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

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

Case No. 1003864

14 **AMERICAN HEALTH EDUCATION**
15 **Application for Renewal of Approval to**
Operate and Offer Educational Programs
16 **for Non-Accredited Institutions**

STATEMENT OF ISSUES

17 **Institution Code 18469156**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about December 18, 2017, the Bureau for Private Postsecondary Education
26 received an Application for Renewal of Approval to Operate and Offer Educational Programs for
27 Non-Accredited Institutions from Respondent American Health Education ("Respondent"), a
28 California corporation. Between receipt of that application and August 2018, the Bureau and

1 Respondent conferred regarding Respondent's application, including Respondent's transmittal of
2 additional application materials. The Bureau denied the application via a Notice of Denial of
3 Application for Renewal of Approval to Operate on or about August 16, 2018. On or about
4 October 5, 2018, Respondent submitted to the Bureau a request for administrative hearing.

5 **JURISDICTION**

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

10 4. **Section 94885, subdivision (a)** states, in part:

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

13 ...

14 "(6) The institution is financially sound and capable of fulfilling its commitments to
15 students.

16 ...

17 "(9) The institution is maintained and operated in compliance with this chapter and all other
18 applicable ordinances and laws.

19 ..."

20 5. **Section 94886** states:

21 "Except as exempted in Article 4 (commencing with Section 94874) or in compliance with
22 the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,
23 conduct, or do business as a private postsecondary educational institution in this state without
24 obtaining an approval to operate under this chapter."

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6. Section 94891, subdivision (b) states:

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

REGULATORY PROVISIONS

7. California Code of Regulations, title 5, section 71475, subdivision (e) states:

“(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.”

8. California Code of Regulations, title 5, section 71745, subdivision (a)(6) states:

“(a) The institution shall document that it has at all times sufficient assets and financial resources to do all of the following:

...

“(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal year when using generally accepted accounting principles, or for an institution participating in Title IV of the federal Higher Education Act of 1965, meet the composite score requirements of the U.S. Department of Education. For the purposes of this section, current assets does not include: intangible assets, including goodwill, going concern value, organization expense, startup costs, long-term prepayment of deferred charges, and non-returnable deposits, or state or federal grant or loan funds that are not the property of the institution but are held for future disbursement for the benefit of students. Unearned tuition shall be accounted for in accordance with general accepted accounting principles.”

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9. California Code of Regulations, title 5, section 74115 states, in part:

“... ”

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

“... ”

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

“... ”

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

CAUSE FOR DENIAL OF APPLICATION

(Financial Statements)

(Educ. Code § 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71475, subd. (e); 71745, subd. (a)(6); and 74115, subds. (b)(3) and (d))

10. Respondent’s application is subject to denial because Respondent failed to provide compliant financial statements. ((Educ. Code § 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71475, subd. (e); 71745, subd. (a)(6); and 74115, subds. (b)(3) and (d)). In particular:

a. Respondent failed to document that it has at all times sufficient assets and financial resources to maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal year when using generally accepted accounting principles. (Cal. Code Regs., title 5, §§ 71745, subd. (a)(6) and 74115, subd. (b)(3)).

b. According to Respondent’s financial statements, Respondent’s institution annual gross revenue is greater than \$500,000.00; however, Respondent failed to offer current audited financial statements. (Cal. Code Regs., title 5, § 71475, subd. (e) and 74115, subd. (d)).


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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Statement of Issues, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

1. Denying Respondent's Application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 3/15/19 

DR. MICHAEL MARION, JR.
Bureau Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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