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7

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

11 In the Matter of the Accusation Against:

Case No. 997786

12 **WESTLAKE COLLEGE (formerly known**
13 **as MANHATTAN COLLEGE); 100%**

14 **Owner CONNIE KIM**
15 **aka HEE JONG KIM**

16 619 S. New Hampshire Ave 2nd Floor
Los Angeles, CA 90010

17 4707 Wilshire Blvd., Suite 102
18 Los Angeles, CA 90010

19 3242 W. 8th St.
Los Angeles, CA 90010

20 **Institutional and Program Approvals**
21 **Certificate No. 1938091**

22 **Satellite School Code No. 62178265**

23 **Satellite School Code No. 37357661**

24 Respondent.

A C C U S A T I O N

25 Complainant alleges:

26 **PARTIES**

27 1. Joanne Wenzel (Complainant) brings this Accusation solely in her official capacity as
28 the Chief of the Bureau for Private Postsecondary Education, Department of Consumer Affairs
("Bureau").

1 2. On or about March 15, 2005, the Bureau issued Institutional Programs and Approvals
2 Certificate Number 1938091 to Westlake College formerly known as Manhattan College and
3 Satellite School Code No. 62178265 and Satellite School Code No 37357661 ("Respondent
4 School"); with Connie Kim also known as Hee Jung Kim as owner (Respondent).
5 The Institutional Programs and Approvals Certificate was in full force and effect at all times
6 relevant to the charges brought herein. The certificate expired on March 14, 2011, and has a
7 pending renewal for approval to operate an institution non-accredited. The renewal application
8 was received on May 31, 2011.

JURISDICTION

10 3. This Accusation is brought before the Director of the Department of Consumer
11 Affairs for the Bureau for Private Postsecondary Education under the following laws.¹ All
12 section references are to the Education Code (Code) unless otherwise indicated.

13 4. Section 118, subdivision (b), of the Business and Professions Code provides that the
14 suspension/expiration/surrender/cancellation of a license shall not deprive the Director of
15 jurisdiction to proceed with a disciplinary action during the period within which the license may
16 be renewed, restored, reissued or reinstated.

17 5. Section 480 of the of the Business and Professions Code states, in pertinent part:

18 "(a) A board may deny a license regulated by this code on the grounds that the applicant
19 has one of the following:

20 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
21 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
22 board is permitted to take following the establishment of a conviction may be taken when the
23 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
24 an order granting probation is made suspending the imposition of sentence, irrespective of a
25 subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

26 ¹ The California Private Postsecondary Education Act of 2009 was recently amended, effective
27 January 1, 2015. See Senate Bill No. 1247. This Accusation is based on the pre-amendment
28 version of the Act.

1 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
2 benefit himself or herself or another, or substantially injure another.

3 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
4 would be grounds for suspension or revocation of license.

5 (B) The board may deny a license pursuant to this subdivision only if the crime or act
6 is substantially related to the qualifications, functions, or duties of the business or profession for
7 which application is made."

8 6. Section 490 of the Business and Professions Code states, in pertinent part:

9 "(a) In addition to any other action that a board is permitted to take against a licensee, a
10 board may suspend or revoke a license on the ground that the licensee has been convicted of a
11 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
12 or profession for which the license was issued.

13 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
14 discipline a licensee for conviction of a crime that is independent of the authority granted under
15 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
16 of the business or profession for which the licensee's license was issued.

17 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
18 conviction following a plea of nolo contendere. Any action that a board is permitted to take
19 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
20 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
21 made suspending the imposition of sentence, irrespective of a subsequent order under Section
22 1203.4 of the Penal Code."

23 7. Section 94817 of the Code states: "Approval to operate" or "approval" means the
24 authorization pursuant to this chapter to offer to the public and to provide postsecondary
25 educational programs, as well as the written document issued to an institution signifying its
26 approval to operate.

27 8. Section 94837 of the Code states: "Educational program" means a planned sequence
28 composed of a single course or module, or set of related courses or modules, that provides the

1 education, training, skills, and experience leading to the award of a recognized educational
2 credential such as a degree or diploma.

3 9. Section 94893 of the Code states:

4 "If an institution intends to make a substantive change to its approval to operate, the
5 institution shall receive prior authorization from the bureau. Except as provided in subdivision (a)
6 of Section 94896, if the institution makes the substantive change without prior bureau
7 authorization, the institution's approval to operate may be suspended or revoked."

8 10. Section 94894 of the Code states:

9 "The following changes to an approval to operate are considered substantive changes and
10 require prior authorization:

11 "(a) A change in educational objectives, including an addition of a new diploma or a
12 degree educational program unrelated to the approved educational programs offered by the
13 institution.

14 "(b) A change in ownership

15 "(c) A change in control.

16 "(d) A change in business organization form.

17 "(e) A change of location.

18 "(f) A change of name.

19 "(g) A significant change in the method of instructional delivery.

20 "(h) An addition of a separate branch more than five miles from the main or branch
21 campus."

22 11. Section 94920 of the Code imposes requirements regarding refunds, withdrawals,
23 and cancellations:

24 "An institution that does not participate in the federal student financial aid
25 programs shall do all of the following:

26 "(a) The institution shall advise each student that a notice of cancellation
27 shall be in writing, and that a withdrawal may be effectuated by the student's written
28 notice or by the student's conduct, including, but not necessarily limited to, a student's
lack of attendance.

"(b) Institutions shall refund 100 percent of the amount paid for

1 institutional charges, less a reasonable deposit or application fee not to exceed two
2 hundred fifty dollars (\$250), if notice of cancellation is made through attendance at
3 the first class session, or the seventh class day after enrollment, whichever is later.

4 "(c) The bureau may adopt by regulation a different method of calculation
5 for instruction delivered by other means, including, but not necessarily limited to,
6 distance education.

7 "(d) The institution shall have a refund policy for the return of unearned
8 institutional charges if the student cancels an enrollment agreement or withdraws
9 during a period of attendance. The refund policy for students who have completed 60
10 percent or less of the period of attendance shall be a pro rata refund.

11 "(e) The institution shall pay or credit refunds within 45 days of a
12 student's cancellation or withdrawal."

13 12. Section 94897 of the Code states in pertinent part:

14 "An institution shall not do any of the following:

15 ...

16 (c) Advertise concerning job availability, degree of skill, or length of time required to learn
17 a trade or skill unless the information is accurate and not misleading.

18 ...

19 "(j) In any manner make an untrue or misleading change in, or untrue or misleading
20 statement related to, a test score, grade or record of grades, attendance record, record indicating
21 student completion, placement, employment, salaries, or financial information, including any of
22 the following:

23 ...

24 "(3) Any other record or document required by this chapter or by the bureau."

25 "(k) Willfully falsify, destroy, or conceal any document of record while that document of
26 record is required to be maintained by this chapter."

27 ...

28 13. Section 94898 of the Code states:

(a) An institution shall not merge classes unless all of the students have received the same
amount of instruction. This subdivision does not prevent the placement of students, who are
enrolled in different educational programs, in the same class if that class is part of each of
the educational programs and the placement in a merged class will not impair the students'
learning of the subject matter of the class.

(b) After a student has enrolled in an educational program, the institution shall not do either
of the following:

1 (1) Make any unscheduled suspension of any class unless caused by circumstances beyond
the institution's control.

2 ...

3 14. Section 94943 of the Code states:

4 The following violations of this chapter are public offenses:

5 (a) Knowingly operating a private postsecondary institution without an approval to operate
is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal
6 Code.

7 (b) Knowingly providing false information to the bureau on an application for an approval
to operate is an infraction subject to the procedures described in Sections 19.6 and 19.7 of
the Penal Code.

8 ...

9 **REGULATORY PROVISIONS**

10
11 15. Title 5, California Code of Regulations (hereinafter "CCR"), section 71710,
subdivision (a) states:

12 In order to meet its mission and objectives, the educational program defined in section
13 94837 of the Code shall be comprised of a curriculum that includes:

14 (a) those subject areas that are necessary for a student to achieve the educational
15 objectives of the educational program in which the student is enrolled;

16 16. Title 5, CCR, section 71715, subdivision (a) and (c) states:

17 (a) Instruction shall be the central focus of the resources and services of the institution.

18 ...

19 (c) Direct instruction requires the physical presence of one or more students and one or
20 more faculty members at the same location. Direct instruction includes instruction
21 presented in a classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or
22 other physical learning settings consistent with the mission, purposes, and objectives of
the institution.

23 17. Title 5, CCR, section 71730, subdivision (g) states:

24 (g) The institution shall not employ or continue to employ any administrative personnel
25 who were adjudicated in a judicial or administrative proceeding as having violated any
26 provision of the Act or this chapter or as having committed any act that would constitute
grounds for the denial of a license under Section 480 of the Business and Professions
Code.

27
28 18. Title 5, CCR, section 71400.5 states:

1 (a) The inclusion of false or misleading information, or the intentional or
2 negligent omission of pertinent information on any application may result in the
denial of the application or a delay in processing, and may be grounds for
action pursuant to Article 18 of the Act.

3 (b) In addition to denying an application pursuant to section 94887 of the Code,
4 the Bureau may deny any application based on any act that constitutes grounds
for the denial of a license under Section 480 of the Business and Professions
5 Code, incorporated herein by reference.

6 (c) The proceedings under this section shall be conducted in accordance with
Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
7 of the Government Code.

8 COST RECOVERY

9 19. Section 125.3 of the Business and Professions Code provides, in pertinent part, that
10 the Board may request the administrative law judge to direct a licentiate found to have committed
11 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
12 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the
13 license to not being renewed or reinstated.

14 FACTUAL SUMMARY

15 20. On or about July 2, 2012, Connie Kim received a \$2700 payment from student "I.L."
16 to provide massage therapy courses and to assist I.L. to obtain her massage therapist license.
17 Transcripts were prepared for I.L. on Respondent School's stationary for the period of July 11,
18 2011 to December 30, 2011 although I.L. never attended any classes and never received her
19 license.²
20

21 ² On or about August 29, 2012, the Bureau received an Application for Change of
22 Business Organization/Control/Ownership ("Application") from Respondent to transfer
23 ownership of Respondent School from Sun Y. Han (100% ownership) to Jong Woong Lee
24 ("Lee") with a 76% ownership. On the Application, the social security number listed for Lee
25 belonged to someone else. The home address for Lee was the same as the business location of
26 Respondent School. On or about May 9, 2013, the Bureau's investigator visited Respondent
27 School at the address listed on the Application: 1930 Wilshire Blvd., Suite 302, Los Angeles, CA
28 90057. The premises was vacated. The Bureau's investigator was not able to confirm the
identity of proposed owner Lee. Respondent School had not submitted its annual report with the
Bureau since 2011. Further investigation revealed that Respondent School was operated by
Connie Kim, a.k.a. Hee Jung Kim, owner of Westlake College, formerly known as Manhattan
College. A search of Connie Kim's belongings revealed that she had possession of Sun Y. Han's
identification and checks from Respondent School's bank account. The Bureau was not able to
locate Sun Y. Han.

1 21. Respondent listed "J.A.'s" name and credentials in their college catalog as "Chief
2 Nursing Officers" and as "Medical Assistant and Medical Office Assistant Instructor", without
3 J.A.'s permission, knowledge or consent. J.A. stated she never taught at Manhattan College,
4 Westlake College or Hans Academy.

5 22. "B.N." was hired as a phlebotomy instructor and worked for Manhattan College from
6 January 2012 to June 2012. B.N. stated that a normal phlebotomy program consists of 40 hours of
7 classroom training, CPR training and certification, and 100 hours of clinical training. B.N. stated
8 he was only responsible for classroom training. B.N. stated the phlebotomy program at Manhattan
9 College did not provide any CPR training nor were students participating in any clinical program.
10 B.N. was told by another co-employee of Respondent that Respondent was using a rubber stamp
11 with B.N.'s signature for phlebotomy certificates. B.N. stated that he never signed off on any
12 diplomas or certificates because none of the students ever completed all the requirements of the
13 phlebotomy course.

14 23. Westlake College's CDPH (California Department of Public Health) approval had
15 expired and was not renewed. Respondent failed to submit a renewal application. Additionally,
16 Respondent moved the location and failed to notify CDPH as required.

17 24. Fraudulent transcripts and diplomas were obtained from Respondent's office and
18 home. A review of a student file revealed fraudulent documents containing a forged signature of
19 B.N. and transcripts with J.A. as the instructor.

20 25. Respondent did not have an approved massage therapy program. Respondent
21 collected tuition from prospective students and failed to provide a massage therapy program.
22 Respondent also failed to provide clinical training to the enrolled phlebotomy students.

23 26. Upon withdrawal, Respondent failed to provide refunds to students. Refund checks
24 that were issued by the Respondent were returned for non-sufficient funds and/or students found
25 the account to be closed.

26 27. On or about September 14, 2012, pursuant to her guilty plea, Connie Kim was
27 convicted of violating Penal Code section 470(b) [forgery] in the criminal proceeding entitled
28 *The People of the State of California v. Connie Kim* (Super. Ct. Los Angeles County, 2012, No.

1 YA079772). The court placed Respondent on three (3) years summary probation. The
2 circumstances surrounding the conviction are that on or about November 22, 2002, Respondent
3 made a false application for a California Driver's License at the DMV office. Respondent signed
4 the application under penalty of perjury that she never applied for a California Drivers License or
5 Identification Card under a different name or number when in fact, Respondent on November 2,
6 1999 did so at another DMV office. On or about September 24, 2004, Respondent made a false
7 application for a California Drivers License under the name of Hee Jung Kim and was issued a
8 California drivers license. On or about February 9, 2008, Respondent made a false application for
9 a California drivers license and was issued a California drivers license.

10 28. On or about April 16, 4014, after pleading nolo contendere, Respondent was
11 convicted of violating penal code section 530.5(a) [identity theft], a felony in the criminal
12 proceeding entitled *The People of the State of California v. Connie Kim* (Super. Ct. Los Angeles
13 County, 2014, No. GA089765). The court placed Respondent on five (5) year formal probation,
14 and sentenced Respondent to perform 244 hours of Cal-Trans. The court also ordered Respondent
15 to pay \$12,000.00 in restitution to the victim. The circumstances surrounding the conviction are
16 that on or about May 6, 2013, Connie Kim used another's identity to rent an office space at 1841
17 S. San Gabriel Boulevard, in the City of San Gabriel, and passed insufficient fund checks to the
18 property management company for the rental office. Upon her arrest, Connie Kim was found to
19 be in possession of multiple Department of Motor Vehicles (DMV) issued identification cards of
20 herself with different birthdates. She admitted to the arresting officers that she lied to DMV.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Authorization required for substantive change/Substantive change defined)**

23 29. Respondent is subject to disciplinary action under sections 94893 and 94894(a) of the
24 Code, in that Respondent made substantive changes to its approval to operate without receiving
25 prior authorization from the bureau, including a change in educational objectives. Respondent
26 collected tuition from prospective students for an unapproved massage therapy program and
27 failed to provide the program. Complainant refers to, and incorporates paragraphs 20 through 28,
28 inclusive as though set forth fully.

1 SECOND CAUSE FOR DISCIPLINE

2 (Prohibited Practices)

3 30. Respondent is subject to disciplinary action under sections 94897(c), subdivision (j)
4 (3), and subdivision (k) of the Code. Respondent failed to provide the clinical portion of the
5 phlebotomy course. Respondent collected tuition for an unapproved massage therapy program
6 and failed to provide the course. Students who did not attend classes paid Respondent various
7 fees in return for falsified transcripts, diplomas, and certificates of completion. Respondent also
8 forged the signature of former employee B.N. on student records and transcripts. Complainant
9 refers to, and incorporates paragraphs 20 through 28, inclusive as though set forth fully.

10 THIRD CAUSE FOR DISCIPLINE

11 (Merging classes, converting method of delivery, changing locations)

12 31. Respondent is subject to disciplinary action under section 94898 of the Code in that
13 Respondent failed to provide the clinical portion of the phlebotomy program. Complainant refers
14 to, and incorporates paragraphs 20 through 28, inclusive as though set forth fully.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Mandatory cancellation, withdrawal and refund policies)

17 32. Respondent is subject to disciplinary action under section 94920(e) of the Code in
18 that Respondent failed to provide refunds within 45 days of a student's withdrawal. Refund
19 checks were also non-sufficient and/or closed. Complainant refers to, and incorporates paragraphs
20 20 through 28, inclusive as though set forth fully.

21 FIFTH CAUSE FOR DISCIPLINE

22 (Educational Programs)

23 33. Respondent is subject to disciplinary action under title 5, CCR, section 71710(a) in
24 that Respondent obtained tuition from prospective massage therapy students and failed to provide
25 a massage therapy program. Complainant refers to, and incorporates paragraphs 20 through 28,
26 inclusive as though set forth fully.

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SIXTH CAUSE FOR DISCIPLINE

(Instruction)

34. Respondent is subject to disciplinary action under title 5, CCR, section 71715(a) and (c) in that Respondent obtained tuition from prospective massage therapy students and failed to provide a massage therapy program. Respondent issued diploma/certifications without students attending classes. Complainant refers to, and incorporates paragraphs 20 through 28, inclusive as though set forth fully.

SEVENTH CAUSE FOR DISCIPLINE

(Administration)

35. Respondent is subject to disciplinary action under California Code of Regulations, title 5, CCR, section 71730(g) in that Respondent has been convicted of forgery and identity theft. Complainant refers to, and incorporates paragraphs 20 through 28, inclusive as though set forth fully.

EIGHTH CAUSE FOR DISCIPLINE

(Convictions of Substantially Related Crimes)

36. Respondent committed acts which if done by a licentiate would be grounds for suspension or revocation of his license. Respondent is subject to disciplinary action under section 480 and 490 of the Business and Professions Code in that Respondent was convicted of crimes substantially related to the qualifications, functions, or duties of any owner, corporate director or member of the governing board, officer, administrator, or instructor. Complainant refers to, and incorporates paragraphs 20 through 28, inclusive as though set forth fully.

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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. Revoking or suspending Institutional Programs and Approvals Certificate Number 1938091 to Westlake College formerly known as Manhattan College; Connie Kim also known as Hee Jung Kim;
2. Ordering Connie Kim also known as Hee Jung Kim to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 3/11/15


JOANNE WENZEL
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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