KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General
JUSTIN R. SURBER
Deputy Attorney General
State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 355-5437
Facsimile: (415) 703-5480
Attorneys for Complainant

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: **INTERCULTURAL INSTITUTE OF CALIFORNIA, a Non-Profit Corporation Korean Center, Inc., Parent nonprofit 1362 POST STREET SAN FRANCISCO CA 94109** **School Code No. 3801931** Respondent.	Case No. 1001629 **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 June 24, 2004 the former Bureau for Private Postsecondary and Vocational Education[1] issued a full approval to operate to the Intercultural Institute Of California, a Non-Profit Corporation, (School Code No. 3801931):

[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 (continued...)

3. The approval to operate expired on May 20, 2011 and has not been renewed.

4. On or about May 16, 2011, the Bureau for Private Postsecondary Education received a renewal application for its approval to operate from the Intercultural Institute of California. The members of the Intercultural Institute of California's Board of Directors each certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied the application on September 15, 2015. The Intercultural Institute of California appealed that denial and a Statement of Issues is pending against Respondent.

5. On or about September 21, 2015, Bureau for Private Postsecondary Education received an Application for Approval to Operate an Accredited Institution from the Intercultural Institute of California. Korean Center Inc. was listed as the "parent nonprofit." The application referenced school code 3801931 on the application. School Code 3801931 belongs to the Intercultural Institute of California which is owned by Intercultural Institute of California, a non-profit corporation. The Intercultural Institute of California and Korea Center Inc., shall collectively be referred to as "Respondent." The Bureau denied the application on February 22, 2015.

JURISDICTION

6. 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.

7. 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.

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(...continued)
Bureau for Private Postsecondary Education.

STATUTORY PROVISIONS

8. California Education Code Section 94885 states:

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

. . .

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

. . ."

9. California Education Code Section 94887 states:

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

REGULATORY PROVISIONS

10. 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.

. . .

"(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.

11. California Code of Regulations Title 5, 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:

. . .

"(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.

. . ."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Financial Resources and Statements)

12. Respondent's application is subject to denial under California Education Code Section 94887 in conjunction with California Education Code Section 94885, subsection (a)(6), and California Code of Regulations, Title 5, section 74115, subsections (b)and (d); and California Code of Regulations, Title 5, section 71745, subsection (a)(6), in that the financial statements submitted by Respondent did not meet the requirements of the regulations as follows:

a. Respondent submitted financial statements for 2010 with its May 16, 2011 renewal application. The financial statements that were submitted were not reviewed or audited as required.

b. Respondent also submitted reviewed financial statements for the year ended June 30, 2011 on July 30, 2012. The submitted financial statements were reviewed and not audited. The submitted financial statements show a gross annual revenue of greater than $500,000, which requires the submission of audited financial statements. The submitted financial statements were not "current". "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. Also, 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. The financial statements submitted did not cover the most recent complete fiscal year at the time of submission, which would have been the year ended June 30, 2012.

c. Respondent submitted reviewed financial statements for the year ended June 30, 2014, on December 3, 2014. The submitted financial statements were reviewed and not audited. The submitted financial statements show a gross annual revenue of greater than $500,000, which

requires the submission of audited financial statements. The submitted financial statements do not show a compliant ratio of current assets to current liabilities of 1.25 to 1.00 or greater. The financial statements list a ratio of current assets to current liabilities of 0.55 to 1.00 and do not meet the required ratio of 1.25 to 1.00.

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 Application for Approval to Operate an Accredited Institution submitted by the Intercultural Institute of California

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

DATED: 10/7/16

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

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