

1 XAVIER BECERRA
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6294
6 Facsimile: (213) 897-2804
Attorneys for Complainant
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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:

Case No. 1003293

14 **MISSION CAREER COLLEGE**

STATEMENT OF ISSUES

15 **Application for Renewal of Approval to**
16 **Operate and Offer Educational Programs**
for Non-Accredited Institutions

17 **Institution Code: 81663049**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Dr. Michael Marion, Jr. (Complainant) brings this Statement of Issues solely in his
23 official capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
24 Consumer Affairs.

25 2. On or about November 14, 2013, the Bureau for Private Postsecondary Education
26 received an application for an Application for Renewal of Approval to Operate and Offer
27 Educational Programs for Non-Accredited Institutions from Mission Career College
28 (Respondent). On or about November 6, 2013, Tino Abila certified under penalty of perjury to

1 the truthfulness of all statements, answers, and representations in the application. The Bureau
2 denied the application on January 25, 2018.

3 JURISDICTION

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

8 STATUTORY PROVISIONS

9 4. Business and Professions Code of 22 defines the term "board" to include "bureau."

10 5. Education Code section 94885¹ states:

11 (a) The bureau shall adopt by regulation minimum operating standards for an institution
12 that shall reasonably ensure that all of the following occur:

13 (1) The content of each educational program can achieve its stated objective.

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

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

18 (4) The institution maintains a withdrawal policy and provides refunds.

19 (5) The directors, administrators, and faculty are properly qualified.

20 (6) The institution is financially sound and capable of fulfilling its commitments to
21 students.

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

24 (8) Adequate records and standard transcripts are maintained and are available to students.

25 (9) The institution is maintained and operated in compliance with this chapter and all other
26 applicable ordinances and laws.

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28 ¹ California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

1 (b) Except as provided in Section 94885.1, an institution offering a degree must satisfy one
2 of the following requirements:

3 (i) Accreditation by an accrediting agency recognized by the United States Department of
4 Education, with the scope of that accreditation covering the offering of at least one degree
5 program by the institution.

6 (ii) An accreditation plan, approved by the bureau, for the institution to become fully
7 accredited within five years of the bureau's issuance of a provisional approval to operate to the
8 institution. The provisional approval to operate to an unaccredited degree-offering institution
9 shall be in compliance with Section 94885.5.

10 6. Education Code Section 94886 states:

11 Except as exempted in Article 4 (commencing with section 94874) or in compliance with
12 the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,
13 conduct, or do business as a private postsecondary educational institution in this state without
14 obtaining an approval to operate under this chapter.

15 7. Education Code Section 94887 states:

16 An approval to operate shall be granted only after an applicant has presented sufficient
17 evidence to the bureau, and the bureau has independently verified the information provided by the
18 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
19 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
20 for an approval to operate if the application does not satisfy those standards.

21 8. Education Code Section 94909 states in pertinent part:

22 (a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a
23 prospective student, either in writing or electronically, with a school catalog containing, at a
24 minimum, all of the following:

25

26 (2) Except as specified in Article 2 (commencing with Section 94802), a statement that the
27 institution is a private institution and that it is approved to operate by the bureau.

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

7

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

9 (8) A detailed description of institutional policies in the following areas:

10

11 (B) Cancellation, withdrawal, and refund policies, including an explanation that the student
12 has the right to cancel the enrollment agreement and obtain a refund of charges paid through
13 attendance at the first class session, or the seventh day after enrollment, whichever is later. The
14 text shall also include a description of the procedures that a student is required to follow to cancel
15 the enrollment agreement or withdraw from the institution and obtain a refund consistent with the
16 requirements of Article 13 (commencing with Section 94919).

17 9. Education Code Section 94913 states:

18 (a) An institution that maintains an Internet Web site shall provide on that Internet Web site
19 all of the following:

20 (1) The school catalog.

21 (2) A School Performance Fact Sheet for each educational program offered by the
22 institution.

23 (3) Student brochures offered by the institution.

24 (4) A link to the bureau's Internet Web site.

25 (5) The institution's most recent annual report submitted to the bureau.

26 (b) An institution shall include information concerning where students may access the
27 bureau's Internet Web site anywhere the institution identifies itself as being approved by the
28 bureau.

1 REGULATORY PROVISIONS

2 10. Title 5, CCR, section 71700 states:

3 “The Bureau may request that an institution document compliance with the standards set
4 forth in the Act and this Division to obtain and maintain an approval to operate.”

5 11. Title 5, CCR, section 71710 states:

6 In order to meet its mission and objectives, the educational program defined in section
7 94837 of the Code shall be comprised of a curriculum that includes:

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

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

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

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

16 (2) a statement of educational objectives;

17 (3) length of the educational program;

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

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

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

22 (7) instructional mode or methods.

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

25 (e) specific learning outcomes tied to the sequence of the presentation of the material to
26 measure the students' learning of the material; and

27 (f) evaluation by duly qualified faculty of those learning outcomes.

28 12. Title 5, CCR, section 71475 states in pertinent part:

1 (e) The institution shall submit at the time it applies for renewal current financial
2 statements that meet the requirements of section 74115 as follows: (1) for an institution with
3 annual gross revenues of \$ 500,000 and over, statements shall be audited; (2) for an institution
4 with annual gross revenues less than \$ 500,000, statements shall be reviewed.

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6 (i) The institution shall include in its application an organization chart that shows the
7 governance and administrative structure of the institution and the relationship between faculty
8 and administrative positions. If there have been no substantive changes since the last submission
9 of an organizational chart, the institution may so state and is not required to submit
10 documentation.

11 (j) The institution shall provide in the application a description of the job duties and
12 responsibilities of each administrative and faculty position. If there have been no substantive
13 changes since the last submission, the institution may so state and is not required to submit
14 documentation.

15 (q) The institution shall include in its application copies of advertising and other statements
16 disseminated to the public in any manner by the institution or its representatives that concern,
17 describe, or represent each of the following:

18 (1) The institution.

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

20 . . .

21 (u) For each educational program that the institution offers or proposes to offer, the
22 application shall contain a statement that the educational program meets the requirements of
23 section 71710, as well as the following unless there have been no substantive changes since the
24 last submission. If there have been no substantive changes made the institution may so state and is
25 not required to provide documentation:

26 . . .

27 (7) Upon request, the institution shall provide to the Bureau copies of the curriculum or
28 syllabi required pursuant to section 71710.

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2 (x) The application shall include a statement that the institution has contracted with
3 sufficient duly qualified faculty members who meet the qualifications of section 71720 unless
4 there have been no substantive changes since the last submission. If there have been no
5 substantive changes made the institution may so state and is not required to provide
6 documentation.

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8 “(z) The application shall include a description of library holdings, services, and other
9 learning resources, including policies and procedures for supplying them to students who do not
10 receive classroom instruction. The description need not consist of a list of each holding. The
11 description shall include an explanation of how the library and other learning resources are
12 sufficient to support the instructional needs of students and, if no facilities exist at the institution,
13 how and when students may obtain access to a library and other learning resources as required by
14 the curriculum unless there have been no substantive changes since the last submission. If there
15 have been no substantive changes made the institution may so state and is not required to provide
16 documentation.”

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18 13. Title 5, CCR, section 71715 states in pertinent part:

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20 (d) Distance education as defined in section 94834 of the Code, does not require the
21 physical presence of students and faculty at the same location but provides for interaction
22 between students and faculty by such means as telecommunication, correspondence, electronic
23 and computer augmented educational services, postal service, and facsimile transmission. In
24 addition to the other requirements of this chapter and the Act, an institution offering distance
25 education shall:

26 ...

27 (4) provide for meaningful interaction with faculty who are qualified to teach using
28 distance education methods;

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2 (6) timely complete student evaluations of learning outcomes by duly qualified faculty,
3 which are appropriate for use with the distance education methods used, and evaluated by duly
4 qualified faculty.

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6 14. Title 5, CCR, section 71720 states in pertinent part:

7

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

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

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16 15. Title 5, CCR, section 71740 states:

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18 (b) An institution shall provide or make provisions for the library and other learning
19 resources needed to support each educational program it offers, including resources such as
20 reference works, periodicals, monographs, and media and equipment specific to the educational
21 programs offered.

22 (c) An institution shall describe onsite library and other learning resources, if any, that
23 enable students to pursue inquiries, searches for information and documentation, and assignments
24 connected with their study programs.

25 (d) An institution that depends for library and other learning resources primarily on other
26 institutions' collections and resources not in its possession shall do all of the following:

27 (1) Describe those library and other learning resources, in the application and catalog.

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1 (2) Provide students and faculty with access to the regular services of a professional
2 librarian or information specialist experienced in the electronic retrieval of information, who shall
3 provide support for faculty in curriculum matters and actively serve as a resource guide for both
4 graduate and undergraduate students.

5 (3) Assure that students have access to the library collections and resources of another
6 institution, organization, or library.

7 (4) Document compliance with paragraphs (1), (2), and (3).

8 16. Title 5, CCR, section 71745 states:

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

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

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

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

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

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

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

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1 (b) At an institution's request, the Bureau may consider the financial resources of a parent
2 company if the parent company, as defined by section 94853 of the Code, meets and maintains all
3 of the following provisions:

4 (1) consents in writing to be sued in California;

5 (2) consents in writing to be subject to the jurisdiction of the Bureau with respect to the
6 institution's regulation under the Act and this Chapter;

7 (3) designates and maintains an agent for service of process, consistent with section 74190;

8 (4) agrees in writing to pay any refund, claim, penalty, or judgment that the institution is
9 obligated to pay; and

10 (5) files financial reports, maintains financial records, and consents in writing to permit the
11 inspection and copying of financial records to the same extent as is required of the institution.

12 (c) An institution shall provide to the Bureau its most current financial statements upon
13 request.”

14 17. Title 5, CCR, section 71810 states:

15

16 (b) The catalog shall contain the information prescribed by Section 94909 of the Code and
17 all of the following:

18 (1) The specific beginning and ending dates defining the time period covered by the
19 catalog;

20 (2) A statement of the institution's missions and purposes and the objectives underlying
21 each of its educational programs;

22 (3) If the institution admits students from other countries, whether visa services are
23 provided or whether the institution will vouch for student status, and any associated charges;

24 (4) Language proficiency information, including: (A) the level of English language
25 proficiency required of students and the kind of documentation of proficiency, such as the Test of
26 English as a Foreign Language (TOEFL), that will be accepted; and (B) whether English
27 language services, including instruction such as ESL, are provided and, if so, the nature of the
28 service and its cost;

1 (5) Whether any instruction will occur in a language other than English and, if so, the level
2 of proficiency required and the kind of documentation of proficiency, such as the United States
3 Foreign Service Language Rating System, that will be accepted;

4 (6) The institution's policies and practices regarding any form of financial aid, including all
5 consumer information which the institution is required to disclose to the student under any state
6 or federal financial aid program;

7 (7) The institution's policies and procedures for the award of credit for prior experiential
8 learning, including assessment policies and procedures, provisions for appeal, and all charges that
9 a student may be required to pay;

10 (8) The institution's standards for student achievement;

11 (9) A description of the facilities and of the types of equipment and materials that will be
12 used for instruction;

13 (10) A description of library and other learning resources and the procedures for student
14 access to those resources;

15 (11) If the institution offers distance education, the approximate number of days that will
16 elapse between the institution's receipt of student lessons, projects, or dissertations and the
17 institution's mailing of its response or evaluation.

18 (12) A description of all student services;

19 (13) Housing information including all of the following:

20 (A) Whether the institution has dormitory facilities under its control;

21 (B) The availability of housing located reasonably near the institution's facilities and an
22 estimation of the approximate cost or range of cost of the housing; and

23 (C) If the institution has no responsibility to find or assist a student in finding housing, a
24 clear and conspicuous statement so indicating. A statement that the program is "non- residential"
25 does not satisfy this subparagraph.

26 (14) Policies on student rights, including the procedure for addressing student grievances;
27 and

28 (15) Policies on the retention of student records.

1 18. Title 5, CCR, section 74115 states:

2 (a) This section applies to every set of financial statements required to be prepared or filed
3 by the Act or by this chapter.

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

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

11 (2) Financial statements prepared on an annual basis as required by section 74110(b) shall
12 be prepared in accordance with the generally accepted accounting principles established by the
13 American Institute of Certified Public Accountants. Nonprofit institutions shall provide annual
14 financial statements as required under generally accepted accounting principles for nonprofit
15 organizations.

16 (3) The financial statements shall establish that the institution meets the requirements for
17 financial resources required by Section 71745.

18 (4) If an audit performed to determine compliance with any federal or state student
19 financial aid program reveals any failure to comply with the requirements of the program and the
20 noncompliance creates any liability or potential liability for the institution, the financial
21 statements shall reflect the liability or potential liability.

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

25 (c) Work papers for the financial statements shall be retained for five years from the date
26 of the statements and shall be made available to the Bureau upon request.

27 (d) "Current" with respect to financial statements means completed no sooner than 120
28 days prior to the time it is submitted to the Bureau, and covering no less than the most recent

1 complete fiscal year. If more than 8 months will have elapsed between the close of the most
2 recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover no
3 less than five months of that current fiscal year.

4 19. Title 5, CCR, section 74117 states:

5 "In addition to the requirement in Section 94913(b) of the Code, an institution that
6 maintains a website shall provide on the homepage of that website clear and conspicuous links to
7 all the items required in Section 94913(a) of the Code."

8 **FIRST CAUSE FOR DENIAL OF APPLICATION**

9 (Failure to Meet Minimum Operating Standards -Advertising and Other Public Statements)

10 20. Respondent's application is subject to denial under Education Code section 94891(b)
11 and 5, California Code of Regulations (CCR) section 71700 and 71475(q)(1-2) in that the
12 institution provided copies of brochures for the educational programs that appear on the
13 institution's website.

14 21. The circumstances are that the brochures for the Chemical Dependency Counselor,
15 Heavy Equipment Operator and Medical Assistant programs do not include correct Bureau
16 approval statements nor the institution's correct address.

17 **SECOND CAUSE FOR DENIAL OF APPLICATION**

18 (Failure to Meet Minimum Operating Standards – Description of Educational Program)

19 22. Respondent's application is subject to denial under Education Code section 94891(b)
20 and 5, CCR section 71710 subdivision (a)-(c) and 71475 subdivision (u)(7) in that the institution
21 has not met minimum operating standards as it has not sufficiently demonstrated a fully
22 developed curriculum that is ready to be delivered and that the subject areas and courses are
23 presented in a logically organized manner or sequence to students.

24 23. The circumstances are that the Respondent failed to provide separate syllabi for each
25 course for each of the programs that are offered. Moreover, some syllabi did not include the
26 requisite information including, but not limited to, the approved program hours, distance
27 education information, a clear sequence and frequency of the courses offered, the list of skills to

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1 be learned and how those skills will be measured, complete textbook information nor correct
2 institution's address.

3 **THIRD CAUSE FOR DENIAL OF APPLICATION**

4 (Failure to Meet Minimum Operating Standards - Financial Resources and Statements)

5 24. Respondent's application is subject to denial under Education Code section 94891(b)
6 in conjunction with 5, CCR sections 74115 and 71475 subdivision (e), and 71745 in that after a
7 substantive change in ownership, the Respondent did not provide financial statements to
8 demonstrate that it has the financial resources to support the institution.

9 25. The circumstances are that on or about November 14, 2017, the Respondent provided
10 a statement of assets and equity modified cash basis for January through December 2016. The
11 total amount of stated assets exceeded \$500,000 and therefore required submission of an audited
12 financial statement. Said submission was also required to contain, at a minimum, current
13 financial information including a balance, sheet, income statement, and a cash flow statement.

14 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

15 (Failure to Meet Minimum Operating Standards - Faculty)

16 26. Respondent's application is subject to denial under Education Code sections 94891(b)
17 and 5, CCR sections 71715 subdivisions (d)(4) and (6) and 71720 subdivision (b) (1), 71475(x) in
18 that Respondent's application does not satisfy the legally required minimum operating standards
19 for faculty where the Respondent has not provided evidence that it employs faculty who possess
20 the academic, experiential and professional qualifications to teach. The circumstances are as
21 follows:

22 27. The Respondent did not provide sufficient documentation of resumes and qualifications
23 for two faculty members who instruct in the CPR/First Aid program and the Water Technology
24 Management programs.

25 28. The Respondent did not provide faculty names and qualifications for the following
26 programs listed in the catalog: Chemical Dependency Counselor, Computer Office Specialist,
27 Dialysis Technician, Massage Therapy, Mobile Crane Operator, Pharmacy Technician, and
28 Tower Crane Operator. Faculty for these courses were instead listed as "TBA."

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PRAYER

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

1. Denying the application of Mission Career College for a Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions; and
2. Taking such other and further action as deemed necessary and proper.

DATED:

12/27/18



DR. MICHAEL MARION, JR.
Bureau Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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