

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

RECEIVED

JUN 10 2016

B.P.P.E.

In the Matter of the Statement of Issues Against:

CALIFORNIA UNIVERSITY OF
MANAGEMENT AND TECHNOLOGY,

and

CHIU YEN TAO a.k.a. CHIUYEN WU-TAO,
Co-Chair of the Board of Directors and Majority
Owner,

Respondents.

Case No. 999521

OAH No. 2015070094

DECISION AFTER NON-ADOPT

Administrative Law Judge Regina Brown, State of California, Office of Administrative Hearings, heard this matter on October 19, 2015, in Oakland, California. Gregory Tuss, Deputy Attorney General, represented complainant Joanne Wenzel, Chief of the Bureau for Private Postsecondary Education (Bureau or Complainant), Department of Consumer Affairs (Department or DCA). Respondents California University of Management and Technology and Chiu Yen Tao (respondents) were represented by Chiu Yen Tao and Eric Tao.¹

The Administrative Law Judge's Proposed Decision was received by the Bureau on November 19, 2015. On or about December 18, 2015, the Director of the Department declined to adopt said Proposed Decision and issued a Notice of Non-Adoption of Proposed Decision; thereafter, the transcript was ordered, and briefing was ordered on or about February 10, 2016. The time for filing written argument in this matter having expired, written argument having been filed by complainant² and such written argument, together with the transcript of said hearing, having been read and considered pursuant to Government Code section 11517(c)(2)(E), the Department hereby makes the following decision:

FACTUAL FINDINGS

1. Complainant Joanne Wenzel issued the Statement of Issues in her official capacity as Chief of the Bureau for Private Postsecondary Education (Bureau), Department of Consumer Affairs on March 26, 2015.

¹ Eric Tao is a member of the faculty.

² The Department received no written brief from respondents.

2. The Bureau operates pursuant to the California Private Postsecondary Education Act of 2009 (Act), Education Code section 94800, et seq., which is comprised of statutes and regulations that are complex and detailed. Among other things, the statutes and regulations require that institutions provide students and prospective students with a catalog and enrollment agreement, each of which must contain specific and highly detailed information about the school and its programs, policies, costs, etc. As a result, the application itself is complex and detailed. It contains 24 sections, some of which require the applicant to attach exemplars, including the catalog and the enrollment agreement. In reviewing applications, the Bureau's licensing analysts ensure that all statutory and regulatory requirements are met.

3. On July 28, 2010, the Bureau received an Application for Approval to Operate for an Institution Not Accredited (application) from respondent California University of Management and Technology (CALMAT). CALMAT is located at 111 North Market Street, Suite 300, San Jose, California. Respondent Chiu Yen Tao, also known as Chiuyen Wu-Tao, is Co-Chair of the Board of Directors and Majority Owner of CALMAT. CALMAT is a subsidiary of Zeuss Group Inc., a for-profit corporation, incorporated in California in 2008.

4. The application showed that CALMAT offered undergraduate and graduate programs including Master of Business Administration, Master of Science in Computer Science and Information Technology, Master of Fine Arts,³ and Bachelor of Science in Business Administration.⁴

5. Initially, respondents' application was handled by licensing analyst Angela Smith. On her initial review, Smith found that the application was deficient in three of its 24 sections, including financial resources and statements, facilities and equipment, and recordkeeping. On March 8, 2011, she sent respondents a letter identifying the areas of deficiency and requesting additional information.⁵ On August 15, 2011, respondents provided some accounting information. However, their response did not address the other deficiencies.

6. On September 6, 2011, Smith sent respondents another letter requesting information regarding the number of faculty employed; the number of classes that had been offered in 2009, 2010, and 2011; and who developed the curriculum for the Master's degree programs. On September 12, 2011, respondents responded to Smith's questions. On October 7, 2011, Smith sent a third letter requesting respondents' financial statements for 2010, the number of students enrolled, information about the scholarship program, and contact information for the librarian. On December 14, 2011, respondents sent a letter and attachments responding to Smith's questions. On January 13, 2012, Smith sent a fourth letter requesting a current Student Performance Fact Sheet, and additional information about the scholarship program. On March 2, 2012, respondents sent a letter in response to Smith's letter. Between March 2012 and September 2013, there appear to be no communications between respondents and the Bureau.

³ Respondents indicated in their application their plan to launch this program in Fall 2015.

⁴ It appears that respondents changed this program from a Bachelor of Science in General Studies to a Bachelor of Science in Business Administration.

⁵ The deficiency letter indicated each section of the application that was determined to be deficient and listed the issue and a citation to the applicable section of the Education Code or its regulations.

7. In Fall 2013, respondents' application was assigned to Seyed Dibaji, Bureau Education Specialist. Dibaji contacted representatives of CALMAT. They discussed issues regarding the bachelor's degree program and whether CALMAT offered online distance education. Dibaji reviewed the application and additional information provided by respondent. On September 5, 2013, Dibaji issued a deficiency letter, noting deficiencies in the application regarding administration, admissions standards, faculty, educational program, library resources, catalog, enrollment agreement, performance fact sheet, distance education, advertising and other public statements.

8. On November 4, 2013, respondents submitted a revised application and 59 items in response to the September 5, 2013, deficiency letter. On December 20, 2013, respondents provided an updated catalog and enrollment agreement. Respondents addressed some of the issues outlined in the September 5, 2013, deficiency letter, but not all.

9. On January 10, 2014, the Bureau issued a Notice of Denial of the application and the revised application (hereinafter referred to "applications") indicating that respondents failed to provide evidence that CALMAT has the capacity to meet the minimum operating standards. The Bureau cited deficiencies in six sections of the revised application (Agent for Service of Process; Exemplar of Student Enrollment Agreements; Instruction and Degrees Offered; Faculty; Catalog; and Library). Respondents appealed. This hearing followed.

At hearing, Dibaji addressed each deficiency alleged in the Statement of Issues, as set forth below. Dibaji admits that some of the deficiencies are correctable. For example, Dibaji stated that if the course syllabi were provided for the bachelor's degree program, then respondents could be given approval to proceed with that instruction. However, Dibaji believes that the institution is not ready yet to provide education at the Master's degree level. Overall, he believes that there are too many minor and major deficiencies that must be corrected to approve respondents' revised application at this time.

Agent for Service of Process

10. On the initial application, respondents identified an agent for service of process. On the revised application, respondents indicated "not applicable" for agent for service of process. The application must include the current contact information for the institution's agent of service of process in California. (Cal. Code Regs., tit. 5, § 71135.) This is a minor violation of the regulations.

Exemplar of Student Enrollment Agreements

11. The exemplar of the enrollment agreement provided by respondents did not contain a time period to be covered by the agreement. Pursuant to the admissions and academic achievement standards, an enrollment agreement to be signed by a prospective student must contain the minimum information as specified in the Act and its regulations. (Cal. Code Regs., tit. 5, § 71800, subd. (b).) This is a minor violation of the regulations.

12. The enrollment agreement did not contain a refund policy stating that, "if the student has received federal student financial aid funds, then the student is entitled to a refund of moneys not paid from federal student financial aid program funds." (Ed. Code, § 94911, subd. (e)(1) & (2).) An institution is required to include this disclosure about refunds, even if the institution does not offer federal student financial aid funds because these funds are otherwise available, i.e., from lending institutions. This is a minor violation of the Education Code.

13. The enrollment agreement did not contain a statement specifying the consequences if a student defaults on a federal or state loan. In particular, there was no refund policy stating that, if the student is eligible for a loan guaranteed by the federal or state government and the student defaults on the loan, both of the following may occur: "(1) The federal or state government or a loan guarantee agency may take action against the student, including applying any income tax refund to which the person is entitled to reduce the balance owed on the loan; and (2) The student may not be eligible for any other federal student financial aid at another institution or other government assistance until the loan is repaid." (Ed. Code, § 94911, subd. (g)(1) & (2).) This is a minor violation of the Education Code.

14. The enrollment agreement did not include the required verbatim language. The Bureau maintains a Student Tuition Recovery Fund (STRF) to mitigate economic losses suffered by a student under certain circumstances, including the closure of an institution. An enrollment agreement must contain specific disclosures about the STRF. (Cal. Code Regs., tit. 5, § 76215, subds. (a) & (b).) This is a minor violation of the regulations.

15. The enrollment agreement did not include the verbatim language to provide notice concerning transferability of credits and credentials earned at the institution. (Ed. Code, §§ 94911, subd. (h); 94909, subd. (a)(15).) This is a minor violation of the Education Code.

16. The enrollment agreement contained some language, but did not contain the required verbatim language regarding documents to be provided before a student signs an enrollment agreement. An enrollment agreement must include language related to requiring the school to give the student a catalog or brochure and a School Performance Fact Sheet that contain policies and performance data for the institution. (Ed. Code, § 94911, subd. (i)(1) & (2).) This is a minor violation of the Education Code.

Instruction and Degrees Offered

17. Respondents did not submit the course syllabi for the Bachelor of Science in Business Administration. To meet its mission and objectives, an institution's educational program must consist of a curriculum with certain requirements under the Act and its regulations. An institution is required to provide a description of the courses and course outline, including objectives, method of instruction, qualifications of faculty, and the learning outcomes. (Cal. Code Regs., tit. 5, § 71710.) This is a major violation of the regulations.

18. Respondents did not provide sufficient documentation to determine whether certain course syllabi met the minimum requirements of the educational program. (Cal. Code Regs., tit. 5, § 71710, subd. (c)(2), (3), (6) & (7).) The information provided was too broad. In particular, respondents failed to submit the complete descriptions of the following courses:

a. BUS/CSIT [Computer Science and Information Technology] 600 Foundation of Business Management, BUS 520 Leadership Organizational Behavior, CSIT 511 Computer Networking, and CSIT 363/563 Database Management do not provide: (1) sequential and detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured; or (2) instructional mode or methods.

b. CSIT 638 Software Engineering, CSIT 534 Introduction to Operating Systems, and CSIT 595 Introduction to Cloud Computing do not provide: (1) a statement of educational objectives; (2) sequential and detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured; or (3) instructional mode or methods.

c. BUS 523 Strategic Management, BUS 550 Finance, BUS 510 Accounting — Financial & Managerial, and BUS/CSIT 528 Project Management do not provide: (1) an appropriate length of the educational program (do not meet the required 15 hours of instruction per 1 credit); or (2) instructional mode or methods.

These are minor violations of the regulations.

19. The sequence of courses proposed by respondents for the Master of Business Administration did not set forth the level of rigor required to enable graduate students to accomplish the proposed educational objectives. "A Master's degree may only be awarded to a student who demonstrates at least the achievement of learning in a designated major field that is equivalent in depth to that normally acquired in a minimum of 30 semester credits or its equivalent or one year of study beyond the Bachelor's degree." (Cal. Code Regs., tit. 5, § 71865, subd. (a).) Respondents had proposed BUS 510 Accounting - Financial & Managerial, BUS 540 Introduction to Marketing, BUS 550 Finance, and BUS/CSIT 528 Project Management as courses for the Masters of Business Administration. These courses are usually offered at the bachelor's degree level and focus on understanding and identifying the basic ideas, concepts, theories, and principles of the subject matter. A Master's degree in business administration; however, normally requires students to make executive decisions applying, analyzing, and solving in-depth theoretical or existing business problems. Master's degree courses also must be more in depth than bachelor's degree level courses going beyond the fundamentals of a course. This is a major violation of the regulations.

20. The sequence of courses proposed by respondents for the Master of Computer Science and Information Technology did not set forth the level of rigor required to enable graduate students to accomplish the proposed educational objectives, as required under the Bureau's regulations. (Cal. Code Regs., tit. 5, § 71865, subd. (a).) Respondents had proposed CSIT 534 Introduction to Operating Systems, CSIT 595 Introduction to Cloud Computing, and CSIT 511 Computer Networking as courses for the Master of Science in Computer Science and Information Technology. These courses are usually offered at the bachelor's degree level and focus on understanding and identifying the basic ideas, concepts, theories, and principles of the subject matter. A Master's degree course in computer science and information technology; however, normally requires students to expand on basic ideas and concepts so that they can function in high-level information technology positions and research. The courses regarding the fundamentals as described show that these should be lower division computer science classes. This is a major violation of the regulations.

Faculty

21. Respondents failed to provide evidence that each instructor is qualified or has expertise in the subject matter to teach their assigned courses. An institution must document that all faculty members are duly qualified to perform their assigned duties, including providing instruction, evaluating learning outcomes, evaluating graduate dissertations, theses, and student projects, and participating on doctoral committees. (Cal. Code Regs., tit. 5, § 71720, subd. (a)(9).) In particular, respondents failed to include sufficient documentation for the following faculty members:

- a. Khaled Mabrouk, B.S., Industrial Engineering and Forestry, is assigned to teach in the Master of Business Administration program. His degree should be at the same level as the course he is teaching, not below.
- b. George Guim, Ed.D., Organizational Leadership, is assigned to teach oral communication, written communication, critical thinking, and ethics. Guim does not have the required background or lacks evidence of taking sufficient courses in communication, according to his transcripts that were provided by respondents.
- c. Respondent Tao, M.S., Instructional Science and Technology, is assigned to teach Fundamentals of Arts and Fundamentals of Humanities. There is insufficient evidence to establish that respondent has the required background to teach these courses.
- d. Samuel Tong, M.B.A., J.D., is assigned to teach American History and American Government. Although he may have sufficient background to teach American Government, the evidence failed to demonstrate that he has sufficient background to teach American History.

e. Tony Lima, Ph.D., Economics, is assigned to teach Social Sciences. The evidence did not establish that he has a sufficient background to teach any specific classes, other than economics.

These are major violations of the regulations.

22. Respondents have failed to provide a clear description of what is expected of faculty. An institution must establish "written policies and procedures providing for the participation by qualified faculty in the conducting of research, development of curricula, academic planning, enforcement of standards of academic quality, pursuit of academic matters related to the institution's mission and objectives, establishment of criteria for contracting with new faculty, and evaluation of faculty credentials." (Cal. Code Regs., tit. 5, § 71720, subd. (a)(2).) This is a major violation of the regulations.

Catalog

23. Pursuant to the admissions and academic achievement standards, an institution is required to have a catalog with certain minimum information as required under the Act. Respondents' catalog inappropriately used the term "approval" and did not explain what "approval" means. An institution may not use the term "approval" without stating clearly that approval to operate means compliance with state standards as set forth in the Act. (Ed. Code, § 94897, subd. (1).) This is a minor violation of the Education Code.

24. The catalog did not include the verbatim language encouraging a prospective student to review the catalog and School Performance Fact Sheet before signing an enrollment agreement. (Ed. Code, § 94909 subd. (a)(3)(B).) This is a minor violation of the Education Code. The catalog did not include the required verbatim language providing notice concerning the transferability of credits. (Ed. Code, § 94909, subd. (1)(15).) The catalog also had an incomplete heading and improperly used the term "CALMAT." This is a minor violation of the Education Code.

25. In the admission policies regarding foreign students, respondents failed to provide a consistent policy. Respondent's application document specified that a foreign student's transcript must be evaluated by a member of the National Association of Credential Evaluation Services. However, this information is not included in the catalog. Further, respondents indicated that the institution will not administer its own English Proficiency Assessment for foreign-language students. However, the catalog indicates that foreign-language students are still allowed to take an English Proficiency Assessment administered by the institution to demonstrate the required proficiency in English before enrolling. A detailed description of an institution's admission policies must be clearly stated for students in the catalog. (Ed. Code, § 94909, subd. (a)(8)(A); Cal. Code Regs., tit. 5, § 71700, subd. (a).) This is a minor violation of the Education Code and the regulations.

26. The catalog did not include a course description for the Bachelor of Science in Business Administration. An institution must include a description of the instruction in its bachelor courses, the requirements for completion of each program, any final tests or examinations, or any required internships or externships. (Ed. Code, § 94909, subd. (a)(5).) This is a minor violation of the Education Code.

27. The catalog did not include the schedule of total charges for a period of attendance and an estimated schedule of total charges for its entire educational program for the Bachelor of Science in Business Administration. (Ed. Code, § 94909, subd. (a)(9).) This is a minor violation of the Education Code.

28. The catalog did not include the verbatim language related to the STRF. (Ed. Code, § 94909, subd. (a)(9) & (14); Cal. Code Regs., tit. 5, § 76215, subds. (a) & (b).) This is a minor violation of the regulations and Education Code.

29. The catalog did not include a "statement specifying that, if a student obtains a loan to pay for an educational program, the student will have the responsibility to repay the full amount of the loan plus interest, less the amount of any refund, and that, if the student has received federal student financial aid funds, the student is entitled to a refund of the moneys not paid from federal student financial aid program funds." (Ed. Code, § 94909, subd. (a)(11).) Even if a student received a loan from outside the school, the student must be provided with these disclosures. This is a minor violation of the Education Code.

30. Respondents improperly required students who received a scholarship to authorize respondents to use their photographs and testimonials in promotional and publicity materials. An institution may not offer to compensate students to act as agents of the institution with regard to the solicitation, referral, or recruitment of any person for enrollment in the institution. (Ed. Code, § 94897, subds. (g) & (h).) In particular, the student's receipt of a scholarship cannot be tied to the institution's ability to use that information for publicity. This is a minor violation of the Education Code.

31. The catalog states that it offers limited online learning classes. The catalog did not clarify whether these online learning classes constitute distance education. An institution offering distance education shall ensure that the educational program offered through distance education is appropriate for delivery through distance education methods. The catalog must clearly state if offering online classes, and the platform that is to be used to deliver the education methods. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(1).) This is a minor violation of the regulations.

Library

32. Respondents failed to establish that respondent Tao has any experience in library studies or retrieving library information. An institution that depends on another institution's collections for library and other learning resources must adhere to certain requirements under the Bureau's regulations, including that the institution's librarian is a professional librarian or information specialist experienced in the electronic retrieval of information. (Cal. Code Regs., tit. 5, § 71740, subd. (d)(2) & (4).) This is a major violation of the regulations.

Respondent's Evidence

33. According to Eric Tao, CALMAT has remained in operation throughout the application process. The vision of the institution is to educate high tech professionals to become managers. The classes are engaging and the curriculum is rigorous. CALMAT has over 60 graduates who are doing well in their related professions, including alumnus that work for the state government, and as managers at Intel. Eventually, respondents will seek accreditation from the Western Association of Schools and Colleges.

34. Respondents do not dispute the majority of the deficiencies. They believed that they had adequately responded to all of the letters sent by Smith, and were surprised to see many of the deficiencies noted by Dibaji, especially those that had not been brought to their attention by Smith. Respondents reiterate that they have been involved in the application process for four years and there was an 18-month period where they had no communication or feedback from the Bureau. Respondents were lulled into the belief that they were in compliance, and were merely waiting for the bureaucratic process to churn along while expecting an ultimate approval of their application. Respondents state that it would be painful, difficult, and time consuming if they must cease operations and submit an entirely new application. Respondents have made sincere efforts to comply and seek an opportunity to correct the deficiencies.

As explanation for some of the minor deficiencies, respondents state that they were never informed that they had to use specific verbatim language. They had reviewed samples from other institutions and incorporated that language into their catalog and enrollment agreement. However, they are now fully aware and will ensure the use of the verbatim language, as required. Respondents now have a better understanding of what is required in the application. They also acknowledge their mistakes in providing conflicting information and for not including more detailed and specific descriptions, as required.

35. Primarily, there are only two areas where respondents appear to disagree with the Bureau's conclusions. In particular, respondents believe that the courses comprise the required rigor for the Master's degree programs. For example, the Masters of Business Administration is a generalist degree, which is designed as a non-research degree. Respondents contend that there is no particular undergraduate degree required for this program. Therefore, courses involving the basic ideas, concepts, theories, and principles of the subject matter are crucial, especially for those who do not have a background in business administration. Another area of disagreement is the qualifications of some of the instructors. Tao states that Mabrouck is well-known in the high tech industry in marketing. Also, Guim's experience in organizational leadership is pertinent to the study of oral communication.

Nevertheless, despite the apparent disagreements, respondents affirm their commitment to comply with all regulations and will abide by whatever the Bureau requires for approval of their existing application. They only seek additional time to comply since they now have a clearer message from the Bureau regarding the deficiencies.

LEGAL CONCLUSIONS

1. Education Code section 94887 provides that an approval to operate as a private postsecondary educational institution shall be granted only after an applicant has presented sufficient evidence to the Bureau that the applicant has the capacity to satisfy the minimum operating standards. An application that does not satisfy those standards shall be denied. California Code of Regulations, title 5, section 71100, provides that an application for approval to operate for an institution not accredited that fails to contain all information required by sections 71100-71380 is incomplete.

2. First Cause for Denial (Incomplete Application – Failure to Specify Agent for Service of Process). Cause for denial of the application exists under California Code of Regulations, title 5, section 71135,⁶ by reason of the matters set forth in Finding 10.
3. Second Cause for Denial (Exemplar of Enrollment Agreement – Failure to Cover Time Period of Enrollment Agreement). Cause for denial of the application exists under California Code of Regulations, title 5, section 71800, subdivision (b), by reason of the matters set forth in Finding 11.
4. Third Cause for Denial (Exemplar of Enrollment Agreement – Failure to Include Statement of Refund Policy). Cause for denial of the application exists under Education Code section 94911, subdivision (e)(1) and (2),⁷ by reason of the matters set forth in Finding 12.
5. Fourth Cause for Denial (Exemplar of Enrollment Agreement – Failure to Include Statement of Student Default). Cause for denial of the application exists under Education Code section 94911, subdivision (g)(1) and (2), by reason of the matters set forth in Finding 13.
6. Fifth Cause for Denial (Exemplar of Enrollment Agreement – Failure to Include Regulatory Language Related to the STRF). Cause for denial of the application exists under California Code of Regulations, title 5, section 76215, subdivisions (a) and (b), by reason of the matters set forth in Finding 14.
7. Sixth Cause for Denial (Exemplar of Enrollment Agreement – Failure to Include Statutory Language Related to Transferability of Credits). Cause for denial of the application exists under Education Code sections 94911, subdivision (h), and 94909, subdivision (a)(15), by reason of the matters set forth in Finding 15.
8. Seventh Cause for Denial (Exemplar of Enrollment Agreement – Failure to Include Statutory Language Related to Materials Required to Be Given by the School). Cause for denial of the application exists under Education Code section 94911, subdivision (i)(1) and (2), by reason of the matters set forth in Finding 16.
9. Eighth Cause for Denial (Instructions and Degrees – Failure to Submit Course Syllabi for Bachelor of Science in Business Administration). Cause for denial of the application exists under California Code of Regulations, title 5, section 71710, by reason of the matters set forth in Finding 17.
10. Ninth Cause for Denial (Instructions and Degrees – Failure to Submit Complete Course Descriptions). Cause for denial of the application exists under California Code of Regulations, title 5, section 71710, subdivision (c)(2), (3), (6), and (7), by reason of the matters set forth in Finding 18.

⁶ At hearing, the Statement of Issues was amended to reflect the correct citation to the regulations.

⁷ At hearing, the Statement of Issues was amended to change the word in line 19, from “non-federal” to “federal.”

11. Tenth Cause for Denial (Instructions and Degrees – Failure to Provide Sufficient Rigor to Master’s Degree in Business Administration). Cause for denial of the application exists under California Code of Regulations, title 5, section 71865, subdivision (a), by reason of the matters set forth in Finding 19.
12. Eleventh Cause for Denial (Instructions and Degrees – Failure to Provide Sufficient Rigor to Master’s Degree in Computer Science/Information Technology). Cause for denial of the application exists under California Code of Regulations, title 5, section 71865, subdivision (a), by reason of the matters set forth in Finding 20.
13. Twelfth Cause for Denial (Faculty - Unqualified Instructors). Cause for denial of the application exists under California Code of Regulations, title 5, section 71720, subdivision (a)(9), by reason of the matters set forth in Finding 21.
14. Thirteenth Cause for Denial (Faculty - Failure to Provide Written Procedures for Faculty Participation). Cause for denial of the application exists under California Code of Regulations, title 5, section 71720, subdivision (a)(2), by reason of the matters set forth in Finding 22.
15. Fourteenth Cause for Denial (Catalog – Unauthorized Use of Approval). Cause for denial of the application exists under Education Code section 94897, subdivision (l), by reason of the matters set forth in Finding 23.
16. Fifteenth Cause for Denial (Catalog – Failure to Include Statutory Language Related to Student Review of Materials). Cause for denial of the application exists under Education Code section 94909, subdivision (a)(3)(B), by reason of the matters set forth in Finding 24.
17. Sixteenth Cause for Denial (Catalog – Failure to Include Statutory Language Related to Transferability of Credits; Incomplete Heading; Improper Use of “CALMAT”). Cause for denial of the application exists under Education Code section 94909, subdivision (a)(15), by reason of the matters set forth in Finding 25.
18. Seventeenth Cause for Denial (Catalog – Failure to Provide Consistent Information in Catalog). Cause for denial of the application exists under Education Code section 94909, subdivision (a)(8)(A), by reason of the matters set forth in Finding 26.
19. Twentieth Cause for Denial⁸ (Catalog – Failure to Include Course Descriptions for Bachelor of Science in Business Administration). Cause for denial of the application exists under Education Code section 94909, subdivision (a)(5), by reason of the matters set forth in Finding 27.
20. Twenty-First Cause for Denial (Catalog – Failure to Include Charges for Bachelor of Science in Business Administration). Cause for denial of the application exists under Education Code section 94909, subdivision (a)(9), by reason of the matters set forth in Finding 28.

⁸ At hearing, the eighteenth and nineteenth causes for denial alleged in the Statement of Issues were dismissed.

21. Twenty-Second Cause for Denial (Catalog – Failure to Include Regulatory Language Related to STRF). Cause for denial of the application exists under Education Code section 94909, subdivisions (a)(9) & (14), and California Code of Regulations, title 5, section 76215, subdivisions (a) and (b), by reason of the matters set forth in Finding 29.

22. Twenty-Third Cause for Denial (Catalog – Failure to Include Statement of Loan Repayment Obligations). Cause for denial of the application exists under Education Code section 94909, subdivision (a)(11), by reason of the matters set forth in Finding 30.

23. Twenty-Fourth Cause for Denial (Catalog – Consideration/Compensation to Student). Cause for denial of the application exists under Education Code section 94897, subdivisions (g) and (h), by reason of the matters set forth in Finding 31.

24. Twenty-Fifth Cause for Denial (Catalog – Failure to Clarify Whether Institution Offers Distance Education). Cause for denial of the application exists under California Code of Regulations, title 5, section 71715, subdivision (d)(1),⁹ by reason of the matters set forth in Finding 32.

25. Twenty-Sixth Cause for Denial (Library – Unqualified Librarian). Cause for denial of the application exists under California Code of Regulations, title 5, section 71740, subdivision (d)(2) and (4), by reason of the matters set forth in Finding 33.

Approval Determination

26. Respondents are commended for their consistent attempts to correct deficiencies brought to their attention. The issues related to their exemplars of the enrollment agreement and catalog involve minor deficiencies. However, it is noted that respondents have serious deficiencies that cannot be easily remedied. For example, respondents failed to demonstrate that there is sufficient rigor for each of the Master's degree programs. These are serious deficiencies that cannot be easily rectified.

The highest priority for the Bureau is consumer protection. While there is no evidence that any of the students have complained to the Bureau about the quality of their education, allowing programs to continue in the face of findings that there are major deficiencies that are not easily corrected in their meeting of minimum operating standards is, by definition, harm. Minimum operating standards are just that -- the minimum level at which an owner of an institution shall operate that institution in order to obtain and maintain approval of the Bureau. These operating standards exist in order to assure the public that current and prospective students can expect the education that they receive reaches at least a minimum standard that other programs designed to provide the same education also meet.

The Bureau can appreciate the time that respondents took to attempt to correct the shifting list of deficiencies that were identified by the Bureau over a long period of time. The Bureau can also appreciate the willingness expressed for continuing to correct the still remaining deficiencies. In light of the Bureau's mandate, however, it would be harmful to the public to allow the programs to continue while those deficiencies exist.

⁹ At hearing, the Statement of Issues was amended to reflect the correct citation to the regulations.

The Master's level programs are found not to meet the rigor expected for such programs. Developing such rigor cannot occur quickly or easily. Although there was testimony that the bachelor's level program might be approved were acceptable syllabi submitted, this is not an easy fix. A syllabus or course outline for each course or module must contain: (1) a short, descriptive title of the educational program; (2) a statement of educational objectives; (3) length of the educational program; (4) sequence and frequency of lessons or class sessions; (5) complete citations of textbooks and other required written materials; (6) sequential and detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured; and (7) instructional mode or methods. (Cal. Code Regs., tit. 5, § 71710, subd. (c).) By its description, this is not a simple piece of paper, but a thought-out map of the course. Respondents failed to provide adequate syllabi for any of the courses, apparently, for the bachelor of science in business administration program. If these programs were permitted to continue in light of these deficiencies, it seems obvious that students who continue in the programs may obtain the degrees offered prior to the correction of these deficiencies, thus paying for an education that fails in major ways to establish that it meets expected standards.

ORDER

The application of respondents California University of Management and Technology, and Chiu Yen Tao, also known as Chiu-Yen Wu-Tao, Co-Chair of the Board of Directors and Majority Owner, for approval to operate an institution not accredited is denied. Within 30 days of the effective date of this decision, respondents shall:

1. Cease Enrollment

Respondents shall cease operating a private postsecondary institution in California, and shall not resume operation in California unless and until it is approved to do so by the Bureau for Private Postsecondary Education.

2. Notification to Student/Cessation of Operation

Respondent shall comply with procedures provided by the Bureau regarding notification to, and management of, students.

3. Teach-Out Plan

Respondents shall propose a plan to teach-out student of its programs pursuant to Title 5, section 76240, of the California Code of Regulations for approval by the Bureau.

4. Notification of Rights under STRF

Respondents shall notify all persons who were students of the institution by the effective date of this decision of their rights under the Student Tuition Recovery Fund, and how to apply for payment pursuant to Title 5, section 76200, et seq. of the California Code of Regulations.

5. Student Roster

Respondents shall provide to the Bureau the names, addresses, phone numbers, email addresses, and the programs in which they are or were enrolled, of all persons who are currently or were students of the institution within 60 days prior to the effective date of the Decision.


6. Record Storage

Within 5 days of the effective date of this Decision, respondents shall provide the Bureau with the location of the repository for all records as they are required to be maintained pursuant to Title 5, California Code of Regulations, section 71930.

It is so ORDERED.

This decision shall become effective on: July 9, 2016.

Dated: June 10, 2016


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs