The catalog contains incorrect descriptions of the student's rights and responsibilities
24 with respect to the Student Tuition Recovery Fund ("STRF"), in violation of title 5, CCR,
25 94909(a)(14), as follows:

26 i. The catalog states students have up to 60 days following school closure to file their
27 STRF claim. Pursuant to title 5, CCR, Section 76200(b), students have up to two years to file
28 their STRF claim if they were notified, or up to four years following school closure.

1 ii. The catalog states the STRF assessment fee is 50 cents per \$1,000 of tuition,
2 however the current fee is zero per \$1,000 of tuition.

3 d. The catalog does not contain the institution's policies and practices, including
4 required disclosures regarding any form of financial aid, in violation of title 5, CCR, section
5 71810(b)(6).

6 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

7 **(Failure to Demonstrate Continued Capacity to Satisfy Minimum Operating Standards**
8 **- School Performance Fact Sheets and Annual Report)**

9 31. Respondent's application is subject to denial under Education Code section 94891,
10 subdivision (b), and section 94934, subdivision (a) and title 5, CCR, Section 74112, subdivisions
11 (c) and (d) in that the institution's website failed to provide correct School Performance Fact
12 Sheet ("SPFS") and annual report information as follows:

13 a. The reporting of "Students Available for Graduation" on both the 2013 SPFS and
14 annual report failed to comply with title 5, CCR, Section 74112, subdivisions (c) and (d), because
15 Respondent did not report the same number of "Number of Students Who Began Program" and
16 "Students Available for Graduation." "Students Available for Graduation" is defined as "the
17 number of students who began the program minus the number of "Students Unavailable for
18 Graduation." Students are "unavailable for graduation" if they have died, been incarcerated, or
19 called to active military duty.

20 b. Respondent failed to provide SPFS data for the branch campus.

21 **PRAYER**

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


25 1. Denying the application of Newport Psychoanalytic Institute, Newport Center for
26 Psychoanalytic Studies, Owner, Barry Ross, CEO, for a Renewal of Approval to Operate and
27 Offer Educational Programs for Non-Accredited Institutions; and,

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

DATED: 1/28/16



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

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