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7

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

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In the Matter of the Statement of Issues
Against:

Case No. 998933

**CINEMA MAKE-UP SCHOOL; SASHA
KIM LEE, owner**

STATEMENT OF ISSUES

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

Applicant

Institution Code 1923111

Respondent.

Complainant alleges:

PARTIES

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

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“... ”

“(b) ‘License’ includes certificate, registration or other means to engage in a business.”

8. California Education Code section 94885² states:

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

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

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

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

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

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

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

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

“(h) Adequate records and standard transcripts are maintained and are available to students.

“(i) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws.

9. California Education Code section 94886 states:

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

² California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

1 10. California Education Code section 94887:

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

7 11. Section 94891, subdivision (b) states:

8 "to be granted a renewal of an approval to operate, the institution shall demonstrate its
9 continued capacity to meet minimum operating standards."

10 12. California Education Code section 94909 states as follows:

11 "(a) Prior to enrollment, an institution shall provide a prospective student, either in writing
12 or electronically, with a school catalog containing, at a minimum, all of the following:

13 ...

14 "(7) Information regarding the faculty and their qualifications.

15 "...

16 "(11) A statement specifying that, if a student obtains a loan to pay for an educational
17 program, the student will have the responsibility to repay the full amount of the loan plus interest,
18 less the amount of any refund, and that, if the student has received federal student financial aid
19 funds, the student is entitled to a refund of the moneys not paid from federal student financial aid
20 program funds.

21 "...

22 "(14) A description of the student's rights and responsibilities with respect to the
23 Student Tuition Recovery Fund. This statement shall specify that it is a state requirement that a
24 student who pays his or her tuition is required to pay a state-imposed assessment for the Student
25 Tuition Recovery Fund. This statement shall also describe the purpose and operation of the
26 Student Tuition Recovery Fund and the requirements for filing a claim against the Student
27 Tuition Recovery Fund.

28"

1 REGULATORY PROVISIONS

2 13. California Code of Regulations, title 5, division 7.5, section 71475 states:

3 "...

4 "(b) An institution seeking to renew its Approval to Operate pursuant to section 94891 of
5 the Code shall, prior to its expiration, complete and submit to the Bureau the "Application for
6 Renewal of Approval to Operate and Offer Educations Programs for Non-Accredited
7 Institutions," Form Application 94891 (rev. 2/10).

8 "(c) The application for renewal of approval to operate and offer educational programs for
9 non-accredited institutions shall include all of the following:

10 (1) The name, institution/school code and website address of the institution.

11 (2) The physical address of the institution's primary administrative location in California.

12 (3) The mailing address, identified either by physical address or by post office box number,
13 telephone number and fax number of the institution.

14 (4) The physical address, phone number and fax number of each campus and branch at
15 which the educational programs will be offered, including the identification of the institution's
16 main location and branch locations.

17 (5) The name, address, email address, telephone number, and fax number of an individual
18 who will function as the institution's contact person for the purposes of the application.

19 (6) The form of business organization of the institution (e.g., sole proprietorship, general or
20 limited partnership, for-profit corporation, nonprofit corporation, or Limited Liability
21 Corporation). If the institution is incorporated, the institution shall also identify the state within
22 which the institution is incorporated and the date of incorporation, and provide copies of the
23 articles of incorporation and bylaws.

24 (7) The name, title, address, email address, telephone number, nature of interest and
25 percentage of ownership of each person, as defined in section 94855 of the Code, who owns or
26 controls 25% or more of the stock or an interest in the institution and, to the extent applicable,
27 each general partner, officer, corporate director, member of the board of directors, and any other
28 person who exercises substantial control over the institution's management or policies. For the

1 purpose of this paragraph, a person exercises "substantial control over the institution's
2 management or policies" if the person has the authority to cause the institution to expend money
3 or incur debt in the amount of five thousand dollars (\$5,000) or more in any year.

4 "...

5 "(kk) An incomplete application filed under this section will render the institution ineligible
6 for renewal."

7 14. California Code of Regulations, title 5, division 7.5, section 76215 subdivision (b)
8 states:

9 "...

10 "(b) In addition to the statement described under subdivision (a) of this section, a qualifying
11 institution shall include the following statement on its current schedule of student charges:

12 "The State of California created the Student Tuition Recovery Fund (STRF) to relieve or
13 mitigate economic losses suffered by students in educational programs who are California
14 residents, or are enrolled in a residency programs attending certain schools regulated by the
15 Bureau for Private Postsecondary and Vocational Education.

16 You may be eligible for STRF if you are a California resident or are enrolled in a residency
17 program, prepaid tuition, paid the STRF assessment, and suffered an economic loss as a result of
18 any of the following:

19 "1. The school closed before the course of instruction was completed.

20 "2. The school's failure to pay refunds or charges on behalf of a student to a third party for
21 license fees or any other purpose, or to provide equipment or materials for which a charge was
22 collected within 180 days before the closure of the school.

23 "3. The school's failure to pay or reimburse loan proceeds under a federally guaranteed
24 student loan program as required by law or to pay or reimburse proceeds received by the school
25 prior to closure in excess of tuition and other costs.

26 "4. There was a material failure to comply with the Act or this Division within 30 days
27 before the school closed or, if the material failure began earlier than 30 days prior to closure, the
28 period determined by the Bureau.

1 "5. An inability after diligent efforts to prosecute, prove, and collect on a judgment against
2 the institution for a violation of the Act."

3 "However, no claim can be paid to any student without a social security number or a
4 taxpayer identification number."

5 15. California Code of Regulations, title 5, division 7.5, section 71810 states:

6 "(a) Each institution shall provide a catalog pursuant to section 94909 of the Code, which
7 shall be updated annually. Annual updates may be made by the use of supplements or inserts
8 accompanying the catalog. If changes in educational programs, educational services, procedures,
9 or policies required to be included in the catalog by statute or regulation are implemented before
10 the issuance of the annually updated catalog, those changes shall be reflected at the time they are
11 made in supplements or inserts accompanying the catalog.

12 "(b) The catalog shall contain the information prescribed by Section 94909 of the Code and
13 all of the following:

14 "...

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

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

19 "...

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

23 "...

24 "(9) A description of the facilities and of the types of equipment and materials that will be
25 used for instruction;

26 "(10) A description of library and other learning resources and the procedures for student
27 access to those resources;

28 "...

1 an incomplete renewal application to the Bureau. Each violation is a sole and separate cause for
2 denial. The violations are as follows:

3 a. Faculty Qualifications. Respondent failed to submit a catalog that contains the
4 required information about its faculty and their qualifications. This is a violation of California
5 Education Code (CEC) section 94909 subdivision (a)(7).

6 b. Student Loan Repayment. Respondent failed to submit a catalog that complies
7 with CEC section 94909 subdivision (a)(11), regarding student rights to reimbursement of
8 moneys not paid from federal financial aid funds.

9 c. Student Tuition Recovery Fund Disclosure. Respondent failed to submit a
10 catalog that complies with CEC section 94909 subdivision (a)(14) and California Code of
11 regulations (CCR) section 76215 subdivision (b), which requires the following language to be
12 included in its catalog:

13 "The State of California created the Student Tuition Recovery Fund (STRF) to relieve or
14 mitigate economic losses suffered by students in educational programs who are California
15 residents, or are enrolled in a residency programs attending certain schools regulated by the
16 Bureau for Private Postsecondary and Vocational Education."

17 ...

18 However, no claim can be paid to any student without a social security number or a
19 taxpayer identification number.

20 d. Statement of Mission and Objectives. Respondent failed to submit a catalog that
21 complies with CCR section 71810 subdivision (b)(2) and CCR section 70000 subdivisions (q)
22 and (r), which requires that it contain a statement of the institutions missions and purposes, and
23 the objectives underlying each of its educational programs.

24 e. Visa Services. Respondent failed to comply with CCR section 71810 subdivision
25 (b)(3) in that its catalog provides conflicting information on whether Visa services are provided.

26 f. Prior Experiential Learning Credit. Respondent failed to comply with CCR section
27 71810 subdivision (b)(7) in that its catalog fails to provide the policies and procedures for the
28

1 award of credit for prior experiential learning, including assessment policies and procedures,
2 provisions for appeal and charges that students may be required to pay.

3 g. Facilities and Equipment. Respondent failed to comply with CCR section 71810
4 subdivision (b)(9) in that its catalog fails to include the types of equipment and materials that will
5 be used for instruction.

6 h. Library and Learning Resources. Respondent failed to comply with CCR section
7 71810 subdivision (b)(10) in that its catalog fails to provide a description of student access to the
8 library and other learning resources.

9 i. Estimated Cost of Housing. Respondent failed to comply with CCR section 71810
10 subdivision (b)(13) in that its catalog fails to provide an estimation of the cost or range of cost for
11 local housing.

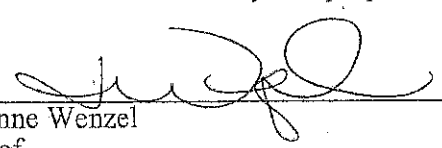
12 j. Student Rights. Respondent failed to comply with CCR section 71810 subdivision
13 (b)(14) in that its catalog fails to provide a policy on student rights.

14
15 PRAYER

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

- 18 1. Denying the application of Cinema Make-Up School; Sasha Kim Lee for a Renewal
19 of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions; and
20 2. Taking such other and further action as deemed necessary and proper.

21 DATED: 4/18/14

22 
23 Joanne Wenzel
24 Chief
25 Bureau for Private Postsecondary Education
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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