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

10
11 In the Matter of the Accusation Against:

Case No. 998896

12 **HANS ACADEMY OF MASSAGE;**
13 **SUN YO HAN, OWNER**
14 **1930 Wilshire Blvd., Suite 302**
Los Angeles, CA 90057

A C C U S A T I O N

15 **Approval to Operate Institutional Programs**
Certificate Code. 1936441

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Joanne Wenzel ("Complainant") brings this Accusation solely in her official capacity as
21 the Chief of the Bureau for Private Postsecondary Education ("Bureau"), Department of
22 Consumer Affairs.

23 2. On or about April 16, 2012, the Bureau issued an Approval to Operate Institutional
24 Programs Certificate Code 1936441 to Hans Academy of Massage ("Respondent School"); Sun
25 Yo Han, Owner (collectively "Respondents"). The Approval to Operate Institutional Programs
26 Certificate Code was at all times relevant to the charges brought herein and will expire on April
27 16, 2017, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Director of the Department of Consumer Affairs
3 (“Director”) for the Bureau, under the authority of the following laws.

4 4. Section 118, subdivision (b), of the Business and Professions Code provides that the
5 suspension/expiration/surrender/cancellation of a license shall not deprive the Director of
6 jurisdiction to proceed with a disciplinary action during the period within which the license may be
7 renewed, restored, reissued or reinstated.

8 5. Section 94815 of the Education Code¹ states: “Annual report’ means the yearly
9 report required to be filed by institutions.”

10 6. Section 94932 of the Education Code states:

11 “The bureau shall determine an institution's compliance with the requirements of this
12 chapter. The bureau shall have the power to require reports that institutions shall file with the
13 bureau in addition to the annual report, to send staff to an institution's sites, and to require
14 documents and responses from an institution to monitor compliance. When the bureau has reason
15 to believe that an institution may be out of compliance, it shall conduct an investigation of the
16 institution. If the bureau determines, after completing an investigation, that an institution has
17 violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this
18 article.”

19 7. Section 94893 of the Education Code states:

20 “If an institution intends to make a substantive change to its approval to operate, the
21 institution shall receive prior authorization from the bureau. Except as provided in subdivision (a)
22 of Section 94896, if the institution makes the substantive change without prior bureau
23 authorization, the institution's approval to operate may be suspended or revoked.”

24 8. Section 94894 of the Education Code states:
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27 ¹ The California Private Postsecondary Education Act of 2009 was recently amended, effective January 1,
28 2015. See Senate Bill No. 1247. This Accusation is based on the pre-amendment version of the Act.

1 “The following changes to an approval to operate are considered substantive changes and
2 require prior authorization:

3 “(a) A change in educational objectives, including an addition of a new diploma or a degree
4 educational program unrelated to the approved educational programs offered by the institution.

5 “(b) A change in ownership

6 “(c) A change in control.

7 “(d) A change in business organization form.

8 “(e) A change of location.

9 “(f) A change of name.

10 “(g) A significant change in the method of instructional delivery.

11 “(h) An addition of a separate branch more than five miles from the main or branch
12 campus.”

13 9. Section 94897 of the Education Code states in pertinent part:

14 “An institution shall not do any of the following:

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16 “(j) In any manner make an untrue or misleading change in, or untrue or misleading
17 statement related to, a test score, grade or record of grades, attendance record, record indicating
18 student completion, placement, employment, salaries, or financial information, including any of the
19 following:

20 ...

21 “(3) Any other record or document required by this chapter or by the bureau.”

22 “(k) Willfully falsify, destroy, or conceal any document of record while that document of
23 record is required to be maintained by this chapter.”

24 10. Section 94926 of the Education Code states:

25 “At least 30 days prior to closing, the institution shall notify the bureau in writing of its
26 intention to close. The notice shall be accompanied by a closure plan, which shall include, but not
27 necessarily be limited to, all of the following:

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1 "(a) A plan for providing teach-outs of educational programs, including any agreements with
2 any other postsecondary educational institutions to provide teach-outs.

3 "(b) If no teach-out plan is contemplated, or for students who do not wish to participate in a
4 teach-out, arrangements for making refunds within 45 days from the date of closure, or for
5 institutions that participate in federal student financial aid programs arrangements for making
6 refunds and returning federal student financial aid program funds.

7 "(c) If the institution is a participant in federal student financial aid programs, it shall provide
8 students information concerning these programs and institutional closures.

9 "(d) A plan for the disposition of student records. "

10 11. Section 94927 of the Education Code states:

11 "An institution shall be considered in default of the enrollment agreement when an
12 educational program is discontinued or canceled or the institution closes prior to completion of the
13 educational program. When an institution is in default, student institutional charges may be
14 refunded on a pro rata basis if the bureau determines that the school has made provision for
15 students enrolled at the time of default to complete a comparable educational program at another
16 institution at no additional charge to the students beyond the amount of the total charges in the
17 original enrollment agreement. If the institution does not make that provision, a total refund of all
18 institutional charges shall be made to students."

19 12. Section 94927.5 of the Education Code states:

20 "(a) Prior to closing, an institution shall provide the bureau with the following:

21 "(1) Pertinent student records, including transcripts, as determined by the bureau,
22 pursuant to regulations adopted by the bureau.

23 "(2) If the institution is an accredited institution, a plan for the retention of records and
24 transcripts, approved by the institution's accrediting agency, that provides information as to how a
25 student may obtain a transcript or any other information about the student's
26 coursework and degrees completed.

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1 “(b) Subdivision (a) applies to all private postsecondary institutions, including institutions
2 that are otherwise exempt from this chapter pursuant to Article 4 (commencing with Section
3 94874).”

4 13. Section 94929 of the Education Code states, in pertinent part:

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

9 14. Section 94929.5 of the Education Code states:

10 “(a) An institution shall annually report to the bureau, as part of the annual report, and shall
11 publish in its School Performance Fact Sheet, all of the following:

12 “(1) The job placement rate, calculated by dividing the number of graduates employed in
13 the field by the number of graduates available for employment for each program that is either
14 (1) designed, or advertised, to lead to a particular career, or (2) advertised or promoted with
15 any claim regarding job placement.

16 “(2) The license examination passage rates for the immediately preceding two years for
17 programs leading to employment for which passage of a state licensing examination is
18 required, calculated by dividing the number of graduates who pass the examination by the
19 number of graduates who take the licensing examination the first time that the examination is
20 available after completion of the educational program. The institution shall use state agency
21 licensing data to calculate license examination passage rates. If those data are unavailable,
22 the institution shall calculate the license examination passage rate in a manner consistent with
23 regulations adopted by the bureau.

24 “(3) Salary and wage information, consisting of the total number of graduates employed in
25 the field and the annual wages or salaries of those graduates stated in increments of five
26 thousand dollars (\$5,000).

27 “(4) If applicable, the most recent official three-year cohort default rate reported by the
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1 United States Department of Education for the institution and the percentage of enrolled
2 students receiving federal student loans.

3 "(b) Nothing in this section shall limit the bureau's authority to collect information from an
4 institution to comply with this section and ensure, by regulation and other lawful means, that the
5 information required by this section, and the manner in which it is collected and reported, is all of
6 the following:

7 "(1) Useful to students.

8 "(2) Useful to policymakers.

9 "(3) Based upon the most credible and verifiable data available.

10 "(4) Does not impose undue compliance burdens on an institution."

11 15. Section 94937 of the Education Code states:

12 "(a) As a consequence of an investigation, and upon a finding that an institution has
13 committed a violation, the bureau may place an institution on probation or may suspend or revoke
14 an institution's approval to operate for:

15 "(1) Obtaining an approval to operate by fraud.

16 "(2) A material violation or repeated violations of this chapter or regulations adopted
17 pursuant to this chapter that have resulted in harm to students. For purposes of this paragraph,
18 "material violation" includes, but is not limited to, misrepresentation, fraud in the inducement of a
19 contract, and false or misleading claims or advertising, upon which a student reasonably relied in
20 executing an enrollment agreement and that resulted in harm to the student.

21 "(b) The bureau shall adopt regulations, within one year of the enactment of this chapter,
22 governing probation and suspension of an approval to operate.

23 "(c) The bureau may seek reimbursement pursuant to Section 125.3 of the Business and
24 Professions Code.

25 "(d) An institution shall not be required to pay the cost of investigation to more than one
26 agency."

27 **COST RECOVERY PROVISION**

28 16. Business and Professions Code section 125.3. states in pertinent part:

1 "(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
2 proceeding before any board within the department or before the Osteopathic Medical Board,
3 upon request of the entity bringing the proceeding may request the administrative law judge to
4 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
5 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

6 . . .

7 "(i) Nothing in this section shall preclude a board from including the recovery of the costs of
8 investigation and enforcement of a case in any stipulated settlement.”

9 REGULATORY PROVISIONS

10 17. California Code of Regulations, title 5, section 71640, provides in pertinent part:

11 “(a) An institution seeking to change the business organization form, control, or ownership
12 as defined in sections 94821, 94822, or 94823, respectively shall complete the "Change of
13 Business Organization/Control/Ownership" form (OWN rev. 2/10) to obtain prior authorization.
14 The form shall be submitted to the Bureau along with the appropriate fee as provided in Section
15 94930.5(c) of the Code. An application under this section shall be signed by all signatories to the
16 initial application, or the last approved application under this section, as well as the persons
17 required to sign an application pursuant to section 71380 for institutions approved under section
18 94885 of the code and section 71390 for institutions approved under section 94890 of the code.
19 Each signature shall be dated, and each fact stated therein and each attachment thereto shall be
20 declared to be true under penalty of perjury, in the following form . . .”

21 18. California Code of Regulations, title 5, section 75100, provides in pertinent part:

22 “(a) The Bureau may suspend, revoke or place on probation with terms and conditions an
23 approval to operate.

24 “(b) "Material violation" as used in section 94937 of the Code includes committing any act
25 that would be grounds for denial under section 480 of the Business and Professions Code.”

26 19. California Code of Regulations, title 5, section 71710 states:

27 “In order to meet its mission and objectives, the educational program defined in section
28 94837 of the Code shall be comprised of a curriculum that includes:

1 “(a) those subject areas that are necessary for a student to achieve the educational
2 objectives of the educational program in which the student is enrolled;

3 “(b) subject areas and courses or modules that are presented in a logically organized
4 manner or sequence to students;

5 “(c) course or module materials that are designed or organized by duly qualified faculty.
6 For each course or module, each student shall be provided with a syllabus or course outline that
7 contains:

8 “(1) a short, descriptive title of the educational program;

9 “(2) a statement of educational objectives;

10 “(3) length of the educational program;

11 “(4) sequence and frequency of lessons or class sessions;

12 “(5) complete citations of textbooks and other required written materials;

13 “(6) sequential and detailed outline of subject matter to be addressed or a list of
14 skills to be learned and how those skills are to be measured;

15 “(7) instructional mode or methods.

16 “(d) if degree granting, require research of an appropriate degree that utilizes a library and
17 other learning resources;

18 “(e) specific learning outcomes tied to the sequence of the presentation of the material to
19 measure the students' learning of the material; and

20 “(f) evaluation by duly qualified faculty of those learning outcomes.”

21 20. California Code of Regulations, title 5, section 71715 provides in pertinent part:

22 “(a) Instruction shall be the central focus of the resources and services of the institution.

23 ...

24 “(c) Direct instruction requires the physical presence of one or more students and one or
25 more faculty members at the same location. Direct instruction includes instruction presented in a
26 classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or other physical learning
27 settings consistent with the mission, purposes, and objectives of the institution.”

28 21. California Code of Regulations, title 5, section 71745 provides in pertinent part:

1 24. Further investigation with the assistance of the San Gabriel Police Department
2 revealed that Respondent School was operated and controlled by Connie Kim, a.k.a. Hee Jung
3 Kim, owner of Westlake College, formerly known as Manhattan College, which listed the same
4 address as Respondent School, but a different suite number. On or about May 14, 2013, pursuant
5 to a warranted search of one of Connie Kim's vacated offices, Connie Kim was found to be in
6 possession of Respondent School's business cards, Respondent School's blank Certificates of
7 Transcripts, student files containing documents from Respondent School, Sun Y. Han's
8 identification card and blank checks from Respondent School's bank account. The Bureau was
9 not able to locate Sun Y. Han.

10 25. During the warranted search, student I.L. arrived at the location to demand a refund
11 from Connie Kim. She advised the DOI investigator and the detectives that on or about July 2,
12 2012, she paid Connie Kim \$2,700 to attend massage therapy courses at Manhattan College and to
13 obtain her massage therapist license, however, she never received any course schedule or a
14 certificate. The IRS Form No. 1098-T shows that I.L. paid \$2,700 to Manhattan College, located
15 at 1930 Wilshire Blvd., #300, Los Angeles, CA 90057.

16 26. The DOI investigator found I.L.'s student file in the vacated office during the search.
17 The file contained an Enrollment Agreement form for Manhattan College signed and dated by I.L.
18 on July 2, 2012, along with an Application for Certificate to the California Massage Therapy
19 Council signed and dated by I.L. on July 30, 2012. This Application listed Respondent School as
20 the school that I.L. attended. I.L.'s transcript was found in the file which showed that I.L.
21 completed five (5) courses at Respondent School from July 11, 2011 to December 30, 2011
22 although I.L. never attended any classes and never received her license.

23 27. In or about September 2014, correspondence mailed by the Bureau to Respondent
24 School at 1930 Wilshire Blvd., Suite 302, Los Angeles, CA 90057 was returned and marked as
25 "address unknown" and "return to sender".

26 28. Since 2011, Respondent School had not submitted any annual reports to the Bureau.

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FIRST CAUSE FOR DISCIPLINE

(Change of Ownership without Approval)

7 29. Respondents are subject to disciplinary action under Education Code sections 94893
8 and 94894 in that Respondents made substantive changes without prior authorization. The
9 circumstances are as follows:

10 30. In or about July 2012, Respondents allowed Connie Kim to take control and
11 ownership of Respondent School without the prior approval of the Bureau.

12 31. In or about May 2013, the address of record of Respondent School located at 1930
13 Wilshire Blvd., Suite 302, Los Angeles, CA 90057 was vacated without the prior approval of the
14 Bureau.

15 32. In or about September 2014, correspondence mailed by the Bureau to Respondent
16 School at 1930 Wilshire Blvd., Suite 302, Los Angeles, CA 90057 was returned and marked as
17 "address unknown" and "return to sender".

18 33. Complainant refers to and incorporates all the allegations contained in paragraphs 22-
19 28 as though set forth fully.

SECOND CAUSE FOR DISCIPLINE

(False Documents)

22 34. Respondents are subject to disciplinary action under Education Code section 94897,
23 subdivisions (j)(3), and (k) in that Respondents made false documents related to I.L.'s student's
24 record. The circumstances are as follows:

25 35. A transcript was prepared for I.L. on Respondent School's stationary for the period of
26 July 11, 2011 to December 30, 2011 although I.L. never attended any classes and never received
27 her license.

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1 36. An Application for Certificate to the California Massage Therapy Council signed and
2 dated by I.L. on July 30, 2012 shows Respondent School as the school that I.L. attended although
3 I.L. never attended any classes.

4 37. Complainant refers to and incorporates all the allegations contained in paragraphs 22-
5 28 as though set forth fully.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(False Information on Application)**

8 38. Respondents are subject to disciplinary action under Education Code sections 94897,
9 94937, subdivisions (a)(1) and (b) in conjunction with California Code of Regulations, title 5,
10 section 71640, subdivision (a), in that Respondents provided false information on the Application
11 to obtain an approval to operate. The circumstances are as follows:

12 39. On or about August 29, 2012, the Bureau received the Application from Respondents
13 to transfer ownership of Respondent School from Sun Y. Han (100% ownership) to Jong Woong
14 Lee (“Lee”) with a 76% ownership. On the Application, the social security number listed for Lee
15 belonged to someone else. The home address for Lee was the same as the business location of
16 Respondent School. Upon further investigation, DOI investigators were not able to confirm the
17 existence of Lee.

18 40. Complainant refers to and incorporates all the allegations contained in paragraphs 22-
19 28 as though set forth fully.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Failure to Notify Bureau of Closure)**

22 41. Respondents are subject to disciplinary action under Education Code sections 94926,
23 subdivisions (a) and (d), 94927 and 94927.5 in conjunction with California Code of Regulations,
24 title 5, section 71745, subdivision (a), in that Respondents failed to notify the Bureau of its
25 intention to close, and failed to provide the Bureau of pertinent records. The circumstances are as
26 follows:


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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. Revoking or suspending the Approval of Institutional Programs Certificate Code 1936441, issued to Hans Academy of Massage; Sun Yo Han, Owner;
2. Ordering Hans Academy of Massage; Sun Yo Han, Owner; to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to Education Code section 94937, subdivision (c) and Business and Professions Code section 125.3;
3. Ordering Hans Academy of Massage; Sun Yo Han, Owner to make restitution to student I.L. pursuant to Education Code section 94927;
4. Taking such other and further action as deemed necessary and proper.

DATED: 3/11/15


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

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