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9
10 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
STATE OF CALIFORNIA
12

13 In the Matter of the Statement of Issues
Against:

Case No. 1000737

14
15 **CALIFORNIA UNIVERSITY FOR**
BUSINESS EDUCATION; BRUCE
16 **KELLING, 20% Owner; HASBIYE**
17 **UZGOREN, 30% Owner; DINCER**
KARACA, 50% Owner

STATEMENT OF ISSUES

18 Respondents.
19

20 Complainant alleges:

21 **PARTIES**

22 1. Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official
23 capacity as the Chief of the Bureau for Private Postsecondary Education (hereinafter "Bureau"),
24 Department of Consumer Affairs.

25 2. On or about December 11, 2012, the Bureau for Private Postsecondary Education
26 received an Application for Approval to Operate California University San Diego, a non-
27 accredited institution, from Bruce Kelling, 20% Owner; Hasbiye Uzgoren, 30% Owner; and,
28 Dincer Karaca, 50% Owner (Respondents). The institution's name was later changed to

1 California University for Business Education. On or about September 14, 2012, Dincer Karaca
2 certified under penalty of perjury to the truthfulness of all statements, answers, and
3 representations in the application. On or about November 8, 2012, Hasbiye Uzgoren certified
4 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
5 application. On or about November 14, 2012, Bruce Kellig certified under penalty of perjury to
6 the truthfulness of all statements, answers, and representations in the application. The Bureau
7 denied the application on April 17, 2015.

8 JURISDICTION

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

13 4. Education Code Section 94886 states:

14 Except as exempted in Article 4 (commencing with section 94874) or in
15 compliance with the transition provisions in Article 2 (commencing with
16 Section 94802), a person shall not open, conduct, or do business as a private
17 postsecondary educational institution in this state without obtaining an approval
18 to operate under this chapter.

18 5. Education Code Section 94887 states:

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

23 STATUTORY AND REGULATORY PROVISIONS

24 6. Title 5, California Code of Regulations ("CCR"), section 71100 states:

25 (a) An applicant seeking approval to operate pursuant to Section 94886 of the
26 Code, other than Approval to Operate by Accreditation pursuant to Section
27 94890(a)(1) of the Code, shall complete the "Application for Approval to
28 Operate for an Institution Not Accredited," Form Application 94886 (rev. 2/10).
An applicant seeking approval to operate by accreditation pursuant to Section
94890(a)(1) of the Code shall comply with section 71390.

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(b) An applicant shall submit the completed form, the information or documentation required by this Article, the appropriate application fee as provided in Section 94930.5(a)(1) of the Code, and any appropriate annual fee as required by Article 1 of Chapter 5 of this Division, to the Bureau.

(c) An application that fails to contain all of the information required by this article shall render it incomplete.

7. Code Section 94837 states, "Educational program" means a planned sequence composed of a single course or module, or set of related courses or modules, that provides education, training, skills, or experience, or a combination of these."

8. Section 94909 of the Education Code states in part:

(a) Except as provided in subdivision (d), 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:

...

(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).

...

(9) The schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program.

...

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1 9. Section 94920 of the Education Code states:

2 An institution that does not participate in the federal student financial aid
3 programs shall do all of the following:

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

8 (b) Institutions shall refund 100 percent of the amount paid for institutional
9 charges, less a reasonable deposit or application fee not to exceed two hundred
10 fifty dollars (\$250), if notice of cancellation is made through attendance at the
11 first class session, or the seventh class day after enrollment, whichever is later.

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

15 (d) The institution shall have a refund policy for the return of unearned
16 institutional charges if the student cancels an enrollment agreement or
17 withdraws during a period of attendance. The refund policy for students who
18 have completed 60 percent or less of the period of attendance shall be a pro rata
19 refund.

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

22 10. Title 5, CCR, section 71290 states, "The Form Application 94886 shall include a
23 copy of the institution's catalog, in published or proposed-to-be-published form. The catalog shall
24 meet the requirements of the Act and of section 71810."

25 11. Title 5, CCR, section 71700 states, "The Bureau may request that an institution
26 document compliance with the standards set forth in the Act and this Division to obtain and
27 maintain an approval to operate."

28 12. Title 5, California Code of Regulations, section 71710 states in part:

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

 ...

 (c) course or module materials that are designed or organized by duly qualified
 faculty. For each course or module, each student shall be provided with a
 syllabus or course outline that contains:

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- (1) a short, descriptive title of the educational program;
- (2) a statement of educational objectives;
- (3) length of the educational program;
- (4) sequence and frequency of lessons or class sessions;
- (5) complete citations of textbooks and other required written materials;
- (6) sequential and detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured;
- (7) instructional mode or methods.

...

13. Title 5, California Code of Regulations, section 71715 states in part:

...

(d) Distance education as defined in section 94834 of the Code, does not require the physical presence of students and faculty at the same location but provides for interaction between students and faculty by such means as telecommunication, correspondence, electronic and computer augmented educational services, postal service, and facsimile transmission. In addition to the other requirements of this chapter and the Act, an institution offering distance education shall:

...

(3) ensure that the materials and programs are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology;

(4) provide for meaningful interaction with faculty who are qualified to teach using distance education methods;

...

(6) timely complete student evaluations of learning outcomes by duly qualified faculty, which are appropriate for use with the distance education methods used, and evaluated by duly qualified faculty.

...

14. Title 5, California Code of Regulations, section 71720 states in part:

(a) An Educational Program Leading to a Degree.

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

...

15. Title 5, California Code of Regulations, section 71740 states in part:

...

(b) An institution shall provide or make provisions for the library and other learning resources needed to support each educational program it offers, including resources such as reference works, periodicals, monographs, and media and equipment specific to the educational programs offered.

(c) An institution shall describe onsite library and other learning resources, if any, that enable students to pursue inquiries, searches for information and documentation, and assignments connected with their study programs.

(d) An institution that depends for library and other learning resources primarily on other institutions' collections and resources not in its possession shall do all of the following:

(1) Describe those library and other learning resources, in the application and catalog.

(2) Provide students and faculty with access to the regular services of a professional librarian or information specialist experienced in the electronic retrieval of information, who shall provide support for faculty in curriculum matters and actively serve as a resource guide for both graduate and undergraduate students.

(3) Assure that students have access to the library collections and resources of another institution, organization, or library.

(4) Document compliance with paragraphs (1), (2), and (3).

16. Title 5, California Code of Regulations, section 71770 states in part:

...

(b) The institution shall specify the maximum credit it will transfer from another institution for each educational program, and the basis upon which the transferred credit will be awarded.

1 ...
2 (2) No more than 20% of graduate semester units or the equivalent in
3 other units awarded by another institution may be transferred for credit toward
4 a Master's degree. An institution may accept transfer credits only from the
5 institutions of higher learning described in subsection (1)(A).
6 ...

7 **FACTS**

8 17. On December 11, 2012, the Bureau received an Application for Approval to
9 Operate a Non-accredited Institution (Application # 25610) from Bruce Kelling, 20% Owner;
10 Hasbiye Uzgoren, 30% Owner; and, Dincer Karaca, 50% Owner (Respondents). Respondents
11 sought approval to offer educational programs for a Business Certificate and a Masters of
12 Business Administration ("MBA").

13 18. On June 28, 2013, the Bureau issued a deficiency letter to Respondents advising
14 them of numerous deficiencies in the application, including deficiencies in the educational
15 programs offered, distance education, library and learning resources, catalog, and the failure to
16 provide syllabi, among other things.

17 19. On September 3, 2013, the Bureau received the Respondents' response to the
18 deficiency letter, which consisted of additional documents submitted in support of the application
19 for an approval to operate. However, multiple deficiencies remained.

20 20. On November 4, 2013, the Bureau issued a second letter to Respondents advising
21 of numerous deficiencies in the application, including deficiencies in the educational programs
22 offered, library and learning resources, and catalog, among other things.

23 21. On December 4, 2013, the Bureau received the Respondents' response to the
24 deficiency letter, which consisted of additional documents submitted in support of the application
25 for an approval to operate. However, multiple deficiencies remained.

26 22. On January 10, 2014, the Bureau received additional information regarding
27 distance education and two additional education programs, which are Information Technology
28 and Hospitality.

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**

3 **- Distance Education)**

4 31. Respondents' application is subject to denial under title 5, CCR, sections 71100 and
5 71715, subdivisions (d)(3), (d)(4) and (d)(6), for failing to meet minimum operating standards
6 regarding distance education as follows:

7 a. Respondents were unable to demonstrate that the institution's faculty designed and
8 organized the distance education materials in violation of title 5, CCR, section 71715(d)(3). As
9 of March 6, 2015, the institution's online material for course "BUS 600 – Entrepreneurship" was
10 not organized. Chapter four of the Power Point presentation does not fulfill the course objectives
11 described by the institution. The objective for week 4 was focused on "volume" but the Power
12 Point presentation was about "Profiling Your Target Customer – Research to Discover Customer
13 Needs." The objective for week 10 was "Business Plan," but the Power Point presentation was
14 about "Legal Concerns – Staying Out of Court." In addition, the listed topics for each week of
15 this 10-week course were from the course textbook. Respondents have not demonstrated that the
16 distance education materials were designed by faculty knowledgeable in distance education
17 techniques.

18 b. Respondents were unable to demonstrate that the institution can provide students with
19 meaningful interaction with faculty who are qualified to teach using distance education methods
20 in violation of title 5, CCR, section 71715(d)(4). On two different occasions, the institution was
21 not able to explain how the institution will provide meaningful interaction between students and
22 faculty. When asked to explain how the institution intends to provide meaningful interaction
23 between students and faculty, Chief Administrative Officer ("CAO"), Bruce Kellig stated on
24 December 9, 2014, that "online faculty will be required, with the guidance of the CAO, to have an
25 online faculty meeting at the end of each quarter to ensure meaningful interaction between the
26 school and faculty." On January 30, 2015, during an online demonstration, Dr. Y.I. denied
27 evaluating student postings on the discussion board and denied using a rubric to evaluate student
28 postings. After Bureau staff explained that feedback and evaluation of student postings constitute

1 a meaningful interaction, Dr. Y.I. stated that, "Sure, we have to use rubric." As of April 17, 2015,
2 the institution has not provided a rubric or any other means to ensure that there will be
3 meaningful interaction between faculty and students.

4 c. Respondents were unable to demonstrate that the institution will complete student
5 evaluations of learning outcomes by duly qualified faculty, in violation of title 5, CCR, section
6 71715(d)(6). During the online demonstration on January 30, 2015, Dr. Y.I. was asked how he
7 evaluated students. Dr. Y.I. provided a 50-question quiz. When asked if it was a quiz or a
8 midterm examination, Dr. Y.I. could not explain what it was, why a quiz had 50 questions, or
9 why he chose this method of evaluation. Respondent was not able to demonstrate that students'
10 learning outcomes can be properly evaluated and whether the institution's faculty designed the
11 method of evaluation.

12 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

13 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**

14 **- Failure to Provide for a Library)**

15 32. Respondent's application is subject to denial under title 5, CCR, sections 71100 and
16 71740, subdivisions (b), (c) and (d)(1-4) in that Respondent failed to provide a library, access to
17 the regular services of a professional librarian or information specialist experienced in the
18 electronic retrieval of information, or access to the library collections and resources of another
19 institution, organization, or library. The institution does not have an online library and
20 Respondents did not submit an articulation agreement with any university for library access by
21 the institution's students.

22 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

23 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**

24 **- Deficiencies in Catalog)**

25 33. Respondents' application is subject to denial under title 5, CCR, sections 71100 and
26 71770, and Code sections 94909 and 94920(d), in that the school's catalog submitted with
27 Respondents' application failed to comply with the Bureau's statutes and regulations as follows:
28

1 a. The school catalog failed to include the correct number of units students may transfer
2 from other approved or accredited institutions in violation of Code section 94909(a)(8)(A) and
3 title 5, CCR, section 71770(b)(2). Pursuant to title 5, CCR, section 71770(b)(2) no more than
4 20% of graduate semester units or its equivalent in other units awarded by another institution may
5 be transferred for credit toward a Master's degree. However, page 15 of the catalog stated MBA
6 students may transfer up to 25% or 12 quarter units.

7 b. The school catalog failed to include the schedule of total charges for a period of
8 attendance and an estimated schedule of total charges for the entire educational program in
9 violation of Code section 94909(a)(9). Pages 11-14 of the catalog only sets forth the total tuition
10 for the Business certificate and the MBA program.

11 c. The school catalog failed to include a compliant refund policy in violation of Code
12 sections 94909(a)(8)(B) and 94920(d). The refund policy on page 20 of the catalog does not state
13 that students who have completed 60% or less of the period of attendance shall receive a pro rata
14 refund.

15 **PRAYER**

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

- 19 1. Denying the application of California University of Business Education; Bruce
20 Kellig, 20% Owner; Hasbiye Uzgoren (30% Owner); Dincer Karaca (50% Owner) for an
21 approval to operate a non-accredited institution; and,
22 2. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 12/11/15


25 JOANNE WENZEL
26 Chief
27 Bureau for Private Postsecondary Education
28 Department of Consumer Affairs
State of California
Complainant

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