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7

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 First Amended Statement  
of Issues Against:  
12 **SCHOOL OF HOLISTIC TOUCH, INC.,**  
13 **ARMANDO REYNA**  
14 **Application for Renewal of Approval to**  
**Operate a Non-Accredited Institution**  
15 **Applicant**  
16 Application No. 28924  
Institution Code No. 93794268  
17  
18 Respondent.

Case No. 1002383  
**FIRST AMENDED**  
**STATEMENT OF ISSUES**

19  
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about January 12, 2016, the Bureau received an application for a Renewal of  
26 Approval to Operate a Non-Accredited Institution (Application No. 28924) from School of  
27 Holistic Touch, Inc., Armando Reyna, owner, Institution Code Number 93794268 (Respondent).

28 On or about January 7, 2016, Armando Reyna certified under penalty of perjury to the

1 truthfulness of all statements, answers, and representations in the application. The Bureau denied  
2 the application on January 3, 2017.

3 **JURISDICTION**

4 3. This First Amended Statement of Issues is brought before the Director of the  
5 Department of Consumer Affairs (Director) for the Bureau, under the authority of the following  
6 laws.

7 **STATUTORY PROVISIONS**

8 4. Business and Professions Code section 22 defines the term “board” to include  
9 “bureau.”

10 5. Section 94887<sup>1</sup> of the Education Code states:

11 “An approval to operate shall be granted only after an applicant has presented sufficient  
12 evidence to the bureau, and the bureau has independently verified the information provided by the  
13 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant  
14 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application  
15 for an approval to operate if the application does not satisfy those standards.”

16 6. Section 94891 of the Education Code states:

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

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

21 “(c)(1) An institution that is denied renewal of an approval to operate may file an appeal in  
22 accordance with the procedures established by the bureau pursuant to Section 94888.

23 “(2) An institution that has filed an appeal of a denial of a renewal application may continue  
24 to operate during the appeal process, but must disclose in a written statement, approved by the  
25 bureau, to all current and prospective students, that the institution’s application for renewal of  
26 approval to operate was denied by the bureau because the bureau determined the application did

27 <sup>1</sup> California Private Postsecondary Education Act of 2009, *Ed. Code* § 94800, *et seq.*,  
28 effective January 1, 2017.

1 not satisfy the requirements to operate in California, that the institution is appealing the bureau's  
2 decision, and that the loss of the appeal may result in the institution's closure.

3 "(3) If the bureau determines that the continued operation of the institution during the  
4 appeal process poses a significant risk of harm to students, the bureau shall make an emergency  
5 decision pursuant to its authority provided in Section 94938."

6 7. Section 94909 of the Education Code states:

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

10 ...

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

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

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

20 8. Section 94911 of the Education Code states:

21 "An enrollment agreement shall include, at a minimum, all of the following:

22 ...

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

25 ...

26 "(e) (2) The disclosure shall contain the institution's refund policy and a statement that, if  
27 the student has received federal student financial aid funds, the student is entitled to a refund of  
28 moneys not paid from federal student financial aid program funds."



1 Application 94886 (rev. 2/10). An applicant seeking approval to operate by accreditation pursuant  
2 to Section 94890(a)(1) of the Code shall comply with section 71390.

3 “(b) An applicant shall submit the completed form, the information or documentation,  
4 required by this Article, the appropriate application fee as provided in Section 94930.5(a)(1) of  
5 the Code, and any appropriate annual fee as required by Article 1 of Chapter 5 of this Division, to  
6 the Bureau.

7 “(c) An application that fails to contain all of the information required by this article shall  
8 render it incomplete.”

9 13. California Code of Regulations, title 5, division 7.5, section 71700 states:

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

12 14. California Code of Regulations, title 5, division 7.5, section 71770 states:

13 “(c) If credit for prior experiential learning is to be granted, the policy for granting such  
14 credit shall be included in the institution's catalog.

15 “(1) An institution may grant credit to a student for prior experiential learning only if:

16 “(A) The prior learning is equivalent to a college or university level of learning;

17 “(B) The learning experience demonstrates a balance between theory and practice and;

18 “(C) The credit awarded for the prior learning experience directly relates to the student's  
19 degree program and is applied in satisfaction of some of the degree requirements.

20 “(2) Each college or university level learning experience for which credit is sought shall be  
21 documented by the student in writing.

22 “(3) Each college or university level learning experience shall be evaluated by faculty  
23 qualified in that specific subject area who shall ascertain (1) to what college or university level  
24 learning the student's prior experience is equivalent and (2) how many credits toward a degree  
25 may be granted for that experience.

26 “(4) The faculty evaluating the prior learning shall prepare a written report indicating all of  
27 the following:

28

1           “(A) The documents in the student's record on which the faculty member relied in  
2 determining the nature of the student's prior experience;

3           “(B) The bases for determining that the prior experience (i) is equivalent to college or  
4 university level learning and (ii) demonstrates a balance between theory and practice; and

5           “(C) The bases for determining (i) to what college or university level the experience is  
6 equivalent and (ii) the proper number of credits to be awarded toward the degree for that  
7 experience.

8           “(5)(A) The institution shall designate at least one administrator to be responsible for the  
9 review of faculty determinations regarding the award of credit for prior experiential learning.

10           “(B) The administrator shall document the institution's periodic review of faculty  
11 evaluations to assure that the faculty written evaluations and awards of credit comply with this  
12 section and the institution's policies and are consistent.

13           “(6) The amount of credit awarded for prior experiential learning shall not be related to the  
14 amount charged the student for the assessment process.

15           “(7)(A) Of the first 60 semester credits awarded a student in an undergraduate program, no  
16 more than 15 semester credits may be awarded for prior experiential learning.

17           “(B) Of the second 60 semester units (i.e., credits 61 to 120) awarded a student in an  
18 undergraduate program, no more than 15 semester credits may be awarded for prior experiential  
19 learning.

20           “(C) Of the first 30 semester credits awarded a student in a graduate program, no more than  
21 6 semester credits may be awarded for prior experiential learning.

22           “(D) Of the second 30 semester credits (i.e., credits 31 to 60) awarded a student in a  
23 graduate program, no more than 3 semester credits may be awarded for prior experiential  
24 learning.

25           “(E) No credit for experiential learning may be awarded after a student has obtained 60  
26 semester credits in a graduate program.”

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1 15. California Code of Regulations, title 5, division 7.5, section 71800 states:

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

4 ...

5 "(b) Period covered by the enrollment agreement.

6 ...

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

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

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

13 ...

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

17 17. California Code of Regulations, title 5, division 7.5, section 74000, states:

18 "(a) An institution shall pay the fees established by Article 17 of the Act. A failure to  
19 include a fee with an application or other request renders the application or request incomplete.

20 "(b) All fees lawfully collected are non-refundable.

21 "(c) A fee that is not paid timely is subject to penalty as set forth in section 94931 of the  
22 Code.

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

27 "(e)(1) If an institution fails to pay any fee and any penalty fees timely, the Bureau may  
28 initiate proceedings to revoke the institution's approval to operate for failure to pay fees.

1           “(2) Any proceeding to revoke an institution's approval to operate is subject to the  
2 provisions of Chapter 5 of the Administrative Procedures Act. If a hearing is requested, it shall be  
3 limited to the issues of whether any fee or penalty was owed and, if so, whether the fee or penalty  
4 were paid when originally due.

5           “(3) The procedure specified in this subdivision is cumulative to any other right or remedy  
6 the Bureau may invoke against an institution which fails to pay its annual fee or a penalty fee  
7 when originally due. Nothing in this subdivision restricts the Bureau's authority to bring other  
8 administrative or judicial action against an institution that fails to pay its fees when due.

9           “(4) An institution whose approval to operate was revoked because of nonpayment of an  
10 annual fee or penalty fee may seek to obtain approval to operate only by filing an application for  
11 a new approval to operate.”

12           18.       California Code of Regulations, title 5, division 7.5, section 74006, states:

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

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

17           19.       California Code of Regulations, title 5, division 7.5, section 74112, states:

18           “(a)       Format. The format for the Performance Fact Sheet shall be in at least 12 pt. type,  
19 in an easily readable font, with 1.15 line spacing and all titles and column headings shall be in  
20 bold 14 pt. type, which shall also identify the program for which the Performance Fact Sheet  
21 pertains. The Performance Fact Sheet shall contain all and only the information required or  
22 specifically permitted by sections 94910 and 94929.5 of the Code or this chapter. A separate  
23 Performance Fact Sheet shall be prepared for each program.”

24           ....

25           20.       California Code of Regulations, title 5, division 7.5, section 74115, states:

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

28



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

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

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

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

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

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

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

24           “(d) "Current" with respect to financial statements means completed no sooner than 120  
25 days prior to the time it is submitted to the Bureau, and covering no less than the most recent  
26 complete fiscal year. If more than 8 months will have elapsed between the close of the most  
27 recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover no  
28 less than five months of that current fiscal year.”



1 a. The enrollment agreement did not identify the period covered by the  
2 enrollment.

3 b. The enrollment agreement did not identify the date by which the student must  
4 exercise his or her right to cancel or withdraw from enrollment.

5 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

6 **(Enrollment Agreement – Failure to Disclose Right to Refund)**

7 26. Respondent's application is subject to denial under Education Code section 94911,  
8 subdivision (e)(2), in that the enrollment agreement did not include a disclosure regarding a  
9 student's right to recover payments not paid from a federal financial student aid program. The  
10 circumstances are as follows: an enrollment agreement must include language related to a  
11 student's right to cancel. That disclosure shall contain the institution's refund policy and a  
12 statement that, if the student received federal student financial aid funds, the student is entitled to  
13 a refund of moneys not paid from federal student aid program funds. Respondent did not make  
14 that disclosure.

15 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

16 **(School Catalog – Minimum Requirements)**

17 27. Respondent's application is subject to denial under Education Code section 94909,  
18 subdivision (a)(7), in that Respondent's catalog did not include qualifications for the faculty.  
19 Specifically, the catalogue did not include the educational background of the faculty.

20 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

21 **(School Catalog – Inadequate)**

22 28. Respondent's application is subject to denial under California Code of Regulations,  
23 title 5, division 7.5, sections 71770, subsection (c), and 71810, subsection (b)(7), and Education  
24 Code section 94909, subsection (a)(8)(A), in that Respondent's catalog failed to include the  
25 institution's policies and procedures for the award of credit for prior experiential learning, to  
26 include assessment policies and procedures, provisions for appeal, and all charges that a student  
27 may be required to pay.

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

DATED:

8/29/2017

Leeza Riferdi

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

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