In the Matter of the Statement of Issues Against:

CODING HOUSE INSTITUTE

Application for Approval to Operate an Institution Non-Accredited

Respondent.

Complainant alleges:

PARTIES

1. Joanne Wenzel ("Complainant") brings this Second Amended 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 April 8, 2014, the Bureau for Private Postsecondary Education ("Bureau") received an Application for Approval to Operate an Institution Non-Accredited from Respondent Coding House Institute ("Respondent"). Respondent is owned by non-party N.J..

Between April 17, 2014 and May 27, 2015, the Bureau and Respondent exchanged correspondence regarding Respondent's application.
3. On or about June 3, 2015, the Bureau issued Respondent a Notice of Denial of Application for Approval to Operate. On or about July 17, 2015, the Bureau received a request for an administrative hearing from Respondent. On or about November 12, 2015, the Bureau filed and served a Statement of Issues.

4. In April 2016, the Bureau commenced an investigation regarding Respondent, based on complaints it had received from consumers. All of the causes for denial alleged in this Second Amended Statement of Issues, other than the First Cause for Denial, are based on that investigation.

JURISDICTION

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

6. Section 94885 provides:

   "The bureau shall, by January 1, 2011, adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur:

   "(a) The content of each educational program can achieve its stated objective.

   "(b) The institution maintains specific written standards for student admissions for each educational program and those standards are related to the particular educational program.

   "(c) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program's goals.

   "(d) The institution maintains a withdrawal policy and provides refunds.

   "(e) The directors, administrators, and faculty are properly qualified.

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

   "(g) That, upon satisfactory completion of an educational program, the institution gives students a document signifying the degree or diploma awarded.

   "(h) Adequate records and standard transcripts are maintained and are available to students."
“(i) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws.”

7. Section 94886 provides:

“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.”

8. Section 94887 provides:

“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.”

STATUTORY AND REGULATORY PROVISIONS

9. Business and Professions Code section 480 provides, in part:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

... 

“(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another. 

“(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

... 

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1 The California Private Postsecondary Education Act of 2009 was recently amended, effective January 1, 2015. See Senate Bill No. 1247. This Second Amended Statement of Issues is based on the pre-amendment version of the Act.
“(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.”

10. Section 94817.5 provides:

“‘Approved to operate’ or ‘approved’ means that an institution has received authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs.

11. Section 94840 provides:

“‘Enrollment agreement’ means a written contract between a student and institution concerning an educational program.”

12. Section 94868 provides:

“‘To offer to the public’ means to advertise, publicize, solicit, or recruit.”

13. Section 94869 provides:

“‘To operate’ means to establish, keep, or maintain any facility or location in this state where, or from which, or through which, postsecondary educational programs are provided.”

14. Section 94897 provides, in part:

“An institution shall not do any of the following:

... 

“(b) Promise or guarantee employment, or otherwise overstate the availability of jobs upon graduation.

...

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

“(1) A financial report filed with the bureau.

“(2) Information or records relating to the student’s eligibility for student financial aid at the institution.

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

... 

“(m) Direct any individual to perform an act that violates this chapter, to refrain from reporting unlawful conduct to the bureau or another government agency, or to engage in any unfair act to persuade a student not to complain to the bureau or another government agency.

...”

15. **Section 94898** provides, in part:

... 

“(b) After a student has enrolled in an educational program, the institution shall not do either of the following:

“(1) Make any unscheduled suspension of any class unless caused by circumstances beyond the institution's control.

“(2) Change the day or time during the period of attendance in which any class is offered to a day when the student is not scheduled to attend the institution or to a time that is outside of the range of time that the student is scheduled to attend the institution on the day for which the change is proposed unless at least 90 percent of the students who are enrolled consent to the change and the institution offers full refunds to the students who do not consent to the change. For the purpose of this paragraph, “range of time” means the period beginning with the time at which the student's first scheduled class session for the day is set to start and ending with the time the student's last scheduled class session for that day is set to finish.

...”

16. **Section 94900** provides, in part:

... 

“(b) An institution shall maintain, for each student granted a degree or certificate by that institution, permanent records of all of the following:

“(1) The degree or certificate granted and the date on which that degree or certificate was granted.

/////
“(2) The courses and units on which the certificate or degree was based.

“(3) The grades earned by the student in each of those courses.”

17. Section 94909 provides, in 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:

... 

“(5) A description of the programs offered and a description of the instruction provided in each of the courses offered by the institution, the requirements for completion of each program, including required courses, any final tests or examinations, any required internships or externships, and the total number of credit hours, clock hours, or other increments required for completion.

... 

“(7) Information regarding the faculty and their qualifications.

... 

“(d) An accredited institution is not required to provide a School Performance Fact Sheet to a prospective student who is not a California resident, not residing in California at the time of his or her enrollment, and enrolling in an accredited distance learning degree program offered by the institution, if the institution complies with all federal laws, the applicable laws of the state where the student is located, and other appropriate laws, including, but not limited to, consumer protection and student disclosure requirements.”

18. Section 94902 provides, in part:

“(a) A student shall enroll solely by means of executing an enrollment agreement. The enrollment agreement shall be signed by the student and by an authorized employee of the institution.

“(b) An enrollment agreement is not enforceable unless all of the following requirements are met:

...
“(2) At the time of the execution of the enrollment agreement, the institution held a valid approval to operate.

...”

19. Section 94911 provides, in part:

“An enrollment agreement shall include, at a minimum, all of the following:

... 

“(j) The following statements:

“(1) ‘Any questions a student may have regarding this enrollment agreement that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers).’

“(2) ‘A student or any member of the public may file a complaint about this institution with the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by completing a complaint form, which can be obtained on the bureau’s Internet Web site (Internet Web site address).’”

20. Section 94920 provides, in part:

“An institution that does not participate in the federal student financial aid programs shall do all of the following:

... 

“(b) Institutions shall refund 100 percent of the amount paid for institutional charges, less a reasonable deposit or application fee not to exceed two hundred fifty dollars ($250), if notice of cancellation is made through attendance at the first class session, or the seventh day after enrollment, whichever is later.

... 

“(e) The institution shall pay or credit refunds within 45 days of a student's cancellation or withdrawal.”

/////
21. **California Code of Regulations, title 5, section 71110** provides, in part:

   "An institution shall provide the following information on the Form Application 94886:

   ..."

   "(d) The street address of each campus and branch at which the educational programs will
be offered, including the identification of the institution's main location and branch locations. If
an institution is applying for a branch in conjunction with the main location, all required
information must be provided for each location.

   ..."

22. **California Code of Regulations, title 5, section 71180** provides:

   "The institution shall include, with its Form Application 94886, exemplars of all student
enrollment agreements and instruments of indebtedness."

23. **California Code of Regulations, title 5, section 71200** provides:

   "(a) The institution shall include in its Form Application 94886 copies of advertising and
other statements disseminated to the public in any manner by the institution or its representatives
that concern, describe, or represent each of the following:

   "(1) The institution.

   "(2) Each educational program offered by the institution.

   "(b) If advertising is broadcast by television or radio, the Form Application 94886 shall also
include a copy of the script."

24. **California Code of Regulations, title 5, section 71240** provides, in part:

   ..."

   "(b) The institution shall submit current, reviewed financial statements at the time it applies
for approval to operate. Each set of financial statements shall comply with Section 74115 of this
chapter."

25. **California Code of Regulations, title 5, section 71260** provides:

   "(a) For each program offered, the Form Application 94886 shall contain a description of
the facilities and the equipment which is available for use by students at the main, branch, and
satellite locations of the institution."
“(b) For facilities that are leased or rented, the Form Application 94886 shall contain the name and address of the lessor or landlord, together with a copy of any use, lease, or rental agreements for the facilities.

“(c) The description of the physical facilities shall include building diagrams or campus maps to assist the Bureau in locating these facilities. The diagrams or maps shall identify the location of classrooms, laboratories, workshops, and libraries.

“(d) The description shall include specifications of significant equipment that demonstrate that the equipment meets the standards prescribed by the Code and this chapter and is sufficient to enable students to achieve the educational objectives of each education program.

“(e) For each item of significant equipment, the description shall indicate whether the equipment is owned, leased, rented, or licensed for short- or long-term, or owned by another and loaned to be used without charge.

“(f) The Form Application 94886 shall contain a list of all permits, certifications, or other evidence of inspections or authorizations to operate required by the jurisdictions within which the institution operates that the institution has obtained, and/or an explanation as to why those permits, certifications, or inspections have not yet been obtained.”

26. California Code of Regulations, title 5, section 71290 provides:

“The Form Application 94886 shall include a copy of the institution’s catalog, in published or proposed-to-be-published form. The catalog shall meet the requirements of the Act and of section 71810.”

27. California Code of Regulations, title 5, section 71380 provides:

“(a) The Form Application 94886 shall be signed and dated, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, as follows:

“(1) By each owner of the institution, or

“(2) If the institution is incorporated, by the chief executive officer of the corporation and each person who owns or controls 25 percent or more of the stock or interest in the institution, or

“(3) By each member of the governing body of a nonprofit corporation.
“(b) The declaration shall be 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)”

28. California Code of Regulations, title 5, section 71400.5 provides, in part:

“(a) The inclusion of false or misleading information, or the intentional or negligent
omission of pertinent information on any application may result in the denial of the application or
a delay in processing, and may be grounds for action pursuant to Article 18 of the Act.

“(b) In addition to denying an application pursuant to section 94887 of the Code, the
Bureau may deny any application based on any act that constitutes grounds for the denial of a
license under Section 480 of the Business and Professions Code, incorporated herein by
reference.

....”

29. California Code of Regulations, title 5, section 71405 provides:

“(a) If, after the submission of an application but prior to the Bureau’s decision to approve
or deny an approval to operate, there is any material change in circumstances affecting any
information contained in the application or submitted by the institution in support of the
application, the institution shall immediately inform the Bureau in writing.

“(b) For the purposes of this section, a change in circumstance is “material” if, without the
inclusion of the new or different information into the application, the information contained in or
the supporting documentation to the application would be false, misleading, or incomplete.”

30. California Code of Regulations, title 5, section 71720 provides, in part:

“(b) Instructors in an Educational Program Not Leading to a Degree.

“(1) An institution shall employ instructors who possess the academic, experiential and
professional qualifications to teach, including a minimum of three years of experience, education
and training in current practices of the subject area they are teaching. If an instructor does not
possess the required three years of experience, education and training in the subject area they are
teaching, the institution shall document the qualifications the instructor possesses that are
equivalent to the minimum qualifications.

..."

31. California Code of Regulations, title 5, section 71735 provides:

"(a) An institution shall have sufficient facilities and necessary equipment to support the
achievement of the educational objectives of all of the courses and educational programs in which
students are enrolled. If an institution represents that the educational service will fit or prepare a
student for employment in a particular occupation or as described in particular job titles, either of
the following conditions shall be met:

"(1) The equipment used for instruction or provided to the student shall be comparable in
model type or features to equipment generally used in those occupations or job titles at the time
the instruction is offered.

"(2) The institution shall establish that the equipment used for instruction or provided to a
student is not obsolete and is sufficient for instructional purposes to reasonably assure that a
student acquires the necessary level of education, training, skill, and experience to obtain
employment in the field of training and to perform the tasks associated with the occupation or job
title to which the educational program was represented to lead.

"(b) An institution's facilities, including heating and cooling, ventilation, lighting,
classrooms, laboratories, and campus environs, shall be well-maintained. The institution shall
maintain all valid permits required by any public agencies relating to the health and safety of the
institution's facilities and equipment on file, and such permits shall be available to the Bureau
upon request."

32. California Code of Regulations, title 5, section 71745 provides, in part:

"(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.

“(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 generally accepted accounting principles.

...”

33. **California Code of Regulations, title 5, section 71760** provides, in part:

“Each institution shall develop and maintain adequate procedures used by the institution to assure that it is maintained and operated in compliance with the Act and this Division.”

34. **California Code of Regulations, title 5, section 71770** provides, in part:

“(a) The institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program. In addition to any specific standards for an educational program, the admissions standards must specify as applicable that:

“(1) Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant examination as required by section 94904 of the Code.

////
“(2) Each student admitted into a post-baccalaureate degree program shall possess a bachelor's degree or its equivalent. If a graduate program leads to a profession or an occupation requiring state licensure and the licensing agency does not require that a member of the profession or occupation possess a Bachelor's degree or its equivalent, this subdivision does not apply.

....”

35. **California Code of Regulations, title 5, section 71800** provides, in 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:

....

“(e) Itemization of all institutional charges and fees including, as applicable:

....

“(12) any other institutional charge or fee.”

36. **California Code of Regulations, title 5, section 74112** provides, in part:

“(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.”

37. **California Code of Regulations, title 5, section 74115** provides:

“(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
document, 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."
38. **California Code of Regulations, title 5, section 76000** provides, in part:

"For purposes of this chapter, the following definitions apply:

..."

"(f) ‘Qualifying institution’ is an approved institution or an institution subject to the provisions of Article 14, commencing with section 94923 of the Code, and section 94874.1 of the Code.

..."

"(h) ‘STRF’ means Student Tuition Recovery Fund.

“(i) ‘Student Tuition Recovery Fund assessment’ or ‘STRF assessment’ means a state-imposed charge to fund this chapter that is required to be paid by a California resident student or a student enrolled in a residency program, who pays tuition to an institution.

...”

39. **California Code of Regulations, title 5, section 76120** provides:

“(a) Each qualifying institution shall collect an assessment of zero dollars ($0) per one thousand dollars ($1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident student or is enrolled in a residency program. For institutional charges of one thousand dollars ($1,000) or less, the assessment is zero dollars ($0).

“(b) Unless a student has a separate agreement to repay the third party, a student whose costs are paid to the institution by third-party payer shall not pay the STRF assessment to the qualifying institution.

“(c) Except when an institution provides a 100% refund pursuant to section 94919(d) or section 94920(b) of the Code, the assessment is non-refundable.”

40. **California Code of Regulations, title 5, section 76130** provides:

“(a) A qualifying institution shall collect the assessment from each student in an educational program at the time it collects the first payment from or on behalf of the student at or after enrollment. The assessment shall be collected for the entire period of enrollment, regardless of whether the student pays the institutional charges in increments.
“(b) A qualifying institution shall complete the STRF Assessment Reporting Form (Rev. 2/10) and remit it with the STRF assessments collected from students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:

“(1) April 30 for the first quarter,
“(2) July 31 for the second quarter,
“(3) October 31 for the third quarter, and
“(4) January 31 for the fourth quarter. If the due date falls on a Saturday, Sunday or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.

“If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.

“(c) The STRF Assessment Reporting Form shall contain the following information:

“(1) Total number of students who signed enrollment agreements for educational programs during the reporting period; and
“(2) Total number of students eligible for STRF who signed enrollment agreements for educational programs during the reporting period; and
“(3) The total number of students who signed their enrollment agreement during the reporting period, were eligible for STRF, and who made their first payment during the reporting period; and
“(4) The total number of students who signed their enrollment agreement in a previous reporting period, were eligible for STRF, and who made their first payment during the current reporting period; and
“(5) Total amount of institutional charges after rounding each student's institutional charges to the nearest $1,000, for all eligible STRF students whose STRF assessment was collected in the reporting period; and
“(6) Current contact telephone number of the person preparing the form; and
“(7) A declaration dated and signed under penalty of perjury by the person preparing the form that the form and any attachments are true and correct.
“(d) In the event of a school closure, any collected assessments shall be remitted to the Bureau within seven days following the cessation of instruction.

“(e) Submission of all prior reports and assessments required by this section is a condition of renewal.”

FIRST CAUSE FOR DENIAL OF APPLICATION
(Incomplete Application – Financial Statements)
(Cal. Code Regs., title 5, §§ 71240, subd. (b); and 74115)

41. Respondent’s application is subject to denial because Respondent failed to include a current, reviewed financial statement that is compliant with Code of Regulations, title 5, section 74115 for the year 2015. (Cal. Code Regs., title 5, §§ 71240, subd. (b) and 74115).

SECOND CAUSE FOR DENIAL OF APPLICATION
(Ratio of Current Assets to Current Liabilities)
(Cal. Code Regs., title 5, § 71745, subd. (a)(6))

42. Respondent’s application is subject to denial because Respondent failed to document that it has at all times sufficient assets and financial resources to 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. (Cal. Code Regs., title 5, § 71745, subd. (a)(6)).

THIRD CAUSE FOR DENIAL OF APPLICATION
(Ability to Pay Operating Expenses)
(Cal. Code Regs., title 5, § 71745, subd. (a)(5))

43. Respondent’s application is subject to denial because Respondent failed to document that it has at all times sufficient assets and financial resources to pay all operating expenses when due within 30 days. (Cal. Code Regs., title 5, § 71745, subd. (a)(5)).

FOURTH CAUSE FOR DENIAL OF APPLICATION
(Ability to Pay Timely Refunds)
(Cal. Code Regs., title 5, § 71745, subd. (a)(4))

44. Respondent’s application is subject to denial because Respondent failed to document that it has at all times sufficient assets and financial resources to pay timely refunds as required by Article 13 of the California Private Postsecondary Education Act of 2009 (Education Code § 94926 et seq.) (Cal. Code Regs., title 5, § 71745, subd. (a)(4)).
FIFTH CAUSE FOR DENIAL OF APPLICATION
(Incomplete Application - Advertising)
(Cal. Code Regs., title 5, § 71200)

45. Respondent’s application is subject to denial because Respondent failed to provide
with its application copies of advertising and other statements disseminated to the public. (Cal.
Code Regs., title 5, § 71200). In particular, Respondent has failed to provide screenshots of its
current website, which advertises its institution and educational program.

SIXTH CAUSE FOR DENIAL OF APPLICATION
(Incomplete Application - School Catalog)
(Cal. Code Regs., title 5, § 71290)

46. Respondent’s application is subject to denial because Respondent’s proposed school
catalog is incomplete as it does not include the requirements for completion for each program.
(Cal. Code Regs., title 5, § 71290). In particular, as a result of its investigation, the Bureau
learned that Respondent forces students to work as mentors and/or tutors for 15 hours per day at
least once per week and threatens to terminate students who do not comply with this requirement.
Respondent failed to include this requirement in its proposed school catalog.

SEVENTH CAUSE FOR DENIAL OF APPLICATION
(Insufficient Facilities and Equipment)
(Cal. Code Regs., title 5, §§ 71735 and 71400.5, subd. (b); and
Bus. & Prof. Code § 480, subd. (a)(3)(A))

47. Respondent’s application is subject to denial because Respondent does not have
sufficient facilities and equipment, lacks necessary permits, and its facilities are not maintained
and operated in compliance with applicable ordinances and laws. (Cal. Code Regs., title 5, §§
71735 and 71400.5, subd. (b); and Bus. & Prof. Code § 480, subd. (a)(3)(A)). In particular, as a
result of its investigation, the Bureau learned the following:

a. The City of Fremont Community Development Department Building & Safety
Division issued Respondent a Notice and Order to Abate Nuisance for a single-family detached
residential house located at 46684 Windmill Drive, Fremont, California that Respondent used as a
campus. The Notice states that this house/campus was being used as a boardinghouse for
approximately 30 people as well as providing meals and lodging for compensation, a violation of
the home occupation permit regulations. The City of Fremont ordered Respondent to stop using

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this house/campus for vocational education purposes as that use is not permitted in a residential zoning district and does not meet the building code requirements to be used for educational purposes. In addition, the City of Fremont found that Respondent failed to obtain the necessary permits to allow equipment Respondent used in teaching at this house/campus: the installation of electrical extension cords used for computers, a wooden stage, and lighting structure. Respondent subsequently vacated this house/campus.

b. In violation of local building codes, Respondent was operating a campus out of a single-family detached residential house located at 349 Harvard Commons, Fremont, California. The City of Fremont found that Respondent was violating local codes for operating a school in a location not zoned for business use, constructing a wall addition in an upstairs loft to convert a sixth bedroom without a permit, and a missing smoke detector. Respondent subsequently vacated this house/campus.

c. Following the closure of its campuses in Fremont, California (referenced above), Respondent started running a campus in a five-bedroom residential home at 3381 E. Ruby Hill Drive, Pleasanton, California. During an inspection of that property, the City of Pleasanton found that Respondent was operating that campus without the requisite home occupation business license. In addition, the owner of the house has filed an Unlawful Detainer Complaint against Respondent’s owner, N.J., based on the following grounds, among others: (i) operating a business at the property without a business license from the City of Pleasanton; (ii) allowing between 13 and 16 individuals to reside in the home, in violation of local home owner association covenants, conditions, and restrictions (“CC&Rs”); (iii) operating a business that is prohibited by Pleasanton Municipal Code and applicable CC&Rs; and (iv) complaints received from neighbors.

**EIGHTH CAUSE FOR DENIAL OF APPLICATION**
(Waiver of Student Claims and Non-Disclosure)
(Educ. Code § 94897, subd. (m); Cal. Code Regs., title 5, § 71400.5, subd. (b); and Bus. & Prof. Code § 480, subd. (a)(3)(A))

48. Respondent’s application is subject to denial because Respondent directs its students to perform an act (or acts) that violates the California Private Postsecondary Education Act of 2009 (Education Code section 94800 et seq.) and/or to refrain from reporting unlawful conduct to
the Bureau or another governmental agency. (Educ. Code § 94897, subd. (m); Cal. Code Regs., title 5, § 71400.5, subd. (b); and Bus. & Prof. Code § 480, subd. (a)(3)(A))). In particular:

a. Respondent offers a 30% discount on tuition to students who sign an agreement titled “Document and Guarantee of Service” in exchange for, among other things, a waiver of the student’s rights, which reads “All claims, complaints, suits, against [Respondent] have been satisfied and retracted.” This waiver provision is contrary to Education Code sections 94897, subdivision (m), and 94911, subdivision (j). The Document and Guarantee of Service agreement also contains confidentiality clauses, which is contrary to Education Code sections 94897, subdivision (m), and 94911, subdivision (j).

b. In September 2016, Respondent’s owner, N.J., tendered to students an agreement titled “Exit and Release Agreement” which, among other things, offers students a reduction in tuition and other debt they owe Respondent in exchange for a global release of all known and unknown claims against Respondent and its various affiliated entities; an agreement that students will “not publicly or privately disparage [Respondent], or [its] reputation, or act in any such manner which would reasonably be expected to lead to unwanted or unfavorable publicity”; and an agreement to maintain the confidentiality of the agreement and all negotiations regarding the agreement. This is also contrary to Education Code sections 94897, subdivision (m), and 94911, subdivision (j).

NINTH CAUSE FOR DENIAL OF APPLICATION
(Use of Unapproved Enrollment Agreement)
(Educ. Code § 94902; Cal. Code Regs., title 5, §§ 71180 and 71400.5, subd. (b); and Bus. & Prof. Code § 480, subds. (a)(3)(A))

49. Respondent’s application is subject to denial because Respondent used and uses agreements related to enrollment not approved by the Bureau. (Educ. Code § 94902; Cal. Code Regs., title 5, §§ 71180 and 71400.5, subd. (b); and Bus. & Prof. Code § 480, subds. (a)(3)(A)). The circumstances are described in paragraph 48, above.

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TENTH CAUSE FOR DENIAL OF APPLICATION
(Subverting Requirements for Enrollment Agreement)
(Educ. Code § 94911, subd. (j); Cal. Code Regs., title 5, § 71400.5, subd. (b); and

50. Respondent’s application is subject to denial because it is contrary to the
requirements of Section 94911, subdivision (j), and attempts to subvert that statute. (Educ. Code
§ 94911, subd. (j); Cal. Code Regs., title 5, § 71400.5, subd. (b); and Bus. & Prof. Code § 480,
subds. (a)(3)(A)). In particular:

a. Pursuant to Section 94911, subdivision (j), every enrollment agreement must
contain the following statements:

"Any questions a student may have regarding this enrollment agreement that have not been
satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary
Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and
fax numbers).

"A student or any member of the public may file a complaint about this institution with the
Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by
completing a complaint form, which can be obtained on the bureau’s Internet Web site (Internet
Web site address)."

b. However, Respondent seeks, in part, to nullify this mandatory portion of its
students’ enrollment agreements via the Document and Guarantee of Service agreement and Exit
and Release Agreement described in paragraph 48, above. The intended result appears to be an
enrollment agreement that would not comply with Section 94911 and to subvert the purpose of
Section 94911, subdivision (j).

ELEVENTH CAUSE FOR DENIAL OF APPLICATION
(Enrollment Agreement—Failure to Include Charges and Fees)
(Cal. Code Regs., title 5, §§ 71400.5, subd. (b) and 71800, subd. (e)(12); and

51. Respondent’s application is subject to denial because Respondent utilizes an
enrollment agreement that does not contain an itemization of all institutional charges and fees.
(Cal. Code Regs., title 5, §§ 71400.5, subd. (b) and 71800, subd. (e)(12); and Bus. & Prof. Code §
480, subds. (a)(3)(A)). In particular, Respondent requires that students who are not succeeding academically to pay an additional down payment or fee or repeat the program. This policy, and these additional charges and/or fees, are not stated in Respondent’s enrollment agreement or otherwise disclosed.

TWELFTH CAUSE FOR DENIAL OF APPLICATION
(Use of Unenforceable Enrollment Agreements)

(Educ. Code § 94902, subd. (b)(2); Cal. CodeRegs., title 5, § 71400.5, subd. (b); and Bus. & Prof. Code § 480, subd. (a)(3)(A))

52. Respondent’s application is subject to denial because Respondent utilizes unenforceable enrollment agreements. (Educ. Code § 94902, subd. (b)(2); Cal. CodeRegs., title 5, § 71400.5, subd. (b); and Bus. & Prof. Code § 480, subd. (a)(3)(A)). In particular, because Respondent does not have a valid approval to operate a private postsecondary institution, the enrollment agreements it offers its students are unenforceable, pursuant to Education Code section 94902, subd. (b)(2).

THIRTEENTH CAUSE FOR DENIAL OF APPLICATION
(False Statement - Omission from Application)
(Bus. & Prof. Code § 480, subd. (d); Educ. Code § 94840; and Cal. CodeRegs., title 5, §§ 71180, 71380, 71400.5, subds. (a) and (b))

53. Respondent’s application is subject to denial because Respondent intentionally or negligently omitted pertinent information from its application and knowingly made a false statement of fact in its application. (Bus. & Prof. Code § 480, subd. (d); Educ. Code § 94840; and Cal. CodeRegs., title 5, §§ 71180, 71380, 71400.5, subds. (a) and (b)). In particular, Respondent was required to provide a copy of the Document and Guarantee of Service agreement and Exit and Release Agreement, referenced in paragraph 48, above, to the Bureau with its application. However, Respondent failed to provide the Bureau with a copy of this document or otherwise disclose its existence. In addition, by certifying in its application, pursuant to California Code of Regulations, title 5, section 71380, subdivision (b), that it had provided all the documents it was required to provide to the Bureau, when it had not, Respondent knowingly made a false representation to the Bureau.
FOURTEENTH CAUSE FOR DENIAL OF APPLICATION
(False Employment Statements - Website)
(Educ. Code § 94897, subd. (j)(3); Cal. Code Regs., title 5, § 71400.5, subd. (b); and
Bus. & Prof. Code § 480, subd. (a)(3)(A))

54. Respondent's application is subject to denial because Respondent, on its website,
makes and made untrue or misleading statements related to student completion, placement, and
employment. (Educ. Code § 94897, subd. (j)(3); Cal. Code Regs., title 5, § 71400.5, subd. (b);
and Bus. & Prof. Code § 480, subd. (a)(3)(A)). In particular:

a. On its website, Respondent advertises: "95% of our students get a job within 2
months of graduating the boot camp." However, according to data maintained by Respondent, its
placement rate for that period is 81%.

b. On its website, under a heading reading "WHERE OUR GRADUATES WORK
NOW," Respondent includes the logos of the companies Paypal, US Bank, and Infuse. But
according to data maintained by Respondent regarding its graduates, none of Respondent's
graduates were employed by Paypal, US Bank, or Infuse.

c. On its website, under a heading reading "Partners," Respondent includes the
logos of 14 companies. On this page, Respondent represents that "many" of these "partner"
companies "are offering positions to our graduates." In response to a request by the Bureau for
copies of Respondent's partnership agreements with these companies, Respondent's owner, N.J.,
stated that the "partner" companies give Respondent's students guest workshops and tours and
that "some" of those companies hire Respondent's graduates. However, according to data
maintained by Respondent regarding its graduates, only two of Respondent's graduates were
employed by any of the "partner" companies (specifically, Google and Zurb).

FIFTEENTH CAUSE FOR DENIAL OF APPLICATION
(False Employment Statements - to Students)
(Educ. Code § 94897, subd. (b); Cal. Code Regs., title 5, § 71400.5, subd. (b);
and Bus. & Prof. Code § 480, subds. (a)(3)(A))

55. Respondent's application is subject to denial because Respondent promises or
guarantees employment, or otherwise overstates the availability of jobs upon graduation. (Educ.
Code § 94897, subd. (b); Cal. Code Regs., title 5, § 71400.5, subd. (b); and Bus. & Prof. Code §
480, subds. (a)(3)(A)). In particular, Respondent's owner N.J. told students that Respondent has
a 98% job placement rate and that "sister" or "partner" companies would employ Respondent graduates. Students were also assured that they would find jobs unless they did not want one. Students later discovered that Respondent did not have any "sister" or "partner" companies.

**SIXTEENTH CAUSE FOR DENIAL OF APPLICATION**
(Suspension of Classes)
(Educ. Code § 94898, subd. (b); Cal. Code Regs., title 5, § 71400.5, subd. (b); and Bus. & Prof. Code § 480, subd. (a)(3)(A))

56. Respondent’s application is subject to denial because Respondent suspended classes in violation of Education Code section 94898, subdivision (b). (Educ. Code § 94898, subd. (b); Cal. Code Regs., title 5, § 71400.5, subd. (b); and Bus. & Prof. Code § 480, subd. (a)(3)(A)). In particular:

a. Respondent’s website and enrollment agreement represents that Respondent will provide students with 14 weeks of education. However, Respondent suspended two-days of instruction (on April 8 and 9, 2016) to relocate Respondent’s house/campus from 46684 Windmill Drive, Fremont, California to 394 Harvard Commons, Fremont, California.

b. In another instance, Respondent informed students that they must move out a day prior to the end date specified in their enrollment agreement and an Use License agreement, an agreement which permits 24/7 access to Respondent’s house/campus.

**SEVENTEENTH CAUSE FOR DENIAL OF APPLICATION**
(Act Involving Dishonesty, Fraud, or Deceit)
(Bus. & Prof. Code § 480, subds. (a)(2); and Cal. Code Regs., title 5, § 71400.5, subd. (b))

57. Respondent’s application is subject to denial because Respondent committed an act involving dishonesty, fraud, or deceit with the intent to substantially benefit itself or another, or substantially injure another. (Bus. & Prof. Code § 480, subds. (a)(2); and Cal. Code Regs., title 5, § 71400.5, subd. (b)). In particular:

a. Respondent’s website represents that students will be taught “React” and “ReactJS” coding. After they enroll, students discover that they will not be taught these coding forms.

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b. According to two students, Respondent misled them into believing that popular
coder, S.B., would be the lead instructor to attract them to enrolling. After they enrolled, they
discovered S.B. had little to no role in instruction.

c. Respondent misrepresented that there would be 15 students enrolled at the
house/campus. After enrolling, students discovered 30 students were enrolled in the
house/campus.

d. Respondent's enrollment agreement(s) contains references to the Bureau for
Private Postsecondary Education as well as statutes and regulations that apply to institutions
holding approval to operate, thereby incorrectly implying that Respondent has an approval to
operate.

e. Further circumstances are set forth in paragraphs 53 through 56, above.

EIGHTEENTH CAUSE FOR DENIAL OF APPLICATION
(Self-Monitoring Procedures)
(Cal. Code Regs., title 5, §§ 71400.5, subd. (b) and 71760, and
Bus. & Prof. Code § 480, subd. (a)(3)(A))

58. Respondent’s application is subject to denial because Respondent does not comply
with the self-monitoring requirements of California Code of Regulations, title 5, section 71760.
(Cal. Code Regs., title 5, §§ 71400.5, subd. (b) and 71760, and Bus. & Prof. Code § 480, subd.
(a)(3)(A)). In particular:

a. Respondent’s enrollment agreement, titled Full Immersion Boot Camp
Agreement, attaches a Code of Conduct that requires that all students observe all laws, rules, and
regulations of government agencies and authorities. The Code of Conduct also contains a
provision reading, “Coding House Institution does not tolerate violence including threats,
threatening behavior, harassment, intimidation, assaults or similar conduct.” In addition, the
Code of Conduct contains an Illegal Drugs and Alcohol Policy reading, in part: “Developers
must not distribute, possess or use illegal or unauthorized drugs or alcohol on Coding House
Institute property.”

b. Contrary to Respondent’s Code of Conduct, according to four student
complainants, Respondent’s owner, N.J., allowed, encouraged, and/or provided drugs and alcohol
to students. According to these complainants, a female student was assaulted by a male student during an evening of drinking at a house/campus. Two student complainants also alleged that N.J. brought a stripper to a house/campus, contrary to student objections.

**NINETEENTH CAUSE FOR DENIAL OF APPLICATION**

(Qualified Faculty)

(Educ. Code § 94909, subd. (a)(7); Cal. Code Regs., title 5, §§ 71720, subd. (b)(1) and 71400.5, subd. (b); and Bus. & Prof. Code §§ 480, subd. (a)(3)(A))

59. Respondent’s application is subject to denial because Respondent’s school catalog and website do not contain sufficient information regarding its faculty. (Educ. Code § 94909, subd. (a)(7); Cal. Code Regs., title 5, §§ 71720, subd. (b)(1) and 71400.5, subd. (b); and Bus. & Prof. Code §§ 480, subd. (a)(3)(A)). In particular, contrary to California Code of Regulations, title 5, section 71720, subdivision (b)(1) and Education Code section 94909, subdivision (a)(7):

a. Respondent’s 2014-2016 catalog states that Lead Instructor C.N. has a mastery of JavaScript, but does not contain information regarding his qualifications.

b. Although Respondent’s catalog indicates that Teacher Assistant P.S. and Mentors J.Z. and M.J.P. have “1+ years of experience with web development,” it does not specify the length of their experience.

c. Respondent’s website does not include Lead Instructor C.N., Teacher Assistant P.S., any instructors, or any instructor assistants.

d. The individual webpages for Mentors M.S. and E.R. only list their current occupations.

e. Students report that C.N. and P.S. provide the majority of instruction, but are unqualified. According to their LinkedIn profiles, C.N. and P.S. lack the minimum three-years experience, education and training necessary to teach coding.
TWENTIETH CAUSE FOR DENIAL OF APPLICATION
(Failure to Refund Tuition)
(Educ. Code § 94920, subds. (b) and (e); Cal. Code Regs., title 5, § 71400.5, subd. (b); and
Bus. & Prof. Code § 480, subd. (a)(3)(A))

60. Respondent's application is subject to denial because Respondent violated Section
94920, subdivisions (b) and (e) by failing or refusing to refund student J.C.'s tuition within 45
days of his cancellation or withdrawal. (Educ. Code § 94920, subds. (b) and (e); Cal. Code Regs.,
title 5, § 71400.5, subd. (b); and Bus. & Prof. Code § 480, subd. (a)(3)(A)).

TWENTY-FIRST CAUSE FOR DENIAL OF APPLICATION
(Maintenance of Uniform Data)
(Cal. Code Regs., title 5, §§ 71400.5, subd. (b) and 74112, subd. (h); and
Bus. & Prof. Code § 480, subd. (a)(3)(A))

61. Respondent's application is subject to denial because Respondent has failed to
maintain student data as required by California Code of Regulations, title 5, section 74112,
subdivision (h). (Cal. Code Regs., title 5, §§ 71400.5, subd. (b) and 74112, subd. (h); and
Bus. & Prof. Code § 480, subd. (a)(3)(A)). In particular, a 2014 School Performance Fact Sheet
data spreadsheet provided by Respondent only lists the 19 students who graduated from the
program in 2014, and does not include any information for the five students who withdrew (and
did not graduate). This spreadsheet also fails to include a description of all attempts to contact
each student.

TWENTY-SECOND CAUSE FOR DENIAL OF APPLICATION
(Collection of STRF Funds)
(Cal. Code Regs., title 5, §§ 71400.5, subd. (b), 76000, subds. (f), (h), and (i); 76120; and
76130; and Bus. & Prof. Code § 480, subds. (a)(3)(A))

62. Respondent's application is subject to denial because Respondent violates applicable
regulations related to Student Tuition Recovery Fund collection and assessment. (Cal. Code
Regs., title 5, §§ 71400.5, subd. (b), 76000, subds. (f), (h), and (i); 76120; and 76130; and Bus. &
Prof. Code § 480, subds. (a)(3)(A)). In particular:
a. Respondent collected STRF fees of $8.50 from its students when, pursuant to
Code of Regulations, title 5, section 76120, the appropriate STRF fee was $0.

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b. Only institutions with approval to operate are permitted to collect STRF fees.
As Respondent does not have an approval to operate, it was not permitted to collect STRF fees.

c. Respondent has not remitted to the Bureau any STRF Assessment Reporting
Forms or STRF assessments collection from students, as required by Code of Regulations, title 5,
section 76130.

TWENTY-THIRD CAUSE FOR DENIAL OF APPLICATION
(Admissions Standards)
(Cal. Code Regs., title 5, §§ 71400.5, subd. (b) and 71770, subd. (a); and Bus. & Prof. Code §
480, subd. (a)(3)(A))

63. Respondent’s application is subject to denial because Respondent fails to comply
with its own admission standards. (Cal. Code Regs., title 5, §§ 71400.5, subd. (b) and 71770,
subd. (a); and Bus. & Prof. Code § 480, subd. (a)(3)(A)). In particular, pursuant to Code of
Regulation, title 5, section 71770, subdivision (a), Respondent’s website states that, to be
admitted, a student must complete an online prework program. However, student J.F. was
admitted to Respondent’s program despite not completing that online prework program. Student
J.F. states that Respondent’s owner, N.J., told him (J.F.) that the prework program was not
required for enrollment.

TWENTY-FOURTH CAUSE FOR DENIAL OF APPLICATION
(Operating Without Approval)
(Educ. Code §§ 94817.5, 94868, 94869, 94885, and 94886)

64. Respondent’s application is subject to denial because Respondent operated and
operates its institution, as a private postsecondary education institution, without obtaining
approval to operate pursuant to the California Private Postsecondary Education Act of 2009
(Education Code section 94800 et seq.). (Educ. Code §§ 94817.5, 94868, 94869, 94885, and
94886).
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Second Amended Statement of Issues, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

1. Denying Respondent’s Application for Approval to Operate an Institution Non-Accredited; and

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

DATED: 11-4-2016

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

SF2015900708