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7

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

10 In the Matter of the Statement of Issues
11 Against:

Case No. 1000099

12 **PACIFIC BAPTIST COLLEGE; owner**
Western Baptist Bible Fellowship, Inc.

STATEMENT OF ISSUES

13 **Application for Renewal of Approval to**
14 **Operate and Offer Educational Programs**
for Non-Accredited Institutions

15 **Application Number 24591**
16 **School Code 1937651**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Complainant Joanne Wenzel brings this Statement of Issues solely in her official
21 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
22 Consumer Affairs¹.

23 2. On April 1, 2003, the Bureau issued Respondent Pacific Baptist College an Approval
24 to Operate. It assigned Respondent School Code 1937651.

25 3. Respondent's Approval to Operate expired on March 25, 2011.

26 ¹ The former Bureau for Private Postsecondary Education and Vocational Education
27 sunsetted on July 2, 2007. On October 11, 2009, the Bureau for Private Postsecondary Education
28 Act of 2009 (AB 48) was signed into law. The Act, which became operative on January 1, 2010,
established the Bureau for Private Postsecondary Education.

1 4. On March 20, 2012, the Bureau received Respondent's Application for Renewal of
2 Approval to Operate and Offer Educational Programs for Non-Accredited Institutions.

3 5. In September and October 2013, the Bureau sent Respondent letters requesting
4 corrections.

5 6. In November 2013, Respondent submitted a revised Application.

6 7. On April 7, 2014, the Bureau sent Respondent a second deficiency letter.

7 8. On August 25, 2014, the Bureau received Respondent's revised Application.

8 9. The Bureau denied the revised Application on September 10, 2014.

9 10. Respondent timely appealed the Bureau's denial of its Application.

10 JURISDICTION

11 11. This Statement of Issues is brought before the Director of the Department of
12 Consumer Affairs for the Bureau under the following laws. All section references are to the
13 Education Code unless otherwise indicated.

14 12. Section 94875 authorizes the Bureau to regulate private postsecondary educational
15 institutions under the California Private Postsecondary Education Act of 2009, Education Code
16 sections 94800 through 94950.

17 STATUTES AND REGULATIONS

18 *Statutes and Regulations Governing Applications to Operate and Their Renewal*

19 13. In pertinent part, section 94885² requires the Bureau to adopt certain minimum
20 operating standards for institutions:

21 "The bureau shall, by January 1, 2011, adopt by regulation minimum
22 operating standards for an institution that shall reasonably ensure that all of the
following occur:

23 ...

24 (c) The facilities, instructional equipment, and materials are sufficient to
enable students to achieve the educational program's goals.

25 ...

26 (f) The institution is financially sound and capable of fulfilling its
commitments to students.

27 ² The statutes and regulations quoted are those in effect from January 1, 2010 to
28 December 31, 2014, the period when Respondent's application was submitted, considered and
denied.

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...

(h) Adequate records and standard transcripts are maintained and are available to students.

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

14. Section 94887 dictates when the Bureau may grant an application to operate:

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

15. Section 94891 subdivision (b) provides that "[t]o be granted a renewal of an approval to operate, the institution shall demonstrate its continued capacity to meet the minimum operating standards."

16. In pertinent part, California Code of Regulations title 5 section 71475 implements section 94891 by specifying what renewal applications must include:

"(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)

...

(k) The institution shall identify in the application the chief executive officer, chief operating officer, and chief academic officer and describe their education, experience, and qualifications to perform their duties and responsibilities. If there have been no substantive changes since the last submission, the institution may so state and is not required to submit documentation.

...

(x) The application shall include a statement that the institution has contracted with sufficient duly qualified faculty members who meet the qualifications of section 71720 unless there have been no substantive changes since the last submission. If there have been no substantive changes made the institution may so state and is not required to provide documentation.

(y)(1) For each program offered, the application shall contain a description of the facilities and the equipment which is available for use by students at the main, branch, and satellite locations of the institution unless there have been no substantive changes since the last submission. If there have been no substantive changes made the institution may so state and is not required to provide documentation.

...

(4) The description in the application shall include specifications of significant equipment that demonstrate that the equipment meets the standards prescribed by the Code and this chapter and is sufficient to enable students to achieve the educational objectives of each education program unless there have been no

1 substantive changes since the last submission. If there have been no substantive
2 changes made the institution may so state and is not required to provide
3 documentation.

4 (5) For each item of significant equipment, the description in the
5 application shall indicate whether the equipment is owned, leased, rented, or licensed
6 for short- or long-term, or owned by another and loaned to be used without charge
7 unless there have been no substantive changes since the last submission. If there have
8 been no substantive changes made the institution may so state and is not required to
9 provide documentation.

10 (z) The application shall include a description of library holdings,
11 services, and other learning resources, including policies and procedures for
12 supplying them to students who do not receive classroom instruction. The description
13 need not consist of a list of each holding. The description shall include an explanation
14 of how the library and other learning resources are sufficient to support the
15 instructional needs of students and, if no facilities exist at the institution, how and
16 when students may obtain access to a library and other learning resources as required
17 by the curriculum unless there have been no substantive changes since the last
18 submission. If there have been no substantive changes made the institution may so
19 state and is not required to provide documentation.

20 ...
21 (bb) The application shall include a copy of the institution's catalog, in
22 published or proposed-to-be-published form. The catalog shall meet the requirements
23 of the Act and of section 71810.

24 (cc) The institution shall submit with the application, a copy of the
25 document that is awarded to a graduating student upon successful completion of each
26 educational program unless there have been no substantive changes since the last
27 submission. If there have been no substantive changes made the institution may so
28 state and is not required to provide documentation.

...
(gg) The institution demonstrates its continued capacity to meet the
minimum operating standards by submitting the renewal application signed and
dated, and each fact stated therein and each attachment thereto declared to be true
under penalty of perjury, as follows:

(1) Signatories:

(A) Each owner of the institution, or

(B) If the institution is incorporated, the chief executive officer of the
corporation and each person who owns or controls 25 percent or more of the stock or
interest in the institution, or

(C) Each member of the governing body of a nonprofit corporation.

(2) The declaration shall be in the following form:

"I declare under penalty of perjury under the laws of the State of
California that the foregoing and all attachments are true and correct

(Date)

(Signature)

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

Bureau Regulation Governing Institutions' Faculty

1
2 17. In pertinent part, California Code of Regulations title 5 section 71720 requires an
3 institution to have qualified faculty:

4 (a) An Educational Program Leading to a Degree.

5 (1) An institution offering an educational program that leads to a degree
6 shall employ duly qualified faculty sufficient in number to provide the instruction,
7 student advisement, and learning outcomes evaluation necessary for the institution to
8 document its achievement of its stated mission and objectives, and for students to
9 achieve the specific learning objectives of each course offered;

10 (2) Each institution shall develop and implement written policies and
11 procedures providing for the participation by duly qualified faculty in the conducting
12 of research, development of curricula, academic planning, enforcement of standards
13 of academic quality, pursuit of academic matters related to the institution's mission
14 and objectives, establishment of criteria for contracting with new faculty, and
15 evaluation of faculty credentials;

16 (3) In determining the number of faculty sufficient to satisfy subdivision
17 (a)(1) of this section and to implement the policies established pursuant to subdivision
18 (a)(2) of this section, the institution shall base its faculty requirements on all of the
19 following factors:

20 (A) The educational level and number of students;

21 (B) The number of hours needed for direct interaction between students
22 and faculty per course, quarter, semester, or other term;

23 (C) The number of hours needed to be spent on evaluating written
24 materials prepared by students, such as distance education, papers, and examinations,
25 per course, quarter, semester, or other term;

26 (D) The number of group meetings per course, quarter, semester, or other
27 term;

28 (E) The faculty duties established by the institution as required under
subdivision (a)(2) of this section; and

(F) The number of hours per week or units per term considered full-time
for faculty in the institution.

(4) The faculty shall have sufficient expertise to support the institution's
awarding of a degree identifying a specialty or major field of emphasis, demonstrated
by, at a minimum:

(A) That the person possesses one of the following:

1. a degree from: an institution approved by the Bureau or previously
approved by a predecessor agency of the Bureau; or an accredited institution in the
United States or Canada; or other state approved institution that documents that the
institution at which the faculty member earned his or her degree is equivalent to an
institution that is approved by the Bureau; or an institution outside the United States
or Canada and in addition provides a comprehensive evaluation of the degree
performed by a foreign credential evaluation service that is a member of the National
Association of Credential Evaluation Services (NACES).

2. a credential generally recognized in the field of instruction.

(B) The degree, professional license, or credential possessed by the
person shall be at least equivalent to the level of instruction being taught or evaluated;

1 (5) The institution's faculty as a whole shall possess a diverse educational
2 background which shall be demonstrated in part by earned degrees from a variety of
3 colleges and universities or by credentials generally recognized in the field of
4 instruction;

5 ...

6 (9) The institution shall maintain records documenting that each faculty
7 member is duly qualified and was qualified to perform the duties to which the faculty
8 member was assigned, including providing instruction, evaluating learning outcomes,
9 evaluating graduate dissertations, theses, and student projects, and participating on
10 doctoral committees.”

11 Bureau Regulation Governing Ownership Changes

12 18. California Code of Regulations title 5 section 71640 requires institutions to complete
13 a change of ownership form to obtain authorization from the Bureau to change owners:

14 “(a) An institution seeking to change the business organization form,
15 control, or ownership as defined in sections 94821, 94822, or 94823, respectively
16 shall complete the “Change of Business Organization/Control/Ownership” form
17 (OWN rev. 2/10) to obtain prior authorization. The form shall be submitted to the
18 Bureau along with the appropriate fee as provided in Section 94930.5(c) of the Code.
19 An application under this section shall be signed by all signatories to the initial
20 application, or the last approved application under this section, as well as the persons
21 required to sign an application pursuant to section 71380 for institutions approved
22 under section 94885 of the code and section 71390 for institutions approved under
23 section 94890 of the code. Each signature shall be dated, and each fact stated therein
24 and each attachment thereto shall be declared to be true under penalty of perjury, in
25 the following form:

26 “I declare under penalty of perjury under the laws of the State of
27 California that the foregoing and all attachments are true and correct.

28 _____
(Date)

(Signature)”

(b) An application for a change in ownership or control shall identify the
name, title, address, e-mail address and telephone number of each new person
required to be listed pursuant to section 71130 in an application, as well as the
persons previously listed pursuant to section 71130 that will no longer have
ownership or control. For each proposed person listed, the application shall include
the information required pursuant to section 71130(b), (c), and (d).

(c) An application for a change in the form of business organization of the
institution shall identify the approved organization as well as the proposed
organization. If the proposed organization is incorporated, the application shall also
identify the state within which the proposed organization is incorporated and the date
of incorporation, along with copies of the articles of incorporation and bylaws. To the
extent that a change in the form of business organization represents a change in
ownership or control, the application shall include the information required by
subdivision (b) of this section.

(d) In addition to the above required information, each application under
this section shall include:

(1) The name, address, telephone number, fax number, and school code of
the institution;

1 (2) The reason for the proposed change;

2 (3) The impact of the change on the financial resources of the institution,
including the institution's ability to comply with section 71745;

3 (4) A description of the planned administrative relationship between the
4 persons previously approved and the proposed owners or persons in control, including
the nature and extent of the supervision by the chief academic officer, chief operating
officer, chief executive officer, and administrators; and

5 (5) Any additional information required by the Bureau pursuant to section
71340 of this Chapter; and

6 (6) The name, address, email address, telephone number and fax number
7 of the contact person for this application.

8 (e) An institution that has been granted an approval to operate by means
of accreditation shall notify the Bureau of the substantive change within 30 days of
9 that change on the Change of Business Organization/Control/ Ownership form, by
10 completing section (d)(1) and (d)(6) and shall attach certification from the
institution's accreditation agency demonstrating that the substantive change was made
and this Division."

11 Statute Governing Institutions' Web Sites

12 19. Section 94913 requires that an institution's web site contain certain information:

13 "(a) An institution that maintains an Internet Web site shall provide on
14 that Internet Web site all of the following:

15 (1) The school catalog.

16 (2) A School Performance Fact Sheet for each educational program
17 offered by the institution.

18 (3) Student brochures offered by the institution.

19 (4) A link to the bureau's Internet Web site.

20 (5) The institution's most recent annual report submitted to the bureau.

21 (b) An institution shall include information concerning where students
22 may access the bureau's Internet Web site anywhere the institution identifies itself as
23 being approved by the bureau."

24 Bureau Regulation Governing Admissions Policies

25 20. In relevant part, California Code of Regulations title 5 section 71770 requires
26 institutions to set specific standards for student admissions:

27 "(a) The institution shall establish specific written standards for student
28 admissions for each educational program. These standards shall be related to the
particular educational program. An institution shall not admit any student who is
obviously unqualified or who does not appear to have a reasonable prospect of
completing the program. In addition to any specific standards for an educational
program, the admissions standards must specify as applicable that:

(1) Each student admitted to an undergraduate degree program,
or a diploma program, shall possess a high school diploma or its equivalent,
or otherwise successfully take and pass the relevant examination as required

by section 94904 of the Code.

(2) Each student admitted into a post-baccalaureate degree program shall possess a bachelor's degree or its equivalent. If a graduate program leads to a profession or an occupation requiring state licensure and the licensing agency does not require that a member of the profession or occupation possess a Bachelor's degree or its equivalent, this subdivision does not apply."

Statutes and Regulations Governing Institutions' School Catalogs

21. In pertinent part, section 94909 sets minimum standards for institutions' school catalogs:

"(a) Prior to enrollment, an institution shall provide a prospective student, either in writing or electronically, with a school catalog containing, at a minimum, all of the following:

...

(7) Information regarding the faculty and their qualifications.

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

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

(B) Cancellation, withdrawal, and refund policies, including an explanation that the student has the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later. The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund consistent with the requirements of Article 13 (commencing with Section 94919).

...

(E) Leave-of-absence policies.

...

(11) A statement specifying that, if a student obtains a loan to pay for an educational program, the student will have the responsibility to repay the full amount of the loan plus interest, less the amount of any refund, and that, if the student has received federal student financial aid funds, the student is entitled to a refund of the moneys not paid from federal student financial aid program funds.

(12) A statement specifying whether the institution has a pending petition in bankruptcy, is operating as a debtor in possession, has filed a petition within the preceding five years, or has had a petition in bankruptcy filed against it within the preceding five years that resulted in reorganization under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. Sec. 1101 et seq.).

...

(15) The following statement:

1 'NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND
2 CREDENTIALS EARNED AT OUR INSTITUTION

3 The transferability of credits you earn at (name of institution) is at the complete
4 discretion of an institution to which you may seek to transfer. Acceptance of the
5 (degree, diploma, or certificate) you earn in (name of educational program) is also at
6 the complete discretion of the institution to which you may seek to transfer. If the
7 (credits or degree, diploma, or certificate) that you earn at this institution are not
8 accepted at the institution to which you seek to transfer, you may be required to
9 repeat some or all of your coursework at that institution. For this reason you should
10 make certain that your attendance at this institution will meet your educational goals.
11 This may include contacting an institution to which you may seek to transfer after
12 attending (name of institution) to determine if your (credits or degree, diploma or
13 certificate) will transfer.'

14 (16) A statement specifying whether the institution, or any of its degree
15 programs, are accredited by an accrediting agency recognized by the United States
16 Department of Education. If the institution is unaccredited and offers an associate,
17 baccalaureate, master's, or doctoral degree, or is accredited and offers an unaccredited
18 program for an associate, baccalaureate, master's, or doctoral degree, the statement
19 shall disclose the known limitations of the degree program, including, but not limited to,
20 all of the following:

21 (A) Whether a graduate of the degree program will be eligible to sit for
22 the applicable licensure exam in California and other states.

23 (B) A degree program that is unaccredited or a degree from an
24 unaccredited institution is not recognized for some employment positions, including,
25 but not limited to, positions with the State of California.

26 (C) That a student enrolled in an unaccredited institution is not eligible
27 for federal financial aid programs."

28 22. In pertinent part, California Code of Regulations title 5 section 71810 sets additional
requirements for catalogs:

29 "(a) Each institution shall provide a catalog pursuant to section 94909 of
30 the Code, which shall be updated annually. Annual updates may be made by the use
31 of supplements or inserts accompanying the catalog. If changes in educational
32 programs, educational services, procedures, or policies required to be included in the
33 catalog by statute or regulation are implemented before the issuance of the annually
34 updated catalog, those changes shall be reflected at the time they are made in
35 supplements or inserts accompanying the catalog.

36 (b) The catalog shall contain the information prescribed by section 94909
37 of the Code and all of the following:

38 ...

39 (4) Language proficiency information, including: (A) the level of English
40 language proficiency required of students and the kind of documentation of
41 proficiency, such as the Test of English as a Foreign Language (TOEFL), that will be
42 accepted; and (B) whether English language services, including instruction such as
43 ESL, are provided and, if so, the nature of the service and its cost;

44 ...

45 (10) A description of library and other learning resources and the
46 procedures for student access to those resources;

...

(13) Housing information including all of the following:

(A) Whether the institution has dormitory facilities under its control;

(B) The availability of housing located reasonably near the institution's facilities and an estimation of the approximate cost or range of cost of the housing; and

(C) If the institution has no responsibility to find or assist a student in finding housing, a clear and conspicuous statement so indicating. A statement that the program is 'non-residential' does not satisfy this subparagraph."

Regulation Governing School Administrators

23. In pertinent part, California Code of Regulations title 5 section 71730 sets minimum standards for an institution's administrators:

"(a) Each institution shall have a chief executive officer, a chief operating officer and chief academic officer. One person may serve more than one function.

(b) The duties, responsibilities, and performance evaluation criteria for each administrator shall be set forth in a personnel manual or other writing maintained by the institution.

...

(e) The chief academic officer shall possess a degree or equivalent acceptable experience at least equal to the highest qualifications required of the institution's faculty. Chief academic officers employed on the date of implementation of these regulations, who do not meet the qualifications for their positions, shall have three years to earn the necessary degrees or experience to qualify them for their position.

(f) The institution shall employ administrative personnel who have the expertise to ensure the achievement of the institution's mission and objectives and the operation of the educational programs."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Lack of Sufficiently Qualified Faculty)

24. Respondent's application for renewal of approval to operate fails to show that its faculty are sufficiently qualified under California Code of Regulations title 5 section 71720. This subjects its application to denial under section 94887 for failing to present sufficient evidence to the Bureau that Respondent had the capacity to satisfy the minimum operating standards, and subjects it to denial under section 94891 for failing to demonstrate its continued capacity to meet the minimum operating standards.

25. Respondent's application listed 16 full-time or adjunct faculty members.

1 26. Respondent's application stated that it offered 8 educational programs leading to a
2 bachelor's degree, 1 program leading to an associate's degree, and 1 certificate program. It also
3 described the coursework required to obtain those degrees or certificates. It listed roughly 190
4 courses offered.

5 27. 9 of the 16 listed full-time or adjunct faculty members lacked a degree from an
6 accredited or state-approved institution in the U.S. or Canada and had no evidence of a credential
7 generally recognized in the field of instruction, in violation of California Code of Regulations title
8 5 section 71720 subdivision (a)(4)(A).

9 28. Taken as a whole, the faculty did not have duly qualified faculty sufficient to provide
10 instruction, student advisement, and learning outcomes for the courses or degrees offered, in
11 violation of California Code of Regulations title 5 section 71720 subdivision (a)(1).

SECOND CAUSE FOR DENIAL OF APPLICATION

(Web Site Omissions)

14 29. Respondent's web site as of September 2014, the time in which its renewal
15 application was before the Bureau, omitted information required by section 94913 subdivision
16 (a), including Respondent's School Performance Fact Sheets for each program offered, student
17 brochures, and its most recent annual report submitted to the Bureau. This subjects its application
18 for renewal to operate to denial under section 94885 for failing to operate the institution in
19 compliance with the Private Postsecondary Education Act.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Admissions Requirements)

22 30. Respondent's application for renewal of approval allows for the admission of
23 potentially underqualified applicants in violation of California Code of Regulations Title 5
24 section 71770. This subjects its application to denial under section 94887 for failing to present
25 sufficient evidence to the Bureau that Respondent had the capacity to satisfy the minimum
26 operating standards and under section 94891 for failing to demonstrate its continued capacity to
27 meet the minimum operating standards.

1 31. California Code of Regulations Title 5 section 71770 requires that an institution
2 “shall not admit any student who is obviously unqualified or who does not appear to have a
3 reasonable prospect of completing the program”, which includes specifying that students admitted
4 to an undergraduate degree program possess a high school diploma or its equivalent or take and
5 pass the relevant examination required by Education Code section 94904.

6 32. Respondent’s admissions requirements, as stated in its school catalog, are that
7 “Applicants for admission to PBC must have a satisfactory academic background which includes
8 a high school GPA of 2.00 or General Educational Development (GED) certificate. This
9 requirement applies to the Certificate for Bible Proficiency, Associate's degree and all Bachelor's
10 degrees. An applicant who fails to meet this requirement may be admitted as a provisional student
11 with a status of *Academic Probation* and be required to meet weekly with the Academic Dean to
12 help develop an ability to benefit from instruction at PBC.” This admissions requirement may
13 permit Respondent to admit applicants as provisional students if they do not have a “satisfactory
14 academic background”, or if they do not have a high school GPA of 2.0 or more, or if they do not
15 have a GED certificate, in violation of section 71770.

16 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

17 **(Incomplete Application - Failure to Have Board Members Sign Under Penalty of Perjury)**

18 33. Respondent's application for renewal of approval to operate is subject to denial under
19 California Code of Regulations title 5 section 71475 subdivision (kk) for submitting an
20 incomplete renewal application because it failed to include the signatures of its non-profit board
21 members made under penalty of perjury.

22 34. California Code of Regulations title 5 section 71475 subdivision (gg)(1)(C) requires
23 each member of a nonprofit corporation’s governing body to sign the renewal application with a
24 declaration under penalty of perjury that the application and its attachments are true and correct.

25 35. Respondent’s August 25, 2014 application listed its owner as Western Baptist Bible
26 Fellowship, Inc. a nonprofit corporation. Its application included its board members’ signatures,
27 but did not include with them any declaration made under penalty of perjury, in violation of
28 section 71475.

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FIFTH CAUSE FOR DENIAL OF APPLICATION

(Incomplete Application - Failing to Provide Sample Degrees)

36. Respondent's application for renewal of approval to operate is subject to denial under California Code of Regulations title 5, section 71475 subdivision (kk) for submitting an incomplete renewal application because it failed to provide sample diplomas for 8 of its 9 bachelor degree programs and for its associate degree program in violation of California Code of Regulations title 5 section 71475 subdivision (cc), which requires that an institution submit a copy of the document "awarded to a graduating student upon successful completion of each educational program."

SIXTH CAUSE FOR DENIAL OF APPLICATION

(Incomplete Application - Failing to Describe Ownership Interest in Significant Equipment)

37. Respondent's application for renewal of approval to operate is subject to denial under California Code of Regulations title 5, section 71475 subdivision (kk) for submitting an incomplete renewal application because it failed to include a description of whether significant equipment is owned, leased, rented or licensed, as described below.

38. California Code of Regulations title 5 section 71475 subdivision (y)(1) requires an applicant to describe equipment available for students to use at its location and requires that for significant equipment, the application describe whether the equipment is owned, leased, licensed, or loaned.

39. California Code of Regulations title 5 section 70000 subdivision (aa) defines "[s]ignificant equipment" as "equipment that is necessary for achieving the stated educational objectives."

40. Respondent's application listed items available for student use, including computer programs, cameras, laptops, projectors, musical instruments, and elementary science materials, including microscopes, kits, balances, and jars, but did not describe whether it owned, leased, licensed, or had someone loan it this equipment.

41. This listed equipment was necessary for achieving Respondent's stated educational objectives for some of its degree programs. As a result, Respondent's application should have

1 described whether the equipment was owned, leased, licensed, or loaned.

2 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

3 **(Failure to Comply with School Catalog Requirements)**

4 42. Respondent's application for renewal of approval failed to submit school catalogs that
5 met all of the statutory and regulatory requirements, subjecting its application to denial under
6 section 94885 for failing to operate the institution in compliance with the California Private
7 Postsecondary Education Act of 2009, under section 94887 for failing to present sufficient
8 evidence to the Bureau that Respondent had the capacity to satisfy the minimum operating
9 standards, under section 94891 for failing to demonstrate its continued capacity to meet the
10 minimum operating standards, and under California Code of Regulations title 5, section 71475
11 subdivision (kk) for submitting an incomplete renewal application.

12 43. Respondent's catalog had the following mistakes or omissions:

13 44. It stated that one physical education course credit may be granted for each year of
14 military service, stated that such a credit could be applied for by presenting discharge papers or
15 the equivalent to the Vice President for Academics, but did not state any provisions for appeal
16 associated with this policy and did not state any charges that a student may be required to pay, in
17 violation of California Code of Regulations title 5 section 71810 subdivision (b)(7).

18 45. It stated that classes will be taught in English, and that Applicants will need to exhibit
19 basic English skills and will be required to pass an admission exam prior to admittance if
20 communication skills are lacking in initial interview. However, Respondent's catalog did not
21 specify the kind of documentation of proficiency, such as the Test of English as a Foreign
22 Language, that it would accept and did not state whether it would provide English language
23 services, including instruction such as ESL, in violation of California Code of Regulations title 5
24 section 71810 subdivision (b)(4).

25 46. Section 94909 subdivision (a)(8) requires a detailed description of institutional
26 policies, including leave of absence policies. Respondent's catalog states a leave of absence
27 policy, but it is not described in detail, in violation of this subdivision. It states only: "Written
28

1 requests for leaves of absence will be considered and such leaves may be granted to students at
2 the discretion of the college.”

3 47. It failed to contain the schedule of total charges for a period of attendance and an
4 estimated schedule of total charges for the entire educational program in violation of section
5 94909(a)(9). Section 94870 defines “Total charges” as “the sum of institutional and
6 noninstitutional charges.” Section 94844 defines “Institutional charges” as the “charges for an
7 educational program paid directly to an institution.” Respondent’s catalog has a chart of the total
8 costs per educational program, but the chart has an asterix stating that the total costs do not
9 include “books” and “some fees.” But total costs should include books and fees, because they are
10 charges for an educational program paid by the student directly to the institution.

11 48. Respondent’s catalog does not contain a statement specifying that, if a student obtains
12 a loan to pay for an educational program, the student will have the responsibility to repay the full
13 amount of the loan plus interest, less the amount of any refund, in violation of section
14 94909(a)(11).

15 49. Section 94909 subdivision (a)(12) requires a disclosure of pending bankruptcy
16 petitions, or bankruptcy petitions filed by or against the institution in the last five years.
17 Although Respondent’s catalog states that there are no bankruptcy petitions pending and that no
18 one has filed a petition against it, Respondent’s catalog does not expressly state that Respondent
19 has not filed a bankruptcy petition within the preceding five years, in violation of this subdivision.

20 50. Respondent’s catalog does not have a description of the procedures for student access
21 to library resources in violation of California Code of Regulations title 5 section 71810
22 subdivision (b)(10).

23 51. Respondent’s catalog has two inconsistent sections governing student withdrawals.
24 One section entitled “Refund Policy” appropriately states in compliance with sections 94909
25 subdivision (a)(8)(B) and 94919 that a student’s withdrawal or cancellation may (1) entitle the
26 student to a full refund (less certain fees) if made before through attendance at the first class
27 session, or the seventh day after enrollment, whichever is later; or (2) entitle the student to a
28 partial refund if they have completed 60% or less of the period of attendance. But another section

1 entitled "Withdrawal from the College" states that a student who withdrawals through non-
2 attendance "will not be entitled to any refund", which is internally inconsistent and in violation of
3 these two sections.

4 52. Respondent's catalog omits housing information, including whether it has
5 dormitories, the availability and cost of housing located reasonably nearby, or any statement
6 regarding whether it will find or assist students in finding housing, in violation of California Code
7 of Regulations title 5 section 71810 subdivision (b)(13).

8 **EIGHTH CAUSE FOR DENIAL OF APPLICATION**

9 **(Improper Change of Ownership)**

10 53. Respondent's application for renewal of approval to operate listed a different owner,
11 Western Baptist Bible Fellowship, Inc., a non-profit corporation, from who had previously owned
12 the institution, Bethel Baptist Church. The application provided no explanation of how, when, or
13 why this ownership change was made. Under California Code of Regulations title 5 section
14 71640, to change an institution's ownership requires an application for change of ownership
15 submitted within 30 days of that change. That application must give the reason for the change
16 and assess the change's impact on the institution's financial resources. By failing to timely apply
17 for and explain the institution's change in ownership since it was last operating, Respondent's
18 application is subject to denial under section 94885 for failing to operate the institution in
19 compliance with the California Private Postsecondary Education Act of 2009.

20 **NINTH CAUSE FOR DENIAL OF APPLICATION**

21 **(Insufficient Expertise for Chief Academic Officer)**

22 54. Respondent's application for renewal of approval to operate failed to show that its
23 Chief Academic Officer had the expertise to ensure the achievement of the institution's mission
24 and objectives and the operation of the educational programs, in violation of California Code of
25 Regulations title 5 section 71730 subdivision (f), which subjects its application to denial under
26 under section 94887 for failing to present sufficient evidence to the Bureau that Respondent had
27 the capacity to satisfy the minimum operating standards, under section 94891 for failing to
28 demonstrate its continued capacity to meet the minimum operating standards.

1 55. Respondent's application stated that the duties of the Chief Academic Officer
2 include recommending general development of the curriculum, recommending changes to
3 academic programs, and evaluating faculty through the methods of classroom observation.

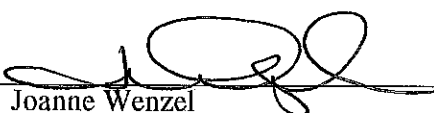
4 56. The Chief Academic Officer's work experience and educational background did not
5 include any education, training, work experience, or expertise in developing curricula, developing
6 academic programs, and evaluating faculty. His background included a bachelor's degree in
7 mechanical engineering, a master's degree in business administration, and thirty-five years of
8 work in automotive and aerospace equipment design and manufacture and forty years of church
9 volunteering, including teaching Sunday school.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Director of the Department of Consumer Affairs issue a
13 decision:

- 14 1. Denying the application of Pacific Baptist College for a Renewal of Approval to
15 Operate and Offer Educational Programs for Non-Accredited Institutions; and
16 2. Taking such other and further action as deemed necessary and proper.

18 DATED: 11/18/15



19 Joanne Wenzel
20 Chief
21 Bureau for Private Postsecondary Education
22 Department of Consumer Affairs
23 State of California
24 *Complainant*

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