

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 CARTER OTT
Deputy Attorney General
4 State Bar No. 221660
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2219
Facsimile: (510) 622-2270
7 E-mail: Carter.Ott@doj.ca.gov
Attorneys for Complainant

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 Statement of Issues
Against:

Case No. 1000841

13 **CODING HOUSE INSTITUTE;**
14 **NICHOLAS JAMES, OWNER**

STATEMENT OF ISSUES

15 **Application for Approval to Operate an**
16 **Institution Non-Accredited**

17 Respondent.

18 Complainant alleges:

19 PARTIES

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

23 2. On or about April 8, 2014, the Bureau for Private Postsecondary Education
24 ("Bureau") received an Application for Approval to Operate an Institution Non-Accredited from
25 Respondent Coding House Institute; Nicholas James, Owner ("Respondent"). Between April 17,
26 2014 and May 27, 2015, the Bureau and Respondent exchanged correspondence regarding
27 Respondent's application.

1 3. On or about June 3, 2015, the Bureau issued Respondent a Notice of Denial of
2 Application for Approval to Operate. On or about July 17, 2015, the Bureau received a request
3 for an administrative hearing from Respondent.

4 JURISDICTION

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

8 5. California Business and Professions Code Section 118, subdivision (b) provides, in
9 part:

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

17 6. Section 94886 provides:

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

22 7. Section 94887 provides:

23 “An approval to operate shall be granted only after an applicant has presented sufficient
24 evidence to the bureau, and the bureau has independently verified the information provided by the
25 applicant through site visits or other methods deemed appropriate by the bureau, that the
26 applicant has the capacity to satisfy the minimum operating standards. The bureau shall deny an
27 application for an approval to operate if the application does not satisfy those standards.”
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATUTORY AND REGULATORY PROVISIONS¹

8. 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.”

9. Section 94909 provides, in part:

“(a) 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:

...

“(9) The schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program.

....”

10. 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.”

////

////

////

////

¹ The California Private Postsecondary Education Act of 2009 was recently amended, effective January 1, 2015. See Senate Bill No. 1247. This Statement of Issues is based on the pre-amendment version of the Act.

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

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

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

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

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

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

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

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

19”

20 12. California Code of Regulations, title 5, section 71800 provides, in part:

21 “In addition to the requirements of section 94911 of the Code, an institution shall provide to
22 each student an enrollment agreement that contains at the least the following information:

23 . . .

24 “(d) Date by which the student must exercise his or her right to cancel or withdraw, and the
25 refund policy, including any alternative method of calculation if approved by the Bureau pursuant
26 to section 94921 of the Code.

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

28 “(1) tuition;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

....”

13. California Code of Regulations, title 5, section 71920 provides:

“(a) The institution shall maintain a file for each student who enrolls in the institution whether or not the student completes the educational service.

“(b) In addition to the requirements of section 94900, the file shall contain all of the following pertinent student records:

“(1) Written records and transcripts of any formal education or training, testing, or experience that are relevant to the student's qualifications for admission to the institution or the institution's award of credit or acceptance of transfer credits including the following:

“(A) Verification of high school completion or equivalency or other documentation establishing the student's ability to do college level work, such as successful completion of an ability-to-benefit test;

“(B) Records documenting units of credit earned at other institutions that have been accepted and applied by the institution as transfer credits toward the student's completion of an educational program;

“(C) Grades or findings from any examination of academic ability or educational achievement used for admission or college placement purposes;

“(D) All of the documents evidencing a student's prior experiential learning upon which the institution and the faculty base the award of any credit;

“(2) Personal information regarding a student's age, gender, and ethnicity if that information has been voluntarily supplied by the student;

“(3) Copies of all documents signed by the student, including contracts, instruments of indebtedness, and documents relating to financial aid;

“(4) Records of the dates of enrollment and, if applicable, withdrawal from the institution, leaves of absence, and graduation; and

/////
/////
/////

1 “(5) In addition to the requirements of section 94900(b) of the Code, a transcript showing
2 all of the following:

3 “(A) The courses or other educational programs that were completed, or were attempted but
4 not completed, and the dates of completion or withdrawal;

5 “(B) Credit awarded for prior experiential learning, including the course title for which
6 credit was awarded and the amount of credit;

7 “(C) Credit for courses earned at other institutions;

8 “(D) Credit based on any examination of academic ability or educational achievement used
9 for admission or college placement purposes;

10 “(E) The name, address, website address, and telephone number of the institution.

11 “(6) For independent study courses, course outlines or learning contracts signed by the
12 faculty and administrators who approved the course;

13 “(7) The dissertations, theses, and other student projects submitted by graduate students;

14 “(8) A copy of documents relating to student financial aid that are required to be maintained
15 by law or by a loan guarantee agency;

16 “(9) A document showing the total amount of money received from or on behalf of the
17 student and the date or dates on which the money was received;

18 “(10) A document specifying the amount of a refund, including the amount refunded for
19 tuition and the amount for other itemized charges, the method of calculating the refund, the date
20 the refund was made, and the name and address of the person or entity to which the refund was
21 sent;

22 “(11) Copies of any official advisory notices or warnings regarding the student's progress;
23 and

24 “(12) Complaints received from the student.

25 ////

26 ////

27 ////

28 ////

1 14. California Code of Regulations, title 5, section 71930 provides, in part:

2 ...

3 “(b)(1) In addition to permanently retaining a transcript as required by section 94900(b) of
4 the Code, the institution shall maintain for a period of 5 years the pertinent student records
5 described in Section 71920 from the student's date of completion or withdrawal.

6 ...”

7 15. California Code of Regulations, title 5, section 74115 provides, in part:

8 ...

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

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

16 ...

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

20 ...”

21 FIRST CAUSE FOR DENIAL OF APPLICATION

22 (Incomplete Application)

23 (Cal. Code Regs., title 5, §§ 71240, subd. (b); 71745, subd. (a); and
24 74115, subds. (b)(1) and (b)(5))

25 16. Respondent’s application is subject to denial because Respondent failed to include a
26 current reviewed financial statement, completed by a licensed Certified Public Accountant, with
27 its application. (Cal. Code Regs., title 5, §§ 71240, subd. (b); 71745, subd. (a); and 74115, subds.
28 (b)(1) and (b)(5)).

//////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SECOND CAUSE FOR DENIAL OF APPLICATION
(Exemplars of Student Agreements)
(Cal. Code Regs., title 5, §§ 71800, subds. (d) and (e)(1))

17. Respondent’s application is subject to denial because Respondent’s proposed student agreement does not comply with the law. (Cal. Code Regs., title 5, §§ 71800, subds. (d) and (e)(1)). In particular,

a. Respondent’s proposed student agreement does not contain the date by which students must exercise their right to cancel or withdraw, and the refund policy. (Cal. Code Regs., title 5, § 71800, subd. (d)).

b. Respondent’s proposed student agreement does not contain an itemization of tuition charges and fees. (Cal. Code Regs., title 5, §§ 71800, subd. (e)(1)).

THIRD CAUSE FOR DENIAL OF APPLICATION
(Catalog)

(Cal. Educ. Code §§ 94900, subd. (b), and 94909, subd. (a)(9); and
Cal. Code Regs., title 5, §§ 71920 and 71930, subd. (b)(1))

18. Respondent’s application is subject to denial because Respondent’s proposed student catalog does not comply with the law. (Cal. Educ. Code §§ 94900, subd. (b), and 94909, subd. (a)(9); and Cal. Code Regs., title 5, § 71930, subd. (b)(1)). In particular:

a. Respondent’s proposed student catalog does not contain a schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program. (Cal. Educ. Code § 94909, subd. (a)(9)).

b. Respondent’s proposed student catalog states that student records will be kept for 1 year, contrary to the duration required by law. (Cal. Educ. Code § 94900, subd. (b); and Cal. Code Regs., title 5, § 71930, subd. (b)(1)).

/////
/////
/////
/////
/////
/////

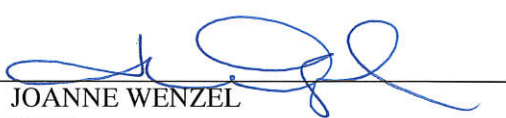
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

1. Denying 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: 11/10/15


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

SF2015900708