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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. 1004464

14 **INSTITUTE OF CONTEMPORARY**  
15 **PSYCHOANALYSIS**

**STATEMENT OF ISSUES**

16 Verification of Exempt Status Applicant

17 Institution Code Number 1922491

18 Respondent.

19 **PARTIES**

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

23 2. On or about August 2, 1993, the Bureau for Private Postsecondary Education  
24 (Bureau) issued Full Approval to Operate Institution Code Number 1922491 to Institute of  
25 Contemporary Psychoanalysis (hereinafter referred to as "ICP" or Respondent). The Full  
26 Approval expires on January 5, 2021, unless renewed.

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1           10. Education Code section 94848 states:

2                       “Licensure” includes any license, certificate, permit, or similar credential  
3           that a person must hold to lawfully engage in a profession, occupation, trade, or  
4           career field.

5           11. Education Code section 94857 states:

6                       “Postsecondary education” means a formal institutional educational  
7           program whose curriculum is designed primarily for students who have completed or  
8           terminated their secondary education or are beyond the compulsory age of secondary  
9           education, including programs whose purpose is academic, vocational, or continuing  
10          professional education.

11          12. Education Code section 94858 states:

12                      “Private postsecondary educational institution” means a private entity  
13          with a physical presence in this state that offers postsecondary education to the public  
14          for an institutional charge.

15          13. Education Code section 94874 states in relevant part:

16                      The following are exempt from this chapter:

17                      ...

18                      (b) (1) An institution offering educational programs sponsored by a bona  
19          fide trade, business, professional, or fraternal organization, solely for that  
20          organization’s membership.

21                      ...

22                      (d) An institution offering either of the following:

23                      ...

24                      (2) Continuing education or license examination preparation, if the  
25          institution or the program is approved, certified, or sponsored by any of the  
26          following:

27                      (A) A government agency, other than the bureau, that licenses persons in  
28          a particular profession, occupation, trade, or career field.

                      (B) A state-recognized professional licensing body, such as the State Bar  
                      of California, that licenses persons in a particular profession, occupation, trade, or  
                      career field.

                      (C) A bona fide trade, business, or professional organization.

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1 14. Education Code section 94875 states:

2 The Bureau for Private Postsecondary Education, as established by  
3 Section 6 of Chapter 635 of the Statutes of 2007, is continued in existence and shall  
4 commence operations. This chapter establishes the functions and responsibilities of  
5 the bureau, for the purposes of Section 6 of Chapter 635 of the Statutes of 2007. The  
6 bureau shall regulate private postsecondary educational institutions through the  
7 powers granted, and duties imposed, by this chapter. In exercising its powers, and  
8 performing its duties, the protection of the public shall be the bureau's highest  
9 priority. If protection of the public is inconsistent with other interests sought to be  
10 promoted, the protection of the public shall be paramount.

7  
8 **REGULATORY PROVISIONS**

9 15. California Code of Regulations, title 5, section 71395 states in relevant part:

10 (a) In order to obtain verification from the Bureau that it is exempt  
11 pursuant to Section 94874 of the Code, an institution must complete "Application for  
12 Verification of Exempt Status," Form Application 94874 (rev. 2/10).

12 ....

13 **FIRST CAUSE FOR DENIAL OF APPLICATION**

14 **(ICP Does Not Meet Qualification for Exemption under Code section 94874(b)(1))**

15 16. Respondent's application is subject to denial under Code section 94874, subdivision  
16 (b)(1), in that Respondent does not qualify for exempt status. The circumstances are as follows:

17 a. The Bureau is authorized to grant a Code section 94874(b)(1) exemption to  
18 "[a]n institution offering educational programs sponsored by a bona fide trade, business,  
19 professional, or fraternal organization, solely for that organization's membership. (Code section  
20 94874(b)(1).)

21 b. The Application for Verification of Exempt Status indicated that Respondent  
22 only provides its educational programs to its members and that Respondent sponsors its own  
23 educational programs and therefore does not meet the requirements of Code section 94874(b)(1).

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**SECOND CAUSE FOR DENIAL OF APPLICATION**

**(ICP Does Not Meet Qualification for Exemption under Code sections 94874(d)(2) and 94827)**

17. Respondent’s application is subject to denial under Code sections 94874(d)(2) and 94827, in that Respondent does not qualify for exempt status. The circumstances are as follows:

a. Respondent is not an institution that is approved, certified, or sponsored by any of the following as required: (A) A government agency, other than the bureau, that licenses persons in a particular profession, occupation, trade or career field; (B) A state-recognized professional licensing body, such as the State Bar of California, that licenses persons in a particular profession, occupation, trade, or career field; (C) A bona fide trade, business, or professional organization.

b. Respondent failed to demonstrate that the degree-granting educational programs it offers meet the definition of “continuing education” as defined under Code section 94827.

**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 Institute of Contemporary Psychoanalysis for a Verification of Exempt Status;
- 2. Taking such other and further action as deemed necessary and proper.

DATED: “1/26/2020” \_\_\_\_\_

“Original signature on file”  
\_\_\_\_\_  
DR. MICHAEL MARION, JR.  
Bureau Chief  
Bureau for Private Postsecondary  
Education  
Department of Consumer Affairs  
State of California  
*Complainant*