

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

In the Matter of the Statement of Issues  
Against:

ALLEN'S ACADEMY OF DOG  
GROOMING;  
CYNTHIA ALLEN, OWNER

Respondent.

Case No. 1000102

OAH No. 2015031189

**DECISION AND ORDER**

The attached Corrected Proposed Decision of the Administrative Law Judge is hereby adopted by the Director, Department of Consumer Affairs, as the Decision in the above-entitled matter.

The Decision shall become effective on MAR - 2 2016.

IT IS SO ORDERED this 28th day of January.



DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs



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

In the Matter of the Statement of Issues  
Against:

ALLEN'S ACADEMY OF DOG  
GROOMING;  
CYNTHIA ALLEN, OWNER

Applicant for Renewal of Approval to  
Operate and Offer Educational Programs for  
a Non-Accredited Institution

Respondent.

Case No. 1000102

OAH Case No. 2015031189

**CORRECTED PROPOSED DECISION**

Administrative Law Judge Danette C. Brown, Office of Administrative Hearings (OAH), State of California, heard this matter in Sacramento, California, on October 13, 2015.

Phillip L. Arthur, Deputy Attorney General, represented complainant Joanne Wenzel, Chief of the Bureau for Private Postsecondary Education (Bureau), Department of Consumer Affairs.

Cynthia Allen (respondent) appeared telephonically and represented herself.

Evidence was received, the hearing was closed, and the matter was submitted for decision on October 13, 2015.

**FACTUAL FINDINGS**

1. Complainant filed the Statement of Issues in her official capacity on March 11, 2015. Complainant seeks to deny respondent's renewal application on the grounds that respondent failed to provide financial statements reviewed by a certified public accountant (CPA) to the Bureau.

2. On March 27, 2015, respondent filed a Notice of Defense requesting a hearing on the Statement of Issues.

*Respondent's Renewal Application*

3. Respondent is the owner of Allen's Academy of Dog Grooming (institution) in Lodi, California. On May 1, 2012, respondent filed an Application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions. In support of her application, respondent attached financial documents consisting of an income statement, cash flow statement and balance sheet. However, there was no indication on documents that a CPA reviewed them as required by the Bureau's regulations.

4. On June 29, 2012, the Bureau wrote respondent, notifying her that her application was incomplete. The Bureau requested that respondent "[p]rovide a current Balance sheet, Cash Flow statement, and Income statement that has been reviewed by a CPA." The Bureau informed respondent that the institution's application "shall be deemed abandoned and the fee forfeited when the application has not been completed ... within one year after the date that the application was initially received by the Bureau, or the date that the Bureau notified the applicant that it was incomplete, whichever is later." (Cal. Code of Regs., tit. 5, § 71401.)

5. On September 19, 2012, the Bureau received the institution's compiled financial statements for the year ending December 31, 2010. There was no indication that the documents were reviewed by a CPA, although the front page showed the logo of "Grant & Smith, LLP, Certified Public Accountants."

6. On April 15, 2013, the Bureau sent a deficiency notice to respondent, informing her that her application could not be granted approval until certain deficiencies listed in the notice were corrected. In particular, the Bureau requested that respondent provide either audited or reviewed financial statements prepared by a CPA in accordance with California Code of Regulations, title 5, sections 74115 and 71745.<sup>1</sup>

7. On May 19, 2014, respondent sent additional information to the Bureau, including the institution's compiled financial statements for the year ended December 31, 2012, and the year ended December 31, 2011. The logo for "Grant & Smith, LLP, Certified Public Accountants," was shown on the front and second pages, but there was no other indication that the financial statements were reviewed by a CPA.

8. On November 13, 2014, the Bureau denied respondent's application on the basis that she failed to provide financial statements that were reviewed by a CPA.

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<sup>1</sup> California Code of Regulations, title 5, section 74115, subdivision (b) sets forth the required information to be included in financial statements, which must be reviewed by a CPA. Section 71745 requires an institution to document that it has sufficient assets and financial resources to operate the institution.

Respondent submitted the institution's internal financial statements for 2011 that were not reviewed by a CPA and did not meet the requirements of California Code of Regulations, title 5, section 74115, subdivision (b).

In addition, respondent's submission of compiled financial statements on May 19, 2014 did not meet the requirements of California Code of Regulations, title 5, section 71475, subdivision (e), which provides that the institution, at the time it applies for renewal, shall submit to the Bureau current financial statements that meet the requirements of section 74115, in that, "for an institution with annual gross revenues less than \$500,000, statements shall be reviewed."

### *Respondent's Testimony*

9. Respondent did not dispute the fact that her application was deficient. She had no knowledge of the contents of the financial statements submitted to the Bureau. She testified that she "did not care to understand the financial statements." She blamed the deficiencies on the CPA, stating, "she didn't do what I paid her to do, and then I ran out of time." Respondent did not identify her CPA, and/or the CPA firm that prepared the financial statements submitted to the Bureau. Respondent thought the financial statements were prepared in accordance with generally accepted accounting principles. Despite her lack of knowledge of the contents of the financial statements submitted in support of her application, respondent signed the application, declaring under penalty of perjury that her application and all of the attachments were true and correct.

## LEGAL CONCLUSIONS

1. An applicant for a license must prove that he should be granted a license. (*Martin v. Alcohol Beverage Control Appeals Board* (1959) 52 Cal.2d 238.) At a hearing regarding the denial of an application, the respondent "must show compliance" with the statutes and regulations outlined in the Statement of Issues. (Gov. Code, § 11504.) Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence. (Evid. Code, § 115.)

2. Education Code section 94887 provides that an approval to operate shall be granted only after an applicant has presented sufficient evidence to the Bureau that the applicant has the capacity to satisfy the minimum operating standards. An application that does not satisfy those standards shall be denied.

3. Education Code section 94891<sup>2</sup>, subdivision (a), provides that the Bureau shall adopt by regulation the process and procedures for an institution to obtain renewal and

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<sup>2</sup> Effective January 1, 2015, in accordance with Senate Bill 1247, the California Private Postsecondary Education Act of 2009 (Education Code section 94800 et seq.) was updated. The conduct at issue in this case occurred before January 1, 2015. All citations are

approval to operate. Subdivision (b) provides that to be granted a renewal of an approval to operate, the institution shall demonstrate its continued capacity to meet the minimum operating standards.

4. California Code of Regulations, title 5, section 71700, provides that the Bureau may request that an institution document compliance with the standards set forth in the Act to obtain and maintain approval to operate.

5. California Code of Regulations, title 5, section 71475, states, in pertinent part:

[¶] ... [¶]

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

[¶] ... [¶]

(e) The institution shall submit at the time it applies for renewal current financial statements that meet the requirements of section 74115 as follows: (1) for an institution with annual gross revenues of \$500,000 and over, statements shall be audited; (2) for an institution with annual gross revenues less than \$500,000, statements shall be reviewed.

[¶] ... [¶]

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

#### *Cause for Denial*

6. Cause exists to deny respondent's application, pursuant to California Code of Regulations, title 5, sections 71700 and 71475, subdivision (e), in that respondent failed to provide financial statements that were reviewed by a CPA, as set forth in Findings 3 to 8.

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to the previous version of the California Private Postsecondary Education Act of 2009 that was in effect in 2014.

ORDER

1. The application of Cynthia Allen, Owner of Allen's Academy of Dog Grooming, for renewal of approval to operate and offer educational programs for a non-accredited institution is DENIED.

2. Within 30 days of service of this Decision and Order, or by the set effective date of this Decision and Order, whichever is sooner, Cynthia Allen, Owner of Allen's Academy of Dog Grooming shall cease operating a private postsecondary institution in California, and shall not resume operation in California unless and until it is approved to do so by the Bureau for Private Postsecondary Education.

DATED: December 28, 2015

DocuSigned by:  
*Danette C. Brown*  
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DANETTE C. BROWN  
Administrative Law Judge  
Office of Administrative Hearings

