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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 Statement of Issues Against: **STELLA ADLER ACADEMY OF ACTING** **Application for Renewal of Approval to Operate Applicant** **Institution Code Number 1919351** Respondent.	Case No. 1001598 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

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

2. On or about May 14, 2013, the Bureau for Private Postsecondary Education received an Application for Renewal of Approval to Operate from Stella Adler Academy of Acting (Respondent and/or the Institution). On or about May 7, 2013, Stella Adler Academy of Acting certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied the application on March 16, 2016. On or about July 8, 2016, the Bureau issued an amended notice of denial of the application.

JURISDICTION

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

4. Code section 94886 states that:

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

5. Code section 94891 states that:

> (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.
>
> (c)(1) An institution that is denied renewal of an approval to operate may file an appeal in accordance with the procedures established by the bureau pursuant to Section 94888.
>
> (2) An institution that has filed an appeal of a denial of a renewal application may continue to operate during the appeal process, but must disclose in a written statement, approved by the bureau, to all current and prospective students, that the institution's application for renewal of approval to operate was denied by the bureau because the bureau determined the application did not satisfy the requirements to operate in California, that the institution is appealing the bureau's decision, and that the loss of the appeal may result in the institution's closure.
>
> (3) If the bureau determines that the continued operation of the institution during the appeal process poses a significant risk of harm to students, the bureau shall make an emergency decision pursuant to its authority provided in Section 94938.

STATUTORY PROVISIONS[1]

6. Code section 94910 states, in pertinent part, as follows:

> Except as provided in subdivision (d) of Section 94909 and Section 94910.5, prior to enrollment, an institution shall provide a prospective student with a

[1] On October 11, 2009, the California Private Postsecondary Education Act (Act) of 2009 was signed into law. (Educ. Code, §§94800, et seq.) The Act was recently amended, effective January 1, 2015. (*See:* Senate Bill No. 1247.) This Statement of Issues is based on the post-amendment version of the Act.

School Performance Fact Sheet containing, at a minimum, the following information, as it relates to the educational program:

(a) Completion rates, as calculated pursuant to Article 16 (commencing with Section 94928).

* * * *

(f) All of the following:

(1) A description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are calculated or a statement informing the reader of where he or she may obtain a description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are calculated.

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

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

* * * *

7. Code section 94928, subdivision (c), states, in relevant part, that:

As used in this article, the following terms have the following meanings:

* * * *

(c) "On-time graduates" means the number of students who complete a program within 100 percent of the published program length. An institution may separately state completion information for students completing the program within 150 percent of the original contracted time, but that information may not replace completion information for students completing within the original scheduled time. Completion information shall be separately stated for each campus or branch of the institution.

8. Code section 94929 provides, in pertinent part:

(a) An institution shall annually report to the bureau, as part of the annual report, and publish in its School Performance Fact Sheet, the completion rate for each program. Except as provided in subdivision (b), the completion rate shall be calculated by dividing the number of on-time graduates by the number of students available for graduation.

(b) In lieu of calculating graduation data pursuant to subdivision (a), an institution may report graduation data reported to, and calculated by, the Integrated Postsecondary Education Data System of the United States Department of Education.

9. Code section 94932 provides that:

The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to

an institution's sites, and to require documents and responses from an institution to monitor compliance. When the bureau has reason to believe that an institution may be out of compliance, it shall conduct an investigation of the institution. If the bureau determines, after completing an investigation, that an institution has violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this article.

REGULATORY PROVISIONS

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

* * * *

(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.

11. California Code of Regulations, title 5, section 71630, states:

(a) An institution seeking to change its name shall complete the "Change of Name" form (NAME rev. 2/10) to obtain prior authorization. The form shall be submitted to the Bureau along with the appropriate fee as provided in Section 94930.5(c) of the Code. For an institution approved under section 94885 of the code it shall be signed and dated by the signatory(ies) required by section 71380, for an institution approved under section 94890 of the code it shall be signed and dated by the signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

"I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

_____ _____

(Date) (Signature)"

(b) The application shall include:

(1) The name, school code, address, and telephone and fax numbers of the institution;

(2) The proposed new name;

(3) A detailed explanation of the reasons for the proposed change in name;

(4) Copies of advertising and other statements to be disseminated to the public in any manner by the institution or its representatives that announce or use the proposed name;

(5) The name, address, email address, and telephone and fax numbers of the institution's contact person for the purpose of this application; and

(6) Any additional information required by the Bureau pursuant to section

71340.

(c) An institution that has been granted an approval to operate by means of accreditation shall notify the Bureau of the substantive change within 30 days of that change on the Change of Name form by completing section (b)(1) and (b)(5) of this section, and shall attach certification from the institution's accreditation agency demonstrating that the substantive change was made in accordance with the institution's accreditation standards, and complies with the Act and this Division.

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

13. California Code of Regulations, title 5, section 71745, states as follows:

(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.

(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.

14. California Code of Regulations, title 5, section 74112, provides in relevant part[2]:

(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.

(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

[2] California Code of Regulations, title 5, section 74112 was amended at the end of July 2016, after the Bureau's denial of Respondent's application. Therefore, the version of section 74112 which was in effect at the time of the denial is being cited in this Statement of Issues.

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)

Calendar Year	*Number of Students Who Began Program(1)*	*Students Available for Graduation(2)*	*Graduates(3)*	*Completion Rate(4)*
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)

Calendar Year	*Number of Students Who Began Program(1)*	*Students Available for Graduation(2)*	*Graduates(5)*	*Completion Rate(6)*
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.

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

6 '150% Completion Rate' is the number of students who completed the program in the reported calendar year within 101-150% of the published program length divided by the Number of Students Available for Graduation in the published

program length period.

* * * *

(e) Placement Rates.

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

(2) Placement is measured six months from the graduation date of each student. Reporting of placement rates shall include for each educational program: the number of students who began the program, the number of graduates as defined in subdivision (b), graduates available for employment, graduates employed in the field and placement rate(s).

* * * *

(h) Documentation supporting all data reported shall be maintained by the institution for at least five years from the time included in either an Annual Report or a Performance Fact Sheet, and shall include at a minimum: student name(s), address, phone number, email address, program completed, program start and completion dates, place of employment and position, salary, hours, and a description of all attempts to contact each student. Documentation shall also include the name, email address, phone number, and position or title of the institution's representative who is primarily responsible for obtaining the students' completion, placement, licensing, and salary and wage data, the date that the information was gathered, and copies of notes, letters or emails through which the information was requested and gathered.

15. California Code of Regulations, title 5, section 74115, states:

(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.

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

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

(4) If an audit performed to determine compliance with any federal or state student financial aid program reveals any failure to comply with the

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.

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

(c) Work papers for the financial statements shall be retained for five years from the date of the statements and shall be made available to the Bureau upon request.

(d) "Current" with respect to financial statements means completed no sooner than 120 days prior to the time it is submitted to the Bureau, and covering no 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 is submitted, the fiscal statements shall also cover no less than five months of that current fiscal year.

FACTUAL BACKGROUND

16. On or about May 14, 2013, the Bureau received Application No. 26143, the "Application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions" (application) from Respondent. Respondent submitted various documents with the application, including but not limited to a Balance Sheet and Profit and Loss year ending December 31, 2012 and the Institution's Catalog for 2012-2013.

17. On or about May 15, 2013, the Bureau sent a letter to Respondent acknowledging receipt of the Institution's application, stating that the application was found to be incomplete and requesting additional information and/or documents for the application to be deemed complete.

18. On or about November 30, 2015, the Bureau issued a deficiency letter to Respondent, which included deficiencies in various sections of the application, including but not limited to the Institution's financial resources and statements, School Performance Fact Sheet, Reporting of Student Performance Data, and Clarification of Institution's Name.

19. On or about December 21, 2015, the Institution sent a response to the Bureau which included additional documents, including but not limited to the Institution's Balance Sheet and Profit and Loss for year ending September 30, 2015, which was not reviewed or audited by a Certified Public Accountant (CPA), the School Performance Fact Sheet for 2016/2017, Student Performance Data for 2013/2014 and the Institution's Catalog for 2016. In addition, Articles of Incorporation for "Stella Adler Theatre" were included with this letter.

20. On or about March 16, 2016, the Bureau issued a notice of denial of application.

21. On or about April 1, 2016, Respondent sent the Bureau a letter requesting an administrative hearing to appeal the denial of its application for a renewal of its license.

22. Between on or about approximately June 2016 and July 7, 2016, additional documents were submitted by Respondent to the Bureau which were reviewed by the Bureau.

23. On or about July 8, 2016, the Bureau issued an amended notice of denial of the application.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Financial Resources and Statements)

24. Respondent's application is subject to denial under Code sections 94891, subdivision (b) and 94928, subdivision (c), in that:

(a) The Institution failed to provide current financial statements which had been reviewed and/or audited by a CPA, in accordance with the generally accepted accounting principles established by the American Institute of Certified Public Accountants, in violation of California Code of Regulations, title 5, section 74115, subdivision (b) and 71475, subdivision (e).

(b) The Institution's financial documents submitted during the application process do not document that the Institution has sufficient assets and financial resources pursuant to Section 71745, subdivision (a)(5), nor do they meet the necessary ratios of current assets to current liabilities of 1.25 to 1.00 or greater, pursuant to Section 71745, subdivision (a)(6). Based upon the financial documents submitted for the year ending September 30, 2015, the Institution's current ratio is 0.37.

(c) Respondent incorporates by reference herein Paragraphs 16-23, above.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Change of Institutional Name)

25. Respondent's application is subject to denial under Code sections 94891, subdivision (b) and 94928, subdivision (c), in that the Institution is approved to operate under the name "Stella Adler Academy of Acting", but the application received on May 14, 2013 documents inconsistencies in the use of the Institution's name through their corporation name (i.e. "the Stella

Adler Theatre"), enrollment agreements (i.e. "Stella Adler Los Angeles Academy of Acting and Theatre"), U.S. application (i.e. "Stella Adler – Los Angeles"), school catalog, School Performance Fact Sheets and advertising, in violation of California Code of Regulations, title 5, sections 71630. Respondent incorporates by reference herein Paragraphs 16-23, above.

THIRD CAUSE FOR DENIAL OF APPLICATION

(School Performance Fact Sheet)

26. Respondent's application is subject to denial under Code section 94932, as follows:

a. Respondent reports in its School Performance Fact Sheet (SPFS) for 2013 that 31 students were available for graduation, 31 students graduated and the Completion Rate is 57%. The Completion Rate is incorrect and is not calculated in accordance with the provisions of California Code of Regulation, title 5, section 74112, subdivision (d).

b. Respondent violated Code sections 94910, subdivision (a), 94928, subdivision (c) and 94929, and California Code of Regulation, title 5, section 74112, subdivision (d), in that the Institution's SPFS for 2014 does not include data for Students Available for Graduation, Graduates and Completion Rate. These were left blank by the Institution.

c. For the SPFS for 2013/2014, the Placement Rates do not include the definitions for footnote six - Graduates Employed in the Field an Average of less than 32 hours per week, and footnote seven - Graduates Employed in the Field at least 32 hours per week, in violation of California Code of Regulation, title 5, section 74112, subdivision (e).

d. Respondent failed to include in its SPFS a statement informing the reader where they may obtain from the institution a list of employment positions determined to be within the field for which a student received education and training for the calculation of job placement rates, in violation of Code section 94910, subdivision (f)(2).

e. Respondent failed to include in its SPFS a statement informing the reader of where he or she may obtain from the Institution a list of the objective sources of information used to substantiate the salary disclosure, in violation of Code section 94910, subdivision (f)(3).

f. In Respondent's SPFS received on June 17, 2016, the tables for On-Time Completion Rates and Students Completing After Published Program Length (101-150%

Completion Rates) are confusing and labeled incorrectly. Also, the SPFS submitted incorrectly documents in the Institution's header for the reported years of 2016/2017. The correct reporting years should be for 2013/2014. Further, the fact sheet tables document the years 2014/2015. The reporting years should be for 2013/2014. This is a violation of Code sections 94910, subdivision (a), 94928, subdivision (c), 94929 and California Code of Regulations, title 5, section 74112, subdivision (d).

g. In Respondent's SPFS received on June 17, 2016, the Institution's header incorrectly documents the reported years of 2016/2017. The correct reporting years should be for 2013/2014. Further, the fact sheet tables document the years 2014/2015, when the reporting years should be for 2013/2014. This is a violation of California Code of Regulations, title 5, section 74112, subdivision (c)(2).

h. Respondent's SPFS received on June 17, 2016 documents the actual reporting years as 2014/2015. The 2013 reporting year is not documented on the fact sheet. This is a violation of California Code of Regulations, title 5, section 74112, subdivision (c)(2).

27. Respondent incorporates by reference herein Paragraphs 16-23, above.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Student Performance Data)

28. Respondent's application is subject to denial because the Student Performance Data which was submitted to the Bureau does not include all of the minimum requirements, pursuant to California Code of Regulations, title 5, section 74112, subdivision (h). In particular, the supporting data does not include an explanation of the colored areas or abbreviations used.

29. Respondent incorporates by reference herein Paragraphs 16-23, above.

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 of Stella Adler Academy of Acting for an Application for Renewal of Approval to Operate, Institution Code No. 1919351; and

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

DATED: 9/26/16

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

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