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8		RE THE
9	DEPARTMENT OF C	CONSUMER AFFAIRS E POSTSECONDARY EDUCATION
10		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 Institution Non-Accredited	
16 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 Pe	ostsecondary Education, Department of
22	Consumer Affairs.	
23	2. On or about April 8, 2014, the Burea	u for Private Postsecondary Education
24	("Bureau") received an Application for Approva	to Operate an Institution Non-Accredited from
25	Respondent Coding House Institute; Nicholas Ja	mes, Owner ("Respondent"). Between April 17,
26	2014 and May 27, 2015, the Bureau and Respond	lent exchanged correspondence regarding
27	Respondent's application.	
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3. On or about June 3, 2015, the Bureau issued Respondent a Notice of Denial of 1 Application for Approval to Operate. On or about July 17, 2015, the Bureau received a request 2 3 for an administrative hearing from Respondent. JURISDICTION 4 4. 5 This 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 6 section references are to the Education Code unless otherwise indicated. 7 5. California Business and Professions Code Section 118, subdivision (b) provides, in 8 9 part: "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a 10 11 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during 12 13 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground 14 15 provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground. 16 6. 17 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, 20conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter." 21 7. Section 94887 provides: 22 "An approval to operate shall be granted only after an applicant has presented sufficient 23 evidence to the bureau, and the bureau has independently verified the information provided by the 24 applicant through site visits or other methods deemed appropriate by the bureau, that the 2526 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." 27 28

	STATUTORY AND REGULATORY PROVISIONS ¹	
	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.	
ĺ	"(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 writin	
	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 appli	
	for approval to operate. Each set of financial statements shall comply with Section 74115 of this	
	chapter."	
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	¹ The California Private Postsecondary Education Act of 2009 was recently amended, effective January 1, 2015. <i>See</i> Senate Bill No. 1247. This Statement of Issues is based on the pre-amendment version of the Act.	
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1 2 3 4 5 6	 11. 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 4 5	 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.
4 5	 (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.
5	(2) Ensure that all students admitted to its educational programs have a reasonable opportunity to complete the programs and obtain their degrees or diplomas.
	opportunity to complete the programs and obtain their degrees or diplomas.
6	
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;
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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.

5 "(b) In addition to the requirements of section 94900, the file shall contain all of the
6 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;

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

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

20 "(2) Personal information regarding a student's age, gender, and ethnicity if that
21 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;

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

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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.	
1	"(6) For independent study courses, course outlines or learning contracts signed by the	
2	faculty and administrators who approved the course;	
.3	"(7) The dissertations, theses, and other student projects submitted by graduate students;	
.4	"(8) A copy of documents relating to student financial aid that are required to be maintained	
.5	by law or by a loan guarantee agency;	
.6	"(9) A document showing the total amount of money received from or on behalf of the	
.7	student and the date or dates on which the money was received;	
.8	"(10) A document specifying the amount of a refund, including the amount refunded for	
.9	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;	
2	"(11) Copies of any official advisory notices or warnings regarding the student's progress;	
3	and	
4	"(12) Complaints received from the student.	
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1	14. California Code of Regulations, title 5, section 71930 provides, in part:
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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	27 • • • •
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	» • • • •
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22	FIRST CAUSE FOR DENIAL OF APPLICATION (Incomplete Application)
23	(Cal. Code Regs., title 5, §§ 71240, subd. (b); 71745, subd. (a); and 74115, subds. (b)(1) and (b)(5))
24	16. Respondent's application is subject to denial because Respondent failed to include a
25	current reviewed financial statement, completed by a licensed Certified Public Accountant, with
26	its application. (Cal. Code Regs., title 5, §§ 71240, subd. (b); 71745, subd. (a); and 74115, subds.
27	(b)(1) and $(b)(5)$.
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1 2	SECOND CAUSE FOR DENIAL OF APPLICATION (Exemplars of Student Agreements) (Cal. Code Regs., title 5, §§ 71800, subds. (d) and (e)(1))	
3	17. Respondent's application is subject to denial because Respondent's proposed student	
4	agreement does not comply with the law. (Cal. Code Regs., title 5, §§ 71800, subds. (d) and	
5	(e)(1)). In particular,	
6	a. Respondent's proposed student agreement does not contain the date by which	
7	students must exercise their right to cancel or withdraw, and the refund policy. (Cal. Code Regs.,	
8	title 5, § 71800, subd. (d)).	
9	b. Respondent's proposed student agreement does not contain an itemization of	
10	tuition charges and fees. (Cal. Code Regs., title 5, §§ 71800, subd. (e)(1)).	
11		
12	THIRD CAUSE FOR DENIAL OF APPLICATION (Catalog)	
13	(Cal. Educ. Code §§ 94900, subd. (b), and 94909, subd. (a)(9); and Cal. Code Regs., title 5, §§ 71920 and 71930, subd. (b)(1))	
14	18. Respondent's application is subject to denial because Respondent's proposed student	
15	catalog does not comply with the law. (Cal. Educ. Code §§ 94900, subd. (b), and 94909, subd.	
16	(a)(9); and Cal. Code Regs., title 5, § 71930, subd. (b)(1)). In particular:	
17	a. Respondent's proposed student catalog does not contain a schedule of total	
18	charges for a period of attendance and an estimated schedule of total charges for the entire	
19	educational program. (Cal. Educ. Code § 94909, subd. (a)(9)).	
20	b. Respondent's proposed student catalog states that student records will be kept	
21	for 1 year, contrary to the duration required by law. (Cal. Educ. Code § 94900, subd. (b); and	
22	Cal. Code Regs., title 5, § 71930, subd. (b)(1)).	
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1	PRAYER	
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
3	and that following the hearing, the Director of the Department of Consumer Affairs issue a	
4	decision:	
5	1. Denying Respondent's Application for Approval to Operate an Institution Non-	
6	Accredited; and	
7	2. Taking such other and further action as deemed necessary and proper.	
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9	DATED: 11/10/15	
10	JOANNE WENZEL Chief Burgen for Bringto Bostocondern Education	
11	Bureau for Private Postsecondary Education Department of Consumer Affairs State of California	
12	Complainant	
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