

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 CARTER OTT
Deputy Attorney General
4 State Bar No. 221660
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2219
Facsimile: (510) 622-2270
7 E-mail: Carter.Ott@doj.ca.gov
Attorneys for Complainant

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 Accusation Against:

Case No. 1000393

13 **CORINTHIAN COLLEGES, INC., DBA**
EVEREST COLLEGE AND WYOTECH
14 **(CALIFORNIA SCHOOLS ONLY); JACK**
MASSIMINO, CHAIRMAN AND CEO
15 **6 Hutton Centre Dr., Ste. 400**
Santa Ana, CA 92707

SECOND AMENDED ACCUSATION

16
17 **Approval to Operate Institution Code**
Numbers 1900741 (1045 W. Redondo Beach
18 **Blvd., #275, Gardena, CA 90247); 1900731**
(2215 W. Mission Rd., Alhambra, CA
19 **91803); 1904591 (18040 Sherman Wy., Ste.**
400, Reseda, CA 91335); (continued on page
20 **12)**

21 Respondents.

22 Complainant alleges:

23 PARTIES

24 1. Joanne Wenzel (Complainant) brings this Second Amended Accusation solely in her
25 official capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
26 Consumer Affairs.

27 2. The Bureau granted an approval to operate by means of accreditation to eleven (11)
28 Everest College, Institution Code Numbers 1900741, 1900731, 1904591, 1913561, 1917331,

1 1924201, 3000221, 3303781, 3600141, 3601871, and 98946206; and two (2) WyoTech
2 campuses, Institution Code Numbers 0102871 and 1904031. Obtaining approval by accreditation
3 requires that the institutions' owner obtain accreditation through an accredited agency recognized
4 by the United States Department of Education (USDOE). The listed Everest College and
5 WyoTech institutions are owned by Corinthian Colleges, Inc. (CCI), a California corporation.
6 CCI is directed and managed by its CEO and Chairman, Jack Massimino. Unless otherwise
7 stated, the Everest College and WyoTech institutions listed in the caption, CCI, and Mr.
8 Massimino are referenced in this Second Amended Accusation collectively as "Respondent."

9 JURISDICTION

10 3. This Second Amended Accusation is brought before the Director of the Department
11 of Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
12 authority of the following laws.

13 4. Business and Professions Code section 118 states, in part:

14 ...

15 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
16 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
17 order of a court of law, or its surrender without the written consent of the board, shall not, during
18 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
19 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
20 provided by law or to enter an order suspending or revoking the license or otherwise taking
21 disciplinary action against the licensee on any such ground.

22 "(c) As used in this section, 'board' includes an individual who is authorized by any
23 provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,'
24 'registration,' and 'permit.'"

25 5. Business and Professions Code section 477 states:

26 "As used in this division:

27 "(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,'
28 'examining committee,' 'program,' and 'agency.'

1 10. Education Code section 94926 states:

2 “At least 30 days prior to closing, the institution shall notify the bureau in writing of its
3 intention to close. The notice shall be accompanied by a closure plan, which shall include, but not
4 necessarily be limited to, all of the following:

5 “(a) A plan for providing teach-outs of educational programs, including any agreements
6 with any other postsecondary educational institutions to provide teach-outs.

7 “(b) If no teach-out plan is contemplated, or for students who do not wish to participate in a
8 teach-out, arrangements for making refunds within 45 days from the date of closure, or for
9 institutions that participate in federal student financial aid programs arrangements for making
10 refunds and returning federal student financial aid program funds.

11 “(c) If the institution is a participant in federal student financial aid programs, it shall
12 provide students information concerning these programs and institutional closures.

13 “(d) A plan for the disposition of student records.11. Education Code section 94927 states:

14 “An institution shall be considered in default of the enrollment agreement when an
15 educational program is discontinued or canceled or the institution closes prior to completion of
16 the educational program. When an institution is in default, student institutional charges may be
17 refunded on a pro rata basis if the bureau determines that the school has made provision for
18 students enrolled at the time of default to complete a comparable educational program at another
19 institution at no additional charge to the students beyond the amount of the total charges in the
20 original enrollment agreement. If the institution does not make that provision, a total refund of all
21 institutional charges shall be made to students.”

22 12. Education Code section 94927.5 states:

23 “(a) Prior to closing, an institution shall provide the bureau with the following:

24 “(1) Pertinent student records, including transcripts, as determined by the bureau, pursuant
25 to regulations adopted by the bureau.

26 “(2) If the institution is an accredited institution, a plan for the retention of records and
27 transcripts, approved by the institution's accrediting agency, that provides information as to how a
28

1 student may obtain a transcript or any other information about the student's coursework and
2 degrees completed.

3 “(b) Subdivision (a) applies to all private postsecondary institutions, including institutions
4 that are otherwise exempt from this chapter pursuant to Article 4 (commencing with Section
5 94874).”

6 13. Education Code section 94934 states, in part:

7 “(a) As part of the compliance program, an institution shall submit an annual report to the
8 bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year,
9 or another date designated by the bureau, and it shall include the following information for
10 educational programs offered in the reporting period:

11 . . .

12 “(9) Additional information deemed by the bureau to be reasonably required to ascertain
13 compliance with this chapter.

14 . . .”14. Code of Regulations, title 5, section 71745 states:

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

17 “(1) Provide all of the educational programs that the institution represented it would
18 provide.

19 “(2) Ensure that all students admitted to its educational programs have a reasonable
20 opportunity to complete the programs and obtain their degrees or diplomas.

21 “(3) Maintain the minimum standards required by the Act and this chapter.

22 “(4) Pay timely refunds as required by Article 13 of the Act.

23 “(5) Pay all operating expenses due within 30 days.

24 “(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the
25 end of the most recent fiscal year when using generally accepted accounting principles, or for an
26 institution participating in Title IV of the federal Higher Education Act of 1965, meet the
27 composite score requirements of the U.S. Department of Education. For the purposes of this
28 section, current assets does not include: intangible assets, including goodwill, going concern

1 value, organization expense, startup costs, long-term prepayment of deferred charges, and non-
2 returnable deposits, or state or federal grant or loan funds that are not the property of the
3 institution but are held for future disbursement for the benefit of students. Unearned tuition shall
4 be accounted for in accordance with general accepted accounting principles.

5 “(b) At an institution's request, the Bureau may consider the financial resources of a parent
6 company if the parent company, as defined by section 94853 of the Code, meets and maintains all
7 of the following provisions:

8 “(1) consents in writing to be sued in California;

9 “(2) consents in writing to be subject to the jurisdiction of the Bureau with respect to the
10 institution's regulation under the Act and this Chapter;

11 “(3) designates and maintains an agent for service of process, consistent with section
12 74190;

13 “(4) agrees in writing to pay any refund, claim, penalty, or judgment that the institution is
14 obligated to pay; and

15 “(5) files financial reports, maintains financial records, and consents in writing to permit the
16 inspection and copying of financial records to the same extent as is required of the institution.

17 “(c) An institution shall provide to the Bureau its most current financial statements upon
18 request.”

19 15. Code of Regulations, title 5, section 71920 states:

20 “(a) The institution shall maintain a file for each student who enrolls in the institution
21 whether or not the student completes the educational service.

22 /////

23 /////

24 /////

25 /////

26 /////

27 /////

28

1 “(b) In addition to the requirements of section 94900, the file shall contain all of the
2 following pertinent student records:

3 “(1) Written records and transcripts of any formal education or training, testing, or
4 experience that are relevant to the student's qualifications for admission to the institution or the
5 institution's award of credit or acceptance of transfer credits including the following:

6 “(A) Verification of high school completion or equivalency or other documentation
7 establishing the student's ability to do college level work, such as successful completion of an
8 ability-to-benefit test;

9 “(B) Records documenting units of credit earned at other institutions that have been
10 accepted and applied by the institution as transfer credits toward the student's completion of an
11 educational program;

12 “(C) Grades or findings from any examination of academic ability or educational
13 achievement used for admission or college placement purposes;

14 “(D) All of the documents evidencing a student's prior experiential learning upon which the
15 institution and the faculty base the award of any credit;

16 “(2) Personal information regarding a student's age, gender, and ethnicity if that information
17 has been voluntarily supplied by the student;

18 “(3) Copies of all documents signed by the student, including contracts, instruments of
19 indebtedness, and documents relating to financial aid;

20 “(4) Records of the dates of enrollment and, if applicable, withdrawal from the institution,
21 leaves of absence, and graduation; and

22 “(5) In addition to the requirements of section 94900(b) of the Code, a transcript showing
23 all of the following:

24 “(A) The courses or other educational programs that were completed, or were attempted but
25 not completed, and the dates of completion or withdrawal;

26 “(B) Credit awarded for prior experiential learning, including the course title for which
27 credit was awarded and the amount of credit;

28 /////

- 1 “(C) Credit for courses earned at other institutions;
- 2 “(D) Credit based on any examination of academic ability or educational achievement used
- 3 for admission or college placement purposes;
- 4 “(E) The name, address, website address, and telephone number of the institution.
- 5 “(6) For independent study courses, course outlines or learning contracts signed by the
- 6 faculty and administrators who approved the course;
- 7 “(7) The dissertations, theses, and other student projects submitted by graduate students;
- 8 “(8) A copy of documents relating to student financial aid that are required to be maintained
- 9 by law or by a loan guarantee agency;
- 10 “(9) A document showing the total amount of money received from or on behalf of the
- 11 student and the date or dates on which the money was received;
- 12 “(10) A document specifying the amount of a refund, including the amount refunded for
- 13 tuition and the amount for other itemized charges, the method of calculating the refund, the date
- 14 the refund was made, and the name and address of the person or entity to which the refund was
- 15 sent;
- 16 “(11) Copies of any official advisory notices or warnings regarding the student's progress;
- 17 and
- 18 “(12) Complaints received from the student.”

19 16. Code of Regulations, title 5, section 71930 states:

20 “(a) An institution shall maintain all records required by the Act and this chapter. The

21 records shall be maintained in this state.

22 “(b)(1) In addition to permanently retaining a transcript as required by section 94900(b) of

23 the Code, the institution shall maintain for a period of 5 years the pertinent student records

24 described in Section 71920 from the student's date of completion or withdrawal.

25 “(2) Notwithstanding (b)(1), the institution shall maintain records relating to federal

26 financial aid programs as provided by federal law.

27

28

1 “(c) A record is considered current for three years following a student's completion or
2 withdrawal. A record may be stored on microfilm, microfiche, computer disk, or any other
3 method of record storage only if all of the following apply:

4 “(1) The record may be stored without loss of information or legibility for the period within
5 which the record is required to be maintained by the Act;

6 “(2) For a record that is current, the institution maintains functioning devices that can
7 immediately reproduce exact, legible printed copies of stored records. The devices shall be
8 maintained in reasonably close proximity to the stored records at the institution's primary
9 administrative location in California. For a record that is no longer current, the institution shall be
10 able to reproduce exact, legible printed copies within two (2) business days.

11 “(3) The institution has personnel scheduled to be present at all times during normal
12 business hours who know how to operate the devices and can explain the operation of the devices
13 to any person authorized by the Act to inspect and copy records; and

14 “(4) Any person authorized by the Act or this chapter to inspect and copy records shall be
15 given immediate access to the document reproduction devices for the purpose of inspecting and
16 copying stored records and shall, upon request, reimburse the institution for the reasonable cost of
17 using the institution's equipment and material to make copies at a rate not to exceed ten cents
18 (\$0.10) per page.

19 “(d) The institution shall maintain a second set of all academic and financial records
20 required by the Act and this chapter at a different location unless the original records, including
21 records stored pursuant to subdivision (b) of this section, are maintained in a manner secure from
22 damage or loss. An acceptable manner of storage under this subsection would include fire
23 resistant cabinets.

24 “(e) All records that the institution is required to maintain by the Act or this chapter shall be
25 made immediately available by the institution for inspection and copying during normal business
26 hours by the Bureau and any entity authorized to conduct investigations.

27 “(f) If an institution closes, the institution and its owners are jointly and severally
28 responsible to arrange at their expense for the storage and safekeeping in California of all records

1 required to be maintained by the Act and this chapter for as long as those records must be
2 maintained. The repository of the records shall make these records immediately available for
3 inspection and copying, without charge except as allowed under subdivision (c)(4) of this section,
4 during normal business hours by any entity authorized by law to inspect and copy records.”

5 17. Code of Regulations, title 5, section 74110 states:

6 “(a) The annual report required by section 94934 of the Code shall include the information
7 required by section 94934 for all educational programs offered in the prior calendar year.

8 “(b) In addition to the information required by section 94934 provided under penalty of
9 perjury, the institution shall have annual financial statements prepared for the institution's prior
10 fiscal year and signed under penalty of perjury, and shall submit a hard copy under separate cover
11 of such statements in conjunction with its annual report. The form, content and mode of
12 preparation of financial statements shall comply with section 74115 of this Division. The Bureau
13 may request that the institution immediately make available for inspection to a representative of
14 the Bureau, these financial statements at the offices of the institution.

15 “(c) An institution shall file its annual report by September 1st. The Bureau may extend the
16 period for filing if the institution demonstrates evidence of substantial need but in no case longer
17 than 60 days. The institution shall not change the date of its filing its annual report because of a
18 change in the fiscal year without the Bureau's approval.

19 “(d) The annual report shall be electronically filed by submitting the information required
20 by section 94934 of the Code via the Bureau's website, electronically attaching, as directed, the
21 School Performance Fact Sheet and the school catalog. An institution without the capability to
22 submit the information electronically shall inform the Bureau not less than 45 days prior to the
23 date the information is required by subdivision (c), and receive direction on alternative means of
24 submission.”

25 18. Code of Regulations, title 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 19. Code of Regulations, title 5, section 76240 states, in part:

2 "All institutions, including those exempt from Bureau regulation pursuant to the Code, shall
3 do the following prior to closing:

4 "(a) At least 30 days prior to closing, the institution shall notify the Bureau in writing of its
5 intention to close and provide a closure plan. The closure plan shall include:

6 "(1) The exact date and reason for the closure.

7 "(2) The last date of instruction for each educational service or program.

8 "(3) A list of students who were enrolled at any time during the 60 days prior to closure.

9 "(4) If any student will not be provided complete educational services or the educational
10 program, the institution shall provide:

11 "(A) A plan for providing teach-outs or transfers, including the details of any agreements
12 with other institutions.

13 "(B) If no teach-out is contemplated, or for students who do not wish to participate in a
14 teach-out, arrangements for making refunds within 45 days from the date of closure, or for
15 institutions that participate in federal student financial aid programs arrangements for making
16 refunds and returning federal student financial aid program funds.

17 "(5) A plan for the disposition of student records.

18 "(6) A plan to notify students of their rights and options under the Act and this chapter.

19 "..."

20 20. Code of Federal Regulations, title 34, section 668.24 states, in part:

21 "...

22 "(c) Required records.

23 "(1) The records that an institution must maintain in order to comply with the provisions of
24 this section include but are not limited to—

25 "(i) The Student Aid Report (SAR) or Institutional Student Information Record (ISIR) used
26 to determine eligibility for title IV, HEA program funds;

27 "(ii) Application data submitted to the Secretary, lender, or guaranty agency by the
28 institution on behalf of the student or parent;

1 “(iii) Documentation of each student's or parent borrower's eligibility for title IV, HEA
2 program funds;

3 “(iv) Documentation relating to each student's or parent borrower's receipt of title IV, HEA
4 program funds, including but not limited to documentation of—

5 “(A) The amount of the grant, loan, or FWS award; its payment period; its loan period, if
6 appropriate; and the calculations used to determine the amount of the grant, loan, or FWS award;

7 “(B) The date and amount of each disbursement or delivery of grant or loan funds, and the
8 date and amount of each payment of FWS wages;

9 “(C) The amount, date, and basis of the institution's calculation of any refunds or
10 overpayments due to or on behalf of the student, or the treatment of title IV, HEA program funds
11 when a student withdraws; and

12 “(D) The payment of any overpayment or the return of any title IV, HEA program funds to
13 the title IV, HEA program fund, a lender, or the Secretary, as appropriate;

14 “(v) Documentation of and information collected at any initial or exit loan counseling
15 required by applicable program regulations;

16 “(vi) Reports and forms used by the institution in its participation in a title IV, HEA
17 program, and any records needed to verify data that appear in those reports and forms; and

18 “(vii) Documentation supporting the institution's calculations of its completion or
19 graduation rates under §§ 668.46 and 668.49.

20 “(2) In addition to the records required under this part—

21 “(i) Participants in the Federal Perkins Loan Program shall follow procedures established in
22 34 CFR 674.19 for documentation of repayment history for that program;

23 “(ii) Participants in the FWS Program shall follow procedures established in 34 CFR 675.19
24 for documentation of work, earnings, and payroll transactions for that program; and

25 “(iii) Participants in the FFEL Program shall follow procedures established in 34 CFR
26 682.610 for documentation of additional loan record requirements for that program.

27 /////

28 /////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

“(d) General.

...

“(4) If an institution closes, stops providing educational programs, is terminated or suspended from the title IV, HEA programs, or undergoes a change of ownership that results in a change of control as described in 34 CFR 600.31, it shall provide for—

“(i) The retention of required records; and

“(ii) Access to those records, for inspection and copying, by the Secretary or the Secretary's authorized representative, and, for a school participating in the FFEL Program, the appropriate guaranty agency.

“(e) Record retention. Unless otherwise directed by the Secretary—

“(1) An institution shall keep records relating to its administration of the Federal Perkins Loan, FWS, FSEOG, Federal Pell Grant, ACG, National SMART Grant, or TEACH Grant Program for three years after the end of the award year for which the aid was awarded and disbursed under those programs, provided that an institution shall keep—

“(i) The Fiscal Operations Report and Application to Participate in the Federal Perkins Loan, FSEOG, and FWS Programs (FISAP), and any records necessary to support the data contained in the FISAP, including “income grid information,” for three years after the end of the award year in which the FISAP is submitted; and

“(ii) Repayment records for a Federal Perkins loan, including records relating to cancellation and deferment requests, in accordance with the provisions of 34 CFR 674.19;

“(2)(i) An institution shall keep records relating to a student or parent borrower's eligibility and participation in the FFEL or Direct Loan Program for three years after the end of the award year in which the student last attended the institution; and

“(ii) An institution shall keep all other records relating to its participation in the FFEL or Direct Loan Program, including records of any other reports or forms, for three years after the end of the award year in which the records are submitted; and

1 “(3) An institution shall keep all records involved in any loan, claim, or expenditure
2 questioned by a title IV, HEA program audit, program review, investigation, or other review until
3 the later of—

4 “(i) The resolution of that questioned loan, claim, or expenditure; or

5 “(ii) The end of the retention period applicable to the record.

6”

7 COST RECOVERY

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

14 FACTUAL BACKGROUND

15 *I. Respondent Fails to Produce Current Financial Statements*

16 22. On July 7, 2014, CCI entered into an Operating Agreement with the USDOE that,
17 among other things, required CCI to produce certain documents by specified deadlines, teach out
18 and close twelve (12) of its schools, and pursue selling the remainder of its Title IV-eligible
19 schools.

20 23. On September 16, 2014, CCI filed with the United States Securities and Exchange
21 Commission a Form 10-K stating an inability to produce current financial statements:

22 The efforts required to comply with the terms of the Operating Agreement have
23 put significant constraints on [CCI's] resources, **preventing it from obtaining**
24 **and compiling the information required to complete and file its Annual**
25 **Report on Form 10-K for the fiscal year ended June 30, 2014. . . .** In addition,
26 the uncertain outcome of the school sales that [CCI] is pursuing creates
27 **uncertainties regarding the valuation of [CCI's] assets, as well as its financial**
28 **condition and results of operations as of and for the fiscal year ended June**
30, 2014.¹

¹ https://www.sec.gov/Archives/edgar/data/1066134/000110465914066574/a14-17861_4nt10k.htm (emphasis added)

1 24. As of July 9, 2014, Everest College began notifying its students of a possible sale of
2 the school. Respondent also informed its institutions' students about pending state and federal
3 regulatory investigations, warning "[I]f an enforcement action is taken, it could negatively impact
4 our ability to operate this school and your ability to complete your program at this school as
5 expected." Respondent also requested that its institutions' students confirm, by signature, receipt
6 of this caveat before signing enrollment agreements.

7 25. Under Education Code section 94934, Respondent is required to provide the Bureau
8 with its current financial statements no later than September 1 for each year. "Current," in
9 describing financial statements, "means completed no sooner than 120 days prior to the time it is
10 submitted to the Bureau, and covering no less than the most recent complete fiscal year." Cal.
11 Code Regs., title 5, § 74115, subd. (d).

12 26. Respondent did not submit current financial statements by September 1, 2014, and
13 indicated it could not produce current financial statements. Specifically, on December 24, 2015,
14 Bureau Compliance Inspector Brian Brisco conducted a review of the consolidated financial
15 statements that Respondent had most recently submitted for Everest College and WyoTech.
16 Based on his review, Compliance Inspector Brisco found that Respondent did not submit
17 "current" financial statements. Rather, the financial statements Respondent offered were for the
18 2012- 2013 fiscal year and were prepared on September 3, 2013.

19 27. On December 23, 2014, Bureau Compliance Manager Wayne Brenner sent an email
20 to CCI's Vice President of Accreditation and Licensing, John Andrews, requesting a copy of
21 Respondent's most recent audited financial statements. On December 31, 2014, Mr. Andrews
22 responded via an email indicating that Respondent was not able to provide current financial
23 statements:

24 As previously disclosed in a Report on Form 8-K filed with the [SEC], on July 7,
25 2014, [CCI] entered into an Operating Agreement, subsequently amended [] with
26 the [USDOE] which became effective July 8, 2014, and which, among other
27 things, required [CCI] to produce certain documents within certain time periods,
28 provide certain financial and other information to an independent Monitor and
subject a large part of the Company's operations and financial activities oversight
by that Monitor, teach out and close 12 of its schools, and pursue selling the
remainder of its Title IV-eligible schools. The efforts required to comply with the
terms of the Operating Agreement have put significant constraints on [CCI's]

resources, preventing it from obtaining and compiling the information required to complete and file its Annual Report on Form 10-K for the fiscal year ended June 30, 2014 in a timely manner.²

28. Between January 2015 and February 2015, the Bureau conducted unannounced compliance inspections of the eleven (11) Everest and two (2) WyoTech campuses referenced by institution code in the caption of this Second Amended Accusation. During those inspections, the institutions failed to and could not provide current financial statements as required by Code of Regulations, title 5, section 74115, subdivision (d).

II. Regulatory Action by the United States Department of Education

29. On March 3, 2015, the USDOE issued a Letter Of Credit Request to Jack Massimino, which allows CCI to continue to participate in Title IV provided that it posts an irrevocable letter of credit in the amount of \$34,506,372.

30. On April 14, 2015, the USDOE issued a Notice Of Intent To Fine Heald College. Non-party Heald College is owned by CCI. Through the Notice, the USDOE fined Heald College \$29,665,000.00 based on findings that Heald College failed to meet the fiduciary standard of conduct by misrepresenting its placement rates to current and prospective students and its accreditors and by failing to comply with federal regulations requiring the complete and accurate disclosure of its placement rates.

III. The Bureau Issues an Emergency Decision and Commences This Disciplinary Action; CCI Closes its Campuses and Files for Bankruptcy

31. On April 17, 2015, the Bureau issued Respondent a Notice Of Emergency Decision, pursuant to Code of Regulations, title 5, section 75150, subdivision (d) and Government Code section 11460.50. This Notice informed Respondent that, effective at the close of business on April 23, 2015, an Emergency Decision would be issued requiring that Respondent “cease enrollment of any new students in all programs” at the Everest College and WyoTech campuses referenced by institution code in the caption of this Second Amended Accusation. Pursuant to Code of Regulations, title 5, section 75150, subdivision (f), the Bureau offered Respondent the

² Emphasis added.

1 opportunity to state its opposition to the Emergency Decision at a hearing on April 22 before the
2 Director of Consumer Affairs. Respondent declined to be heard. The Bureau's Emergency
3 Decision became effective on April 23, 2015.

4 32. As part of its Emergency Decision, and pursuant to Government Code section
5 11460.60, subdivisions (a) and (b), on April 24, 2015, the Bureau filed and served an Accusation
6 against Respondent. The Accusation did not seek revocation or suspension of Respondent's
7 approvals to operate. Instead, it sought an order sustaining the Bureau's Emergency Decision
8 and requiring Respondent to pay the Bureau's reasonable investigative and enforcement costs.
9 Two days later, on April 26, CCI announced the immediate closure of all of its institutions.
10 Nearly a week later, on May 4, CCI filed a voluntary chapter 11 petition in the Bankruptcy Court
11 for the District of Delaware (Case No. 15-10952). The petition lists assets of approximately
12 \$19.2 million and liabilities of \$143.1 million.

13 FIRST CAUSE FOR DISCIPLINE

14 (Possession of Sufficient Financial Resources)

15 (Cal. Code Regs., title 5, §§ 71745, subds. (a) and (b), and 74115, subd. (b)(3))

16 33. Respondent has subjected its approvals to operate to disciplinary action for failing or
17 being unable to demonstrate that its institutions meet the requirements for financial resources
18 required by Code of Regulations, title 5, section 71745, subdivisions (a) and (b). The
19 circumstances are set forth in paragraphs 22 through 32, above.

20 SECOND CAUSE FOR DISCIPLINE

21 (Failure to Provide Financial Statements Upon Request)

22 (Educ. Code § 94934, subd. (a)(9); Cal. Code Regs., title 5, §§ 71745, subd. (c);
23 74110, subd. (b) and (c); and 74115)

24 34. Respondent has subjected its approvals to operate to disciplinary action for failing to
25 produce "current" financial statements. (Educ. Code § 94934, subd. (a)(9); Cal. Code Regs., title
26 5, §§ 71745, subd. (c); 74110, subd. (b) and (c); and 74115). The circumstances are set forth in
27 paragraphs 22 through 32, above.

28 //

//

//

1 title 5, § 71920 and 76240, subd. (a)(5)). To date, Respondent has failed to provide the Bureau
2 with any student records.

3 SIXTH CAUSE FOR DISCIPLINE
4 (Failure to Provide a Plan for Retention of Records and Transcripts)
5 (Educ. Code § 94927.5, subds. (a)(2) and (b))

6 38. Respondent has subjected its approvals to operate to disciplinary action for failing to
7 provide a plan for the retention of records and transcripts, approved by its institutions' accrediting
8 agency, that provides information on how a student may obtain a transcript or any other
9 information about the student's coursework and degrees completed. (Educ. Code § 94927.5,
10 subds. (a)(2) and (b)).

11 SEVENTH CAUSE FOR DISCIPLINE
12 (Failure to Maintain Records)
13 (Educ. Code § 94900; Cal. Code Regs., title 5, §§ 71920 and 71930;
14 and 34 CFR 668.24, subds. (c), (d), and (e))

15 39. Respondent has subjected its approvals to operate to disciplinary action for failing to
16 arranging at its expense for the storage and safekeeping in California of all records required to be
17 maintained by the California Private Postsecondary Education Act of 2009 and applicable
18 regulations for as long as those records must be maintained. (Educ. Code § 94900; Cal. Code
19 Regs., title 5, §§ 71920 and 71930; and 34 CFR 668.24).

20 40. In particular, Code of Regulations, title 5, section 71930 states that institutions must
21 permanently maintain transcripts, as required by Education Code section 94900, subdivision (b);
22 maintain for a period of five years the pertinent student records described in Code of Regulations,
23 title 5, section 71920; and maintain records relating to federal financial aid programs as provided
24 by federal law. Yet Respondent has informed the Bureau that it intends to abandon its files and
25 documents, including records that must be maintained by law.

26 //

27 //

28 //

//

//

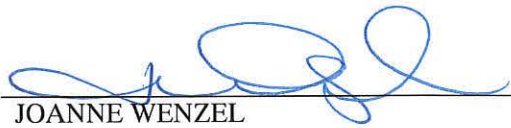
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Respondent's institution code numbers 0102871, 1900741, 1900731, 1904031, 1904591, 1913561, 1917331, 1924201, 3000221, 3303781, 3600141, 3601871, and 98946206;
2. Ordering Respondent to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/29/15



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

SF2015900232

1 **Approval to Operate Institution Code Numbers (continued from caption):**

2 1913561 (12801 Crossroads Pkwy South, City of Industry, CA 91746);

3 1917331 (3000 S. Robertson Blvd., Ste. 300, Los Angeles, CA 90034);

4 1924201 (1231 Cabrillo Ave., Ste. 201, Torrance, CA 90501);

5 3000221 (511 N. Brookhurst St., Ste. 300, Anaheim, CA 92801);

6 3303781 (1819 S. Excise Ave., Ontario, CA 91761-8525);

7 3600141 (217 E. Club Center Dr., #A, San Bernardino, CA 92408);

8 3601871 (1460 S. Millikin Ave., Ontario, CA 91761);

9 98946206 (500 Santa Ana Blvd., Santa Ana, CA 92701);

10 0102871 (200 Whitney Pl., Fremont, CA 94539); and

11 1904031 (2161 Technology Pl., Long Beach, CA 90810)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28