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8
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 Accusation Against:
13 **CORINTHIAN COLLEGES, INC., DBA**
14 **EVEREST COLLEGE AND WYOTECH**
15 **(CALIFORNIA SCHOOLS ONLY); JACK**
16 **MASSIMINO, CHAIRMAN AND CEO**
6 Hutton Centre Dr., Ste. 400
Santa Ana, CA 92707

17 **Approval to Operate Institution Code**
18 **Numbers 1900741 (1045 W. Redondo Beach**
19 **Blvd., #275, Gardena, CA 90247); 1900731**
20 **(2215 W. Mission Rd., Alhambra, CA**
21 **91803); 1904591 (18040 Sherman Wy., Ste.**
400, Reseda, CA 91335); (continued on page
11)

Respondent.

Case No. 1000393

A C C U S A T I O N

22 Complainant alleges:

23 PARTIES

- 24 1. Joanne Wenzel (Complainant) brings this Accusation, pursuant to Government Code
25 section 11460.60, subdivisions (a) and (b), solely in her official capacity as the Chief of the
26 Bureau for Private Postsecondary Education, Department of Consumer Affairs.
- 27 2. The Bureau granted an approval to operate by means of accreditation to eleven (11)
28 Everest College, Institution Code Numbers 1900741, 1900731, 1904591, 1913561, 1917331,

1 1924201, 3000221, 3303781, 3600141, 3601871, and 98946206; and two (2) WyoTech
2 campuses, Institution Code Numbers 0102871 and 1904031. Obtaining approval by means of
3 accreditation requires that the institutions' owner have accreditation through an accredited agency
4 recognized by the United States Department of Education (USDOE). The listed Everest College
5 and WyoTech institutions are owned by Corinthian Colleges, Inc. (CCI), a California corporation.
6 CCI is directed and managed by its CEO and Chairman, Jack Massimino. Unless otherwise
7 stated, the Everest College and WyoTech institutions listed in the caption, CCI, and Mr.
8 Massimino are referenced in this Accusation collectively as "Respondent."

9 JURISDICTION

10 3. This Accusation is brought before the Director of the Department of Consumer
11 Affairs (Director) for the Bureau for Private Postsecondary Education, under the authority of the
12 following laws.

13 4. Business and Professions Code section 118 states, in part:

14 ...

15 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
16 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
17 order of a court of law, or its surrender without the written consent of the board, shall not, during
18 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
19 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
20 provided by law or to enter an order suspending or revoking the license or otherwise taking
21 disciplinary action against the licensee on any such ground.

22 "(c) As used in this section, 'board' includes an individual who is authorized by any
23 provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,'
24 'registration,' and 'permit.'"

25 5. Business and Professions Code section 477 states:

26 "As used in this division:

27 "(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,'
28 'examining committee,' 'program,' and 'agency.'

1 “(b) ‘License’ includes certificate, registration or other means to engage in a business or
2 profession regulated by this code.”

3 6. Government Code section 11460.60 states:

4 “(a) After issuing an emergency decision under this article for temporary, interim relief, the
5 agency shall conduct an adjudicative proceeding under a formal, informal, or other applicable
6 hearing procedure to resolve the underlying issues giving rise to the temporary, interim relief.

7 “(b) The agency shall commence an adjudicative proceeding under another procedure
8 within 10 days after issuing an emergency decision under this article, notwithstanding the
9 pendency of proceedings for judicial review of the emergency decision.”

10 STATUTORY & REGULATORY PROVISIONS

11 7. Education Code section 94813 states:

12 “‘Accredited’ means an institution is accredited by an accrediting agency recognized by the
13 United States Department of Education.”

14 8. Education Code section 94814 states:

15 “‘Accrediting agency’ is an agency recognized by the United States Department of
16 Education.”

17 9. Education Code section 94934 states, in part:

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

22 . . .

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

25”

26 10. Code of Regulations, title 5, section 71745 states:

27 “(a) The institution shall document that it has at all times sufficient assets and financial
28 resources to do all of the following:

1 “(1) Provide all of the educational programs that the institution represented it would
2 provide.

3 “(2) Ensure that all students admitted to its educational programs have a reasonable
4 opportunity to complete the programs and obtain their degrees or diplomas.

5 “(3) Maintain the minimum standards required by the Act and this chapter.

6 “(4) Pay timely refunds as required by Article 13 of the Act.

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

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

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

20 “(1) consents in writing to be sued in California;

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

23 “(3) designates and maintains an agent for service of process, consistent with section
24 74190;

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

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

1 “(c) An institution shall provide to the Bureau its most current financial statements upon
2 request.”

3 11. Code of Regulations, title 5, section 74110 states:

4 “(a) The annual report required by section 94934 of the Code shall include the information
5 required by section 94934 for all educational programs offered in the prior calendar year.

6 “(b) In addition to the information required by section 94934 provided under penalty of
7 perjury, the institution shall have annual financial statements prepared for the institution's prior
8 fiscal year and signed under penalty of perjury, and shall submit a hard copy under separate cover
9 of such statements in conjunction with its annual report. The form, content and mode of
10 preparation of financial statements shall comply with section 74115 of this Division. The Bureau
11 may request that the institution immediately make available for inspection to a representative of
12 the Bureau, these financial statements at the offices of the institution.

13 “(c) An institution shall file its annual report by September 1st. The Bureau may extend the
14 period for filing if the institution demonstrates evidence of substantial need but in no case longer
15 than 60 days. The institution shall not change the date of its filing its annual report because of a
16 change in the fiscal year without the Bureau's approval.

17 “(d) The annual report shall be electronically filed by submitting the information required
18 by section 94934 of the Code via the Bureau's website, electronically attaching, as directed, the
19 School Performance Fact Sheet and the school catalog. An institution without the capability to
20 submit the information electronically shall inform the Bureau not less than 45 days prior to the
21 date the information is required by subdivision (c), and receive direction on alternative means of
22 submission.”

23 12. Code of Regulations, title 5, section 74115 states:

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

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

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

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

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

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

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

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

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

26 COST RECOVERY

27 13. Business and Professions Code section 125.3 provides, in part, that the Board may
28 request the administrative law judge to direct a licentiate found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
3 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
4 may be included in a stipulated settlement.

5 FACTUAL BACKGROUND

6 *I. Respondent Cannot Produce Current Financial Statements*

7 14. On July 7, 2014, CCI entered into an Operating Agreement with the USDOE that,
8 among other things, required CCI to produce certain documents by specified deadlines, teach out
9 and close twelve (12) of its schools, and pursue selling the remainder of its Title IV-eligible
10 schools.

11 15. On September 16, 2014, CCI filed with the United States Securities and Exchange
12 Commission a Form 10-K stating an inability to produce current financial statements:

13 The efforts required to comply with the terms of the Operating Agreement have
14 put significant constraints on [CCI's] resources, **preventing it from obtaining**
15 **and compiling the information required to complete and file its Annual**
16 **Report on Form 10-K for the fiscal year ended June 30, 2014. . . . In addition,**
17 **the uncertain outcome of the school sales that [CCI] is pursuing creates**
18 **uncertainties regarding the valuation of [CCI's] assets, as well as its financial**
19 **condition and results of operations as of and for the fiscal year ended June**
20 **30, 2014.**¹

21 16. As of July 9, 2014, Everest College has been notifying its students of a possible sale
22 of the school. Respondent has also informed its institutions' students about pending state and
23 federal regulatory investigations, warning "[I]f an enforcement action is taken, it could negatively
24 impact our ability to operate this school and your ability to complete your program at this school
25 as expected." Respondent has requested that its institutions' students confirm, by signature,
26 receipt of this caveat before signing enrollment agreements.

27 17. Respondent is required, pursuant to Education Code section 94934, to provide the
28 Bureau with its current financial statements no later than September 1 for each year. "Current,"
in describing financial statements, "means completed no sooner than 120 days prior to the time it

¹ https://www.sec.gov/Archives/edgar/data/1066134/000110465914066574/a14-17861_4nt10k.htm (emphasis added)

1 is submitted to the Bureau, and covering no less than the most recent complete fiscal year.” Cal.
2 Code Regs., title 5, § 74115, subd. (d).

3 18. Respondent did not submit current financial statements by September 1, 2014, and
4 has indicated it cannot produce current financial statements. Specifically, on December 24, 2015,
5 Bureau Compliance Inspector Brian Brisco conducted a review of the consolidated financial
6 statements that Respondent most recently submitted for Everest College and WyoTech. Based on
7 his review, Compliance Inspector Brisco found that Respondent did not submit “current”
8 financial statements. Rather, the financial statements Respondent offered were for the 2012-
9 2013 fiscal year and were prepared on September 3, 2013.

10 19. On December 23, 2014, Bureau Compliance Manager Wayne Brenner sent an email
11 to CCI’s Vice President of Accreditation and Licensing, John Andrews, requesting a copy of
12 Respondent’s most recent audited financial statements. On December 31, 2014, Mr. Andrews
13 responded via an email indicating that Respondent is not able to provide current financial
14 statements:

15 As previously disclosed in a Report on Form 8-K filed with the [SEC], on July 7,
16 2014, [CCI] entered into an Operating Agreement, subsequently amended [] with
17 the [USDOE] which became effective July 8, 2014, and which, among other
18 things, required [CCI] to produce certain documents within certain time periods,
19 provide certain financial and other information to an independent Monitor and
20 subject a large part of the Company’s operations and financial activities oversight
21 by that Monitor, teach out and close 12 of its schools, and pursue selling the
22 remainder of its Title IV-eligible schools. The efforts required to comply with the
23 terms of the Operating Agreement have put significant constraints on [CCI’s]
24 resources, **preventing it from obtaining and compiling the information
25 required to complete and file its Annual Report on Form 10-K for the fiscal
26 year ended June 30, 2014 in a timely manner.**²

27 20. Between January 2015 and February 2015, the Bureau conducted unannounced
28 compliance inspections of the eleven (11) Everest and two (2) WyoTech campuses referenced by
institution code in the caption of this Accusation. During those inspections, the institutions failed
to and could not provide current financial statements as required by Code of Regulations, title 5,
section 74115, subdivision (d).

² Emphasis added.

1 **II. Recent Regulatory Action by the United States Department of Education**

2 21. On March 3, 2015, the USDOE issued a Letter Of Credit Request to Jack Massimino,
3 which allows CCI to continue to participate in Title IV provided that it posts an irrevocable letter
4 of credit in the amount of \$34,506,372.

5 22. On April 14, 2015, the USDOE issued a Notice Of Intent To Fine Heald College.
6 Non-party Heald College is owned by CCI. Through the Notice, the USDOE fined Heald
7 College \$29,665,000.00 based on findings that Heald College failed to meet the fiduciary
8 standard of conduct by misrepresenting its placement rates to current and prospective students
9 and its accreditors and by failing to comply with federal regulations requiring the complete and
10 accurate disclosure of its placement rates.

11 **III. The Bureau Issues an Emergency Decision Halting Enrollment of New Students**

12 23. On April 17, 2015, the Bureau issued Respondent a Notice Of Emergency Decision,
13 pursuant to Code of Regulations, title 5, section 75150, subdivision (d) and Government Code
14 section 11460.50. This Notice informed Respondent that, effective at the close of business on
15 April 23, 2015, an Emergency Decision would be issued requiring that Respondent “cease
16 enrollment of any new students in all programs” at the Everest College and WyoTech campuses
17 referenced by institution code in the caption of this Accusation. Pursuant to Code of
18 Regulations, title 5, section 75150, subdivision (f), the Bureau offered Respondent the
19 opportunity to state its opposition to the Emergency Decision at a hearing on April 22 before the
20 Director of Consumer Affairs. Respondent declined to be heard. The Bureau’s Emergency
21 Decision became effective on April 23, 2015.

22 **FIRST CAUSE FOR DISCIPLINE**
23 (Failure to Demonstrate Possession of Sufficient Financial Resources)
24 (Cal. Code Regs., title 5, § 71745, subs. (a) and (b))

25 24. Respondent has subjected its approvals to operate to disciplinary action for failing to
26 demonstrate that its institutions meet the requirements for financial resources required by Code of
27 Regulations, title 5, section 71745, subdivisions (a) and (b). The circumstances are set forth in
28 paragraphs 14 through 23, above.

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SECOND CAUSE FOR DISCIPLINE

(Failure to Provide Financial Statements Upon Request)
(Educ. Code § 94934, subd. (a)(9); Cal. Code Regs., title 5, §§ 71745, subd. (c);
74110, subd. (b) and (c); and 74115)

25. Respondent has subjected its approvals to operate to disciplinary action for failing to produce "current" financial statements. (Educ. Code § 94934, subd. (a)(9); Cal. Code Regs., title 5, §§ 71745, subd. (c); 74110, subd. (b) and (c); and 74115). The circumstances are set forth in paragraphs 14 through 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. Sustaining the Bureau's Emergency Decision which orders Respondent to cease enrollment of any new students in all programs at institution code numbers 0102871, 1900741, 1900731, 1904031, 1904591, 1913561, 1917331, 1924201, 3000221, 3303781, 3600141, 3601871, and 98946206;
2. Ordering Respondent to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/23/13



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

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Approval to Operate Institution Code Numbers (continued from caption):

- 1913561 (12801 Crossroads Pkwy South, City of Industry, CA 91746);
- 1917331 (3000 S. Robertson Blvd., Ste. 300, Los Angeles, CA 90034);
- 1924201 (1231 Cabrillo Ave., Ste. 201, Torrance, CA 90501);
- 3000221 (511 N. Brookhurst St., Ste. 300, Anaheim, CA 92801);
- 3303781 (1819 S. Excise Ave., Ontario, CA 91761-8525);
- 3600141 (217 E. Club Center Dr., #A, San Bernadino, CA 92408);
- 3601871 (1460 S. Millikin Ave., Ontario, CA 91761);
- 98946206 (500 Santa Ana Blvd., Santa Ana, CA 92701);
- 0102871 (200 Whitney Pl., Fremont, CA 94539); and
- 1904031 (2161 Technology Pl., Long Beach, CA 90810)