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

11 In the Matter of the Statement of Issues
12 Against:
13 **TRINITY SCHOOL OF NURSING, MA**
14 **ANTONIETTA BORRUEL, Owner**
15 **Renewal of Approval to Operate and Offer**
16 **Educational Programs for Non-Accredited**
17 **Institutions Applicant**
18 **Institution Code: 48441842**
19 Respondent.

Case No. 1002210

STATEMENT OF ISSUES

19 Complainant alleges:

20 PARTIES

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

24 2. On or about March 14, 2012, the Bureau for Private Postsecondary Education
25 ("Bureau") received an application (Application) for a Renewal of Approval to Operate an
26 Institution Non-Accredited from Trinity School of Nursing, Ma Antonietta Borruel (Borruel),
27 owner (Respondent). On or about February 29, 2012, Borruel certified under penalty of perjury
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1 to the truthfulness of all statements, answers, and representations in the application. The Bureau
2 denied the application on September 14, 2016.

3 3. The following information was included with the Application:

- 4 • Owners
- 5 • Agent for Service of Process within California
- 6 • Institution Representative
- 7 • Mission and Objectives
- 8 • Exemplars of Student Agreement
- 9 • Financial Aid Policies, Practices and Disclosures
- 10 • Advertising and other Public Statements
- 11 • Instruction and Degrees Offers
- 12 • Description of Educational Program
- 13 • Instruction in Languages other English
- 14 • Financial Resources and Reports
- 15 • Faculty
- 16 • Facilities and Equipment
- 17 • Libraries and other Learning Resources
- 18 • Job Placement Assistance
- 19 • Copy of Catalog
- 20 • Graduation or Completion Documents
- 21 • Record keeping; Custodian of Records
- 22 • Self-Monitoring Procedures

23 4. On December 24, 2012, the licensing analyst sent the institution a letter outlining
24 deficiencies in the following sections of the application: 1, 3, 10, 12, 17, 18, 21 and 22.

25 5. On April 22, 2014, the institution provided a response to deficiency letter dated
26 December 24, 2012, addressing sections: 1, 3, 10, 12, 17, 18, 21 and 22.

27 6. On May 8, 2014, the licensing analyst sent the institution a letter outlining
28 deficiencies in the following sections of the application: 3, 10, 18 and 21.

1 7. Respondent failed to respond in regards to deficiency letter dated May 8, 2014.

2 8. On May 18, 2015, the licensing analyst sent the institution a letter outlining
3 deficiencies in the following sections of the application: 10, 17, 21 and 23.

4 9. On June 23, 2015, the institution provided a response to deficiency letter dated May
5 18, 2015, addressing sections: 10, 17, 21 and 23.

6 10. On September 30, 2015, the licensing analyst sent the institution a letter outlining
7 deficiencies in the following sections of the application: 10, 17, 21 and 23.

8 11. On October 23, 2015, the institution provided a response to deficiency letter dated
9 September 30, 2015, addressing sections: 10, 17, 21 and 23.

10 12. On March 7, 2016, the licensing analyst sent a deficiency letter to Respondent's
11 attention regarding outstanding annual fees.

12 13. On May 27, 2016, administrative analyst confirmed that payment has been received
13 for outstanding annual fees and late penalty fees; however, the checks were deemed dishonorable
14 by the cashiering unit.

15 JURISDICTION

16 14. This Statement of Issues is brought before the Director of the Department of
17 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
18 authority of the following laws. All section references are to the Education Code¹ unless
19 otherwise indicated.

20 15. California Education Code section 94891 states:

21 "(a) The bureau shall adopt by regulation the process and procedures whereby an
22 institution may obtain a renewal of an approval to operate.

23 (b) To be granted a renewal of an approval to operate, the institution shall demonstrate its
24 continued capacity to meet the minimum operating standards."

25 16. Section 94802 of the Education Code states:

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27 ¹ Effective January 1, 2017, in accordance with SB1192, the California Private
28 Postsecondary Education Act of 2009 was updated. All citations are to the current version of the
California Private Postsecondary Education Act of 2009.

1 An institution that had a valid approval to operate on June 30, 2007, issued by the former
2 Bureau for Private Postsecondary and Vocational Education pursuant to former Chapter 7
3 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as
4 it read on June 30, 2007, shall maintain that approval under this chapter. For the purposes of this
5 chapter, the approval to operate shall be valid for three calendar years after the expiration date of
6 the approval, as it read on June 30, 2007.

7 17. Section 94886 of the Education Code states: Except as exempted in Article 4
8 (commencing with Section 94874) or in compliance with the transition provisions in Article 2
9 (commencing with Section 94802), a person shall not open, conduct, or do business as a private
10 postsecondary educational institution in this state without obtaining an approval to operate under
11 this chapter.

12 18. Section 94887 of the Education Code states: An approval to operate shall be
13 granted only after an applicant has presented sufficient evidence to the bureau, and the bureau has
14 independently verified the information provided by the applicant through site visits or other
15 methods deemed appropriate by the bureau, that the applicant has the capacity to satisfy the
16 minimum operating standards. The bureau shall deny an application for an approval to operate if
17 the application does not satisfy those standards.

18 19. Section 94930.5 of the Code states in part: Subject to Section 94930, an institution
19 shall remit to the bureau for deposit in the Private Postsecondary Education Administration Fund
20 the following fees, in accordance with the following schedule:

21 (d) (1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c),
22 inclusive, each institution that is approved to operate pursuant to this chapter shall remit both of
23 the following:

24 (A) An annual fee for each campus designated by the institution as a main campus location
25 in California, in an amount equal to 0.45 percent of the campus' total gross revenue derived from
26 students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not
27 to exceed sixty thousand dollars (\$60,000).

28 20. Section 94931 of the Code states in part:

1 (a) A fee that is not paid on or before the 30th calendar day after the due date for the
2 payment of the fee shall be subject to a 25 percent late payment penalty fee.

3 (b) A fee that is not paid on or before the 90th calendar day after the due date for payment
4 of the fee shall be subject to a 35 percent late payment penalty fee.

5 **REGULATIONS**

6 21. California Code of Regulations, title 5, section 71700 states: "The Bureau may
7 request that an institution document compliance with the standards set forth in the Act and this
8 Division to obtain and maintain an approval to operate."

9 22. California Code of Regulations, title 5, section 74000, subpart (d) states:

10 (d) The Bureau shall deny a renewal of an approval to operate if the institution fails to
11 submit at the time it files its application for renewal of an approval to operate: all unpaid fees;
12 penalty fees; penalties; orders for reimbursement of costs and expenses; and assessments for, and
13 reimbursement of all payments made to students from, the Student Tuition Recovery Fund.

14 23. California Code of Regulations, title 5, section 74006 states:

15 a) An institution's annual fee is due within 30 days of the date on which the institution
16 originally receives its approval to operate and each year thereafter on the anniversary of the date
17 of the original approval.

18 (b) An institution shall pay its annual fee in addition to any other applicable fees.

19 (c) The annual institutional fee is based on the institution's annual revenue. For purposes
20 of this article, annual revenue is annual gross revenue.

21 24. California Code of Regulations, title 5, section 71485 states: Failure of an
22 institution to have made current payments of the assessments to the Student Tuition Recovery
23 Fund as required by chapter 7 of this Division, and annual fees as required by chapter 5 of this
24 Division shall render the institution ineligible for renewal.

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1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (Failure to Pay Annual Fees)

3 25. Respondent's application is subject to denial under sections 94930.5 (d)(1)(A), 94931
4 and California Code of Regulations, title 5, section 74006 for failure to pay outstanding annual
5 fees and late penalty. The circumstances are as follows:

6 26. Respondent failed to pay the 2010, 2012, 2013, 2014 and 2015 Annual Fees to the
7 Bureau and these remain due, owing and unpaid. Pursuant to section 94931, a payment not
8 received on or before the 30th calendar day after the due date shall be subject to a 25% penalty
9 fee and a payment received after the 90th calendar day after the due date shall be subject to a 35%
10 penalty fee, the penalty fee remains outstanding.

11 27. Pursuant to California Code of Regulations, title 5, section 71485, Respondent's
12 failure to have made current payments of the assessments to the Student Tuition Recovery Fund
13 as required by chapter 7 of this Division, and annual fees as required by chapter 5 of this Division
14 renders Respondent's license ineligible for renewal on the basis of outstanding Annual Fees.

15 28. Pursuant to California Code of Regulations, title 5, section 74000(d), the Bureau shall
16 deny a renewal of an approval to operate if the institution fails to submit at the time it files its
17 application for renewal of an approval to operate: all unpaid fees; penalty fees; penalties; orders
18 for reimbursement of costs and expenses; and assessments for, and reimbursement of all
19 payments made to students from, the Student Tuition Recovery Fund.

20 29. Respondent submitted payment for outstanding Annual Fees and late payments;
21 however, those checks were deemed dishonorable by the Bureau.

22 PRAYER

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

26 1. Denying the application of Trinity School of Nursing, Ma Antonietta Borrue
27 (Owner), for a Renewal of Approval to Operate and Offer Educational Programs for Non-
28 Accredited Institutions;

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

DATED: 9/4/2017

Leeza Ripedi

LEEZA RIPREDI
Deputy Bureau Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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