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8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
STATE OF CALIFORNIA
10

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

Case No. 1001372

13 **KASH CAREER COLLEGE; INNOCENT**
14 **K. NWAOGU, OWNER**

STATEMENT OF ISSUES

15 **Approval to Operate a Non-Accredited**
16 **Institution**

17 Applicant/Respondent.

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about October 6, 2013, the Bureau for Private Postsecondary Education
24 received an application for an Approval to Operate a Non- Accredited Institution from Kash
25 Career College; Innocent K. Nwaogu, Owner (Respondent). On or about October 6, 2013,
26 Innocent K. Nwaogu certified under penalty of perjury to the truthfulness of all statements,
27 answers, and representations in the application. The Bureau denied the application on December
28 7, 2015.

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JURISDICTION

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

4. Section 94887 of the Education Code¹ states:

“An approval to operate shall be granted only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified the information provided by the applicant through site visits or other methods deemed appropriate by the bureau, that the 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.”

STATUTES AND REGULATIONS

5. Section 94885 of the Education Code provides in pertinent part:

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

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

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

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

....

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

6. Section 94900 of the Education Code provides:

(a) An institution shall maintain records of the name, address, e-mail address, and telephone number of each student who is enrolled in an educational program in that institution.

(b) An institution shall maintain, for each student granted a degree or certificate by

¹ The references to the Education Code are to the current code.

1 that institution, permanent records of all of the following:

2 (1) The degree or certificate granted and the date on which that degree or certificate
was granted.

3 (2) The courses and units on which the certificate or degree was based.

4 (3) The grades earned by the student in each of those courses.

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6 7. Section 94904 of the Education Code provides:

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8 (a) Except as provided in subdivision (c) before an ability-to-benefit student may
execute an enrollment agreement, the institution shall have the student take an
independently administered examination from the list of examinations prescribed by
9 the United States Department of Education pursuant to Section 484(d) of the federal
Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.). The student shall not
10 enroll unless the student achieves a score, as specified by the United States
Department of Education, demonstrating that the student may benefit from the
11 education and training being offered.

12 (b) If the United States Department of Education does not have a list of relevant
examinations that pertain to the intended occupational training, the bureau may
13 publish its own list of acceptable examinations and required passing scores.

14 (c) The bureau shall on or before July 1, 2016, review the list of examinations
prescribed by the United States Department of Education. If the bureau determines
15 there is no examination on the list appropriate for ability to benefit students with
limited English proficiency, the bureau shall approve an alternative examination fir
16 these students. When approving the alternative examination, the bureau may consider
the Comprehensive Adult Student Assessment System examination
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18 8. Section 94906 of the California Education Code provides:

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20 (a) An enrollment agreement shall be written in language that is easily understood. If
English is not the student's primary language, and the student is unable to understand
the terms and conditions of the enrollment agreement, the student shall have the right
21 to obtain a clear explanation of the terms and conditions and all cancellation and
refund policies in his or her primary language.
22

23 (b) If the recruitment leading to enrollment was conducted in a language other than
English, the enrollment agreement, disclosures, and statements shall be in that
24 language.

25 9. Section 94909 of the California Education Code provides in pertinent part:

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

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

(6) If the educational program is designed to lead to positions in a profession, occupation, trade, or career field requiring licensure in this state, a notice to that effect and a list of the requirements for eligibility for licensure.

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

(A) Admissions policies, including the institution's policies regarding the acceptance of credits earned at other institutions or through challenge examinations and achievement tests, admissions requirements for ability-to-benefit students, and a list describing any transfer or articulation agreements between the institution and any other college or university that provides for the transfer of credits earned in the program of instruction. If the institution has not entered into an articulation or transfer agreement with any other college or university, the institution shall disclose that fact.

...

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

...

(15) The following statement:

“NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS EARNED AT OUR INSTITUTION

The transferability of credits you earn at (name of institution) is at the complete discretion of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or certificate) you earn in (name of educational program) is also at the complete discretion of the institution to which you may seek to transfer. If the (credits or degree, diploma, or certificate) that you earn at this institution are not accepted at the institution to which you seek to transfer, you may be required to repeat some or all of your coursework at that institution. For this reason you should make certain that your attendance at this institution will meet your educational goals. This may include contacting an institution to which you may seek to transfer after attending (name of institution) to determine if your (credits or degree, diploma, or certificate) will transfer. “

10. Section 94910 of the California Education Code provides:

Except as provided in subdivision (d) of Section 94909 and Section 94910.5, prior to enrollment, an institution shall provide a prospective student with a School Performance Fact Sheet containing, at a minimum, the following information, as it relates to the educational program:

1 (a) Completion rates, as calculated pursuant to Article 16 (commencing with Section 94928).

2 (b) Placement rates for each educational program, as calculated pursuant to Article 16
3 (commencing with Section 94928), if the educational program is designed to lead to,
4 or the institution makes any express or implied claim related to preparing students for,
5 a recognized career, occupation, vocation, job, or job title.

6 (c) License examination passage rates for programs leading to employment for which
7 passage of a state licensing examination is required, as calculated pursuant to Article
8 16 (commencing with Section 94928).

9 (d) Salary or wage information, as calculated pursuant to Article 16 (commencing
10 with Section 94928).

11 (e) If a program is too new to provide data for any of the categories listed in this
12 subdivision, the institution shall state on its fact sheet: "This program is new.
13 Therefore, the number of students who graduate, the number of students who are
14 placed, or the starting salary you can earn after finishing the educational program are
15 unknown at this time. Information regarding general salary and placement statistics
16 may be available from government sources or from the institution, but is not
17 equivalent to actual performance data."

18 (f) All of the following:

19 (1) A description of the manner in which the figures described in subdivisions (a) to
20 (d), inclusive, are calculated or a statement informing the reader of where he or she
21 may obtain a description of the manner in which the figures described in subdivisions
22 (a) to (d), inclusive, are calculated.

23 (2) A statement informing the reader of where he or she may obtain from the
24 institution a list of the employment positions determined to be within the field for
25 which a student received education and training for the calculation of job placement
26 rates as required by subdivision (b).

27 (3) A statement informing the reader of where he or she may obtain from the
28 institution a list of the objective sources of information used to substantiate the salary
disclosure as required by subdivision (d).

(g) The following statements:

(1) "This fact sheet is filed with the Bureau for Private Postsecondary Education.
Regardless of any information you may have relating to completion rates, placement
rates, starting salaries, or license exam passage rates, this fact sheet contains the
information as calculated pursuant to state law."

(2) "Any questions a student may have regarding this fact sheet that have not been
satisfactorily answered by the institution may be directed to the Bureau for Private
Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web
site address), (telephone and fax numbers)."

(h) If the institution participates in federal financial aid programs, the most recent
three-year cohort default rate reported by the United States Department of Education
for the institution and the percentage of enrolled students receiving federal student
loans.

1 (i) Data and information disclosed pursuant to subdivisions (a) to (d), inclusive, is not
2 required to include students who satisfy the qualifications specified in subdivision (d)
3 of Section 94909 but an institution shall disclose whether the data, information or
4 both provided in its fact sheet excludes students pursuant to this subdivision. An
5 institution shall not actively use data specific to the fact sheet in its recruitment
6 materials or other recruitment efforts of students who are not California Residents and
7 do not reside in California at the time of their enrollment.

8 11. Section 94911 of the California Education Code provides in pertinent part:

9 An enrollment agreement shall include, at a minimum, all of the following:...

10 ... (b) A schedule of total charges, including a list of any charges that are
11 nonrefundable and the student's obligations to the Student Tuition Recovery Fund,
12 clearly identified as nonrefundable charges.

13 (c) In underlined capital letters on the same page of the enrollment agreement in
14 which the student's signature is required, the total charges for the current period of
15 attendance, the estimated total charges for the entire educational program, and the
16 total charges the student is obligated to pay upon enrollment.

17 (d) A clear and conspicuous statement that the enrollment agreement is legally
18 binding when signed by the student and accepted by the institution.

19 (e)(1) A disclosure with a clear and conspicuous caption, "STUDENT'S RIGHT TO
20 CANCEL," under which it is explained that the student has the right to cancel the
21 enrollment agreement and obtain a refund of charges paid through attendance at the
22 first class session, or the seventh day after enrollment, whichever is later...

23 ... (j) The following statements:

24 (1) "Any questions a student may have regarding this enrollment agreement that have
25 not been satisfactorily answered by the institution may be directed to the Bureau for
26 Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet
27 Web site address), (telephone and fax numbers)...."

28 12. Section 94919 of the Education Code states:

(a) An institution that participates in the federal student financial aid
programs complies with this article by complying with applicable regulations of the
federal student financial aid programs under Title IV of the federal Higher Education
Act of 1965.

(b) The institution shall advise each student that a notice of cancellation
shall be in writing, and that a withdrawal may be effectuated by the student's written
notice or by the student's conduct, including, but not necessarily limited to, a student's
lack of attendance.

(c) The institution shall also provide a pro rata refund of nonfederal
student financial aid program moneys paid for institutional charges to students who
have completed 60 percent or less of the period of attendance.

1 (d) Institutions shall refund 100 percent of the amount paid for
2 institutional charges, less a reasonable deposit or application fee not to exceed two
3 hundred fifty dollars (\$250), if notice of cancellation is made through attendance at
4 the first class session, or the seventh day after enrollment, whichever is later.

5 13. Section 94929.5 of the Education Code states in pertinent part:

6 “(a) An institution shall annually report to the bureau, as part of the annual report, and
7 shall publish in its School Performance Fact Sheet, all of the following:

8 ...

9 (3) Salary and wage information, consisting of the total number of graduates
10 employed in the field and the annual wages or salaries of those graduates stated in
11 increments of five thousand dollars (\$5,000)....”

12 14. Title 5, California Code of Regulation section 71190 provides:

13 If an institution receives financial aid because its students qualify for it
14 under any state or federal financial aid program, the Form Application 94886 shall
15 include a statement of its policies, practices, and disclosures regarding financial aid.

16 15. Title 5, California Code of Regulation section 71210 provides:

17 (a) The institution shall identify and describe the educational program it offers, or
18 proposes to offer. If the educational program is a degree program, the institution shall
19 identify the full title which it will place on each degree awarded.

20 (b) In addition to the general title, such as “Bachelor of Arts” or “Master of Science,”
21 each degree title shall include the name of a specific major field of learning involved.

22 (c) In addition, the institution shall list the following for each educational program
23 offered:

24 (1) The admissions requirements, including minimum levels of prior education,
25 preparation, or training;

26 (2) If applicable, information regarding the ability-to-benefit examination as required
27 by section 94904 of the Code;

28 (3) The types and amount of general education required;

(4) The title of the educational programs and other components of instruction offered,
including a description of the level of the courses (e.g., below college level,
undergraduate level, graduate level);

(5) The method of instruction;

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(6) The graduation requirements; and

(7) Whether the educational program is designed to fit or prepare students for employment in any occupation. If so, the Form Application 94886 shall identify each occupation and job title to which the institution represents the educational program will lead.

16. Title 5, California Code of Regulation section 71220 provides:

“For each educational program that the institution offers or proposes to offer, the Form Application 94886 shall contain a statement that the educational program meets the requirements of section 71710, as well as the following:

- (a) A description of the educational program.
- (b) A description of the equipment to be used during the educational program.
- (c) A description of the number and qualifications of the faculty needed to teach the educational program.
- (d) A projection, and the bases for the projection, of the number of students that the institution plans to enroll in the educational program during each of the three years following the date the Form Application 94886 was submitted.
- (e) A description of the learning, skills, and other competencies to be acquired by students who complete the educational program.
- (f) If licensure is a goal of an educational program, a copy of the approval from the appropriate licensing agency if required. A copy of the intent to approve conditioned solely upon institutional approval from the Bureau will also meet this requirement.

Upon request, the institution shall provide to the Bureau copies of the curriculum or syllabi required pursuant to section 71710.

17. Title 5, California Code of Regulation section 71260 provides in pertinent part:

“(c) The description of the physical facilities shall include building diagrams or campus maps to assist the Bureau in locating these facilities. The diagrams or maps shall identify the location of classrooms, laboratories, workshops, and libraries....”

18. Title 5, California Code of Regulation section 71300 provides:

The institution shall submit a copy of the document that is awarded to a graduating student upon successful completion of each educational program.

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19. Title 5, California Code of Regulation section 71310 provides:

(a) The Form Application 94886 shall contain a description of how records required by Article 9 of the Act or this chapter are or will be organized and maintained, the types of documents contained in student files, how the records are stored, and whether academic and financial records are maintained in separate files. The description shall include a statement of the institution's procedures for security and safekeeping of records.

(b) The description shall include the name, physical address, email address, and telephone number of the custodian of records, and the physical addresses and telephone numbers of the offices or buildings where the records will be maintained.

20. Title 5, California Code of Regulation section 71710 provides:

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

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

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

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

(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;

(7) instructional mode or methods.

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

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

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

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21. Title 5, California Code of Regulation section 71720 provides in pertinent part:

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

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

(2) Each instructor shall maintain their knowledge by completing continuing education courses in his or her subject area, classroom management or other courses related to teaching.

(3) The institution shall not employ or continue to employ an instructor who was adjudicated in a judicial or administrative proceeding as having violated any provision of the Act or this chapter, or as having committed any act that would constitute grounds for the denial of a license under Section 480 of the Business and Professions Code.

22. Title 5, California Code of Regulation section 71800 provides:

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

(a) The name and address of the institution and the addresses where instruction will be provided.

(b) Period covered by the enrollment agreement.

(c) Program start date and scheduled completion date.

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

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

(1) tuition;

(2) registration fee (non-refundable);

(3) equipment;

(4) lab supplies or kits;

(5) Textbooks, or other learning media;

- 1 (6) uniforms or other special protective clothing;
 - 2 (7) in-resident housing;
 - 3 (8) tutoring;
 - 4 (9) assessment fees for transfer of credits;
 - 5 (10) fees to transfer credits;
 - 6 (11) Student Tuition Recovery Fund fee (non-refundable);
 - 7 (12) any other institutional charge or fee.
- 8 (f) Charges paid to an entity other than an institution that is specifically required for
9 participation in the educational program.

10 23. Title 5, California Code of Regulation section 71810 provides in pertinent part:

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

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

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

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

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

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

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

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

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24. Title 5, California Code of Regulation section 71920 provides:

Whenever the board deems it necessary to incur a bonded indebtedness for the acquisition, construction, completion, or repair of any or all improvements, works, or property mentioned in this division and to provide for such bonded indebtedness to be payable from taxes levied upon an uninhabited portion of the district, the board shall, by resolution, declare its intention to form an uninhabited improvement district in such portion of the district and to incur such indebtedness.

25. Title 5, California Code of Regulation section 74112 provides in pertinent part:

...(f) License Examination Passage Rates. If license examination passage rates are not available from the appropriate state agency, an institution shall collect the information directly from its graduates. If an institution demonstrates that, after reasonable efforts, it is unable to obtain the examination passage information from its graduates, the institution shall report the number of students it could not contact and note in a font the same size as the majority of the data on the Performance Fact Sheet, "License examination passage data is not available from the state agency administering the examination. We were unable to collect data from [enter the number] graduates."

Reporting of license examination passage rates for the Annual Report and the Performance Fact Sheet shall include, for each educational program: the number of students completing the program within 150% of published program length in the reported year, the number of documented graduates who passed the first examination, number of documented graduates who failed the first examination, the number of graduates for whom data is not available. An optional column may be added to separately report licensing examination data for students who take and pass the exam after failing initially. The Annual Report shall also include a description of the processes for attempting to contact those students.

For licensing examinations that are not continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Examination Passage Rates (includes data for the two calendar years prior to reporting)...

(g) Salary and Wage Information.

All Salary and Wage Information shall be reported to the Bureau pursuant to section 94929.5(c) of the Code and, if required by section 94910(d) of the Code, shall be included in the Performance Fact Sheet, for each educational program, in a format substantially similar to the chart below, including the footnoted information (dates, numbers, salaries, and other data shown are for example only).

Salary and Wage Information (includes data for the two calendar years prior to reporting)

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2 **Name of Educational Program (Program Length)**

3 *Annual Salary and Wages Reported by Graduates*
4 *Employed in the Field³*

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6	<i>Graduates Available for Employment₁</i>	<i>Graduates Employed in the Field²</i>	<i>\$15,000.00</i>	<i>\$20,001.00</i>	<i>\$25,001.00</i>	<i>\$30,001.00</i>	<i>\$35,000.00</i>	<i>Students Not Reporting Salary</i>
7			-	-	-	-	-	
8	20XX 100	70	5	40	6	3		16
9	20XY 80	55	5	7	3	5		35

11 ¹ "Graduates available for employment" means the number of graduates minus the
12 number of graduates unavailable for employment. Graduates unavailable for
13 employment means graduates who, after graduation, die, become incarcerated, are
14 called to active military duty, are international students that leave the United States or
do not have a visa allowing employment in the United States, or are continuing their
education in an accredited or bureau-approved postsecondary institution.

15 ² "Graduates employed in the field" means graduates who are gainfully
employed within six months of graduation in a position for which the skills obtained
16 through the education and training provided by the institution are required or
provided a significant advantage to the graduate in obtaining the position.

17 ³ Salary is as reported by the student. Not all graduates reported
18 salary...."

19 26. Title 5, California Code of Regulation section 76215 provides:

20
21 (a) A qualifying institution shall include the following statement on both its
22 enrollment agreement for an educational program and its current schedule of student
charges:

23 "You must pay the state-imposed assessment for the Student Tuition Recovery Fund
(STRF) if all of the following applies to you:

24 1. You are a student in an educational program, who is a California resident, or are
25 enrolled in a residency program, and prepay all or part of your tuition either by cash,
guaranteed student loans, or personal loans, and

26 2. Your total charges are not paid by any third-party payer such as an employer,
27 government program or other payer unless you have a separate agreement to repay
the third party.

1 You are not eligible for protection from the STRF and you are not required to pay the STRF assessment, if either of the following applies:

- 2 1. You are not a California resident, or are not enrolled in a residency program, or
3 2. Your total charges are paid by a third party, such as an employer, government
4 program or other payer, and you have no separate agreement to repay the third party.”

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

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

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

- 15 1. The school closed before the course of instruction was completed.
16 2. The school's failure to pay refunds or charges on behalf of a student to a third party
17 for license fees or any other purpose, or to provide equipment or materials for which a
18 charge was collected within 180 days before the closure of the school.
19 3. The school's failure to pay or reimburse loan proceeds under a federally guaranteed
20 student loan program as required by law or to pay or reimburse proceeds received by
21 the school prior to closure in excess of tuition and other costs.
22 4. There was a material failure to comply with the Act or this Division within 30 days
23 before the school closed or, if the material failure began earlier than 30 days prior to
24 closure, the period determined by the Bureau.
25 5. An inability after diligent efforts to prosecute, prove, and collect on a judgment
26 against the institution for a violation of the Act.”

27 However, no claim can be paid to any student without a social security number or a
28 taxpayer identification number.”

21 BACKGROUND

22 Respondent's submitted an application for an approval to operate a non-accredited
23 Institution on or about October 21, 2013. On or about January 9, 2014, the Bureau sent a
24 deficiency letter indicating sections 5,15,17, and 23 were not complete. The Bureau received a
25 response on July 30, 2015. On August 19, 2015, a deficiency letter was sent to respondent listing
26 the following sections as incomplete: 1,5,9,10, 12,13,14,16, 17, 19, 20, 21,22, and 23. On October
27 14, 2015, the Bureau received a response. The Bureau's Notice of Denial of the Application for
28 Approval to Operate as sent on December 7, 2015.

1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (Financial Aid Policies, Practices, and Disclaimers)

3 27. Respondent's application is subject to denial in that the application states that the
4 institution will not offer financial aid, yet the catalog references financial probation and a
5 potential payment schedule. The Bureau is unable to determine compliance with California
6 Education Code section 94919 and Title 5, California Code of Regulations section 71190.

7 SECOND CAUSE FOR DENIAL OF APPLICATION

8 (Exemplars of Student Agreements)

9 28. Respondent's application is subject to denial in that the student agreements failed to
10 comply with the code as follows below:

11 a. Respondent's application is subject to denial pursuant to Education Code section
12 94906 subdivision (a) in that the institution failed to provide a separate statement in which they
13 detail how they will provide the enrollment agreement and disclosures to students whose primary
14 language is not English

15 b. Respondent's application is subject to denial pursuant to Title 5, California Code of
16 Regulations section 71800 subdivisions (b) and (d) in that the institution's proposed enrollment
17 agreement did not include a time period covered by the agreement. Also, the enrollment
18 agreement did not include a date by which the student must exercise his or her right to cancel or
19 withdraw from the agreement.

20 c. Respondent's application is subject to denial pursuant to Title 5, California Code of
21 Regulations section 71800 subdivisions (e)(5),(e)(6), and (e)(11), in that the institution's
22 proposed enrollment agreement failed to include: 1) an itemization of all the institutional charges
23 and fees for each educational program; 2) a list of the required books and uniforms which are as
24 listed in the student catalog as non-refundable; and 3) documentation of the Student Tuition
25 Recovery Fund fee.

26 d. Respondent's application is subject to denial pursuant to Education Code section
27 94911 subdivision (b) in that the institution's proposed enrollment agreement failed to include a
28

1 schedule of total charges, including a list of non-refundable charges and an explanation of the
2 students obligation to the Student Tuition Recovery Fund.

3 e. Respondent's application is subject to denial pursuant to Education Code section
4 94911 subdivision (c) in that the institution's proposed enrollment agreement failed to include the
5 following required language on the same page as the signature:

6 "TOTAL CHARGES FOR THE CURRENT PERIOD OF ATTENDANCE:
7 ESTIMATED TOTAL CHARGES FOR THE ENTIRE EDUCATIONAL
8 PROGRAM; and THE TOTAL CHARGES THE STUDENT IS OBLIGATED TO
9 PAY THE UPON ENROLLMENT."

10 f. Respondent's application is subject to denial pursuant to Education Code section
11 94911 subdivision (j)(1) in that the institution's proposed enrollment agreement failed to include
12 the following required statement:

13 "Any questions a student may have regarding this enrollment agreement that have not
14 been satisfactorily answered by the institution may be directed to the Bureau for
15 Private Postsecondary Education at P.O. Box 980818, West Sacramento, CA 95798-
16 0818, www.bbpe.ca.gov , (916) 431-6959 Toll Free: (888) 370-7589, Fax. (916) 263-
17 1897"

18 g. Respondent's application is subject to denial pursuant to Education Code section
19 94911 subdivision (d) in that the institution's proposed enrollment agreement failed to include a
20 clear and conspicuous statement that the enrollment agreement is legally binding when signed by
21 the student and accepted by the institution.

22 THIRD CAUSE FOR DENIAL OF APPLICATION

23 (Instructions and Degree Offered)

24 29. Respondent's application is subject to denial in that the admission requirements
25 detailed below failed to comply with the code as follows:

26 a. Respondent's application is subject to denial pursuant to Education Code section
27 94904 and Title 5, California Code of Regulations section 71210 subdivision (c) (2) in that the
28 institution's admission requirement for the Certified Nurse Assistant program states that the
student must have the ability to read and write up to a ninth grade level; however the specific test
and scores required for ability-to-benefit students entering the program was not submitted.

1 h. Respondent's application is subject to denial pursuant to Title 5, California Code of
2 Regulations section 71810 subdivision (b) (6) in that the institution's catalog failed to include the
3 institution's policy and practices regarding financial aid in the form of installment payment plan
4 options as required.

5 EIGHTH CAUSE FOR DENIAL OF APPLICATION

6 (School Performance Fact Sheet)

7 36. Respondent's application is subject to denial in that the proposed School Performance
8 Fact Sheet had omissions and failed to comply with the code as set forth more specifically below:

9 a. Respondent's application is subject to denial pursuant to California Educational Code
10 section 94910 subdivision (f) (2) in that the institution's School Performance Fact Sheet failed to
11 contain a statement setting forth where a student may obtain from the institution a list of
12 employment positions determined to be within the field for which a student received education
13 and training used for the calculation of job placement rates as required.

14 b. Respondent's application is subject to denial pursuant to Title 5, California Code of
15 Regulations section 74112 subdivision (f) in that the institution's School Performance Fact Sheet
16 did not include Examination Passage Rate tables that differentiate between continuously
17 administered and not continuously administered exams as required.

18 c. Respondent's application is subject to denial pursuant to California Educational
19 Code section 94910 subdivision (e) in that the institution's school performance fact sheet omitted
20 the following required statement:

21 "This program is new, Therefore, the number of students who graduate, the number of
22 students who are placed, or the starting salary you can earn after finishing the
23 educational program are unknown at this time. Information regarding general salary
24 and placement statistics may be available from government sources or from the
25 Institution, but is not equivalent to actual performance data."

26 d. Respondent's application is subject to denial pursuant to California Educational Code
27 sections 94929.5 subdivision (a)(3) and 94910 subdivision (f) (3) in that the institution's School
28 Performance Fact Sheet did not include salary and wage information, consisting of the total

1 number of graduates employed in the field and annual wages or salaries of those graduates stated
2 in increments of five thousand dollars (\$5,000). Additionally, there is no statement informing the
3 reader of where he or she may obtain from the Institution a list of the objective sources of
4 information used to substantiate the salary disclosure.

5 e. Respondent's application is subject to denial pursuant to Title 5, California Code of
6 Regulations section 74112 subdivision(g) (3) in that the institution's School Performance Fact
7 Sheet omitted the following required statement: "Salary is as reported by the student. Not all
8 graduates reported salary."

9 NINTH CAUSE FOR DENIAL OF APPLICATION

10 (Graduation/Completion Documents)

11 37. Respondent's application is subject to denial pursuant to California Educational Code
12 section 94885 and Title 5, California Code of Regulations section 71300 in that the intuition did
13 not provide graduation or completion documents for the proposed Licensed Vocational Nurse
14 program as is required.

15 TENTH CAUSE FOR DENIAL OF APPLICATION

16 (Record Keeping)

17 38. Respondent's application is subject to denial pursuant to California Educational Code
18 section 94900 and Title 5, California Code of Regulations sections 71310 and 71920 in that the
19 intuition did not provide a complete and compliant list of documents that would be maintained in
20 student files as is required.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Director of the Department of Consumer Affairs issue a
24 decision:
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26 1. Denying the application of Kash Career College; Innocent K. Nwaogu, Owner for an
27 Approval to Operate an Institution Non-Accredited;

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2. Taking such other and further action as deemed necessary and proper.

DATED: 9-8-16



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

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