

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Statement of Issues
12 Against:
13 **The Broadcasters and Sportscasters**
Mentoring Group, Inc.
14 Approval to Operate an Institution Non
15 Accredited Applicant
16 Respondent.

Case No. 1001522

STATEMENT OF ISSUES

17
18 Complainant alleges:

19 **PARTIES**

20 1. Joanne Wenzel (Complainant) 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 Affairs.

23 2. On or about January 4, 2013, the Bureau for Private Postsecondary Education
24 received an Application for Approval to Operate for an Institution Non Accredited from The
25 Broadcasters and Sportscasters Mentoring Group, (Respondent). On or about December 31,
26 2012, Michael Madden, Kathleen Madden and Ray Madden certified under penalty of perjury to
27 the truthfulness of all statements, answers, and representations in the application. The Bureau
28 denied the application on February 29, 2016.

1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Director of the Department of
3 Consumer Affairs (Director) for the Bureau.

4 4. Education Code Section 94886 states:

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

9 5. Education Code Section 94887 states:

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

15 **STATUTORY PROVISIONS**

16 6. Business and Professions Code of 22 defines the term "board" to include
17 "bureau."

18 7. Education Code section 94885¹ states:

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

21 (1) The content of each educational program can achieve its stated objective.

22 (2) The institution maintains specific written standards for student admissions for each
23 educational program and those standards are related to the particular educational program.

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

26 (4) The institution maintains a withdrawal policy and provides refunds.

27 _____
28 ¹ California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

1 (5) The directors, administrators, and faculty are properly qualified.

2 (6) The institution is financially sound and capable of fulfilling its commitments to
3 students.

4 (7) That, upon satisfactory completion of an educational program, the institution gives
5 students a document signifying the degree or diploma awarded.

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

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

9 (b) Except as provided in Section 94855.1, an institution offering a degree must satisfy one
10 of the following requirements:

11 (i) Accreditation by an accrediting agency recognized by the United States Department of
12 Education, with the scope of that accreditation covering the offering of at least one degree
13 program by the institution.

14 (ii) An accreditation plan, approved by the bureau, for the institution to become fully
15 accredited within five years of the bureau's issuance of a provisional approval to operate to the
16 institution. The provisional approval to operate to an unaccredited degree-offering institution
17 shall be in compliance with Section 94885.5.

18 **STATUTORY AND REGULATORY PROVISIONS**

19 8. Title 5, CCR, section 71140 states in part:

20 ...

21 “(b) The institution shall provide a description of the job duties and responsibilities of each
22 administrative and faculty position.”

23 ...

24 9. Title 5, CCR, section 71715 states in pertinent part:

25 ...

26 “(d) Distance education as defined in section 94834 of the Code, does not require the
27 physical presence of students and faculty at the same location but provides for interaction
28 between students and faculty by such means as telecommunication, correspondence, electronic

1 and computer augmented educational services, postal service, and facsimile transmission. In
2 addition to the other requirements of this chapter and the Act, an institution offering distance
3 education shall:

4 ...

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

7

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

11 10. Title 5, CCR, section 71735 states in pertinent part:

12 “(a) An institution shall have sufficient facilities and necessary equipment to support the
13 achievement of the educational objectives of all of the courses and educational programs in which
14 students are enrolled. If an institution represents that the educational service will fit or prepare a
15 student for employment in a particular occupation or as described in particular job titles, either of
16 the following conditions shall be met:

17 “(1) The equipment used for instruction or provided to the student shall be comparable in
18 model type or features to equipment generally used in those occupations or job titles at the time
19 the instruction is offered.

20 “(2) The institution shall establish that the equipment used for instruction or provided to a
21 student is not obsolete and is sufficient for instructional purposes to reasonably assure that a
22 student acquires the necessary level of education, training, skill, and experience to obtain
23 employment in the field of training and to perform the tasks associated with the occupation or job
24 title to which the educational program was represented to lead.”

25 **FIRST CAUSE FOR DENIAL OF APPLICATION**

26 (Failed to Meet Minimum Operating Standards Organization and Management)

27 11. Respondent’s application is subject to denial under Education Code sections 94885,
28 94886 and 94887 and California Code of Regulations, title 5, division 7.5, section 71140

1 subdivision (b) in that Respondent's application does not satisfy the legally required minimum
2 operating standards for faculty. The application does not contain a clarified job description
3 differentiating between faculty member responsibilities and mentor responsibilities. Specifically,
4 the application contains only such titles as CEO, CAO and COO without identifying who will be
5 fulfilling the responsibilities of faculty.

6 **SECOND CAUSE FOR DENIAL OF APPLICATION**

7 (Failed to Meet Minimum Operating Standards - Instruction and Degrees Offered)

8 12. Respondent's application is subject to denial under Education Code sections 94885,
9 94886 and 94887 and California Code of Regulations, title 5, division 7.5, section 71715
10 subdivision (d)(4) in that Respondent's application represents that the model for instruction is 1:1,
11 however the ratio is anticipated to be one instructor/facilitator for every 5-15 students. The 1:1
12 ratio that appears to include mentors is not valid as mentors are not qualified faculty members and
13 cannot be responsible for instruction. Faculty must be qualified to teach using distance education
14 methods to provide meaningful interactions.

15 **THIRD CAUSE FOR DENIAL OF APPLICATION**

16 (Failed to Meet Minimum Operating Standards - Instruction and Degrees Offered)

17 13. Respondent's application is subject to denial under Education Code sections 94885,
18 94886 and 94887 and California Code of Regulations, title 5, division 7.5, section 71715
19 subdivision (d)(6) in that the institution fails to demonstrate that the evaluation of student
20 participation and class contribution is performed by duly qualified faculty. The institution instead
21 represents that the evaluation will be performed by mentors who do not meet the required
22 qualifications.

23 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

24 (Failed to Meet Minimum Operating Standards – Facilities and Equipment)

25 14. Respondent's application is subject to denial under Education Code sections 94885,
26 94886 and 94887 and California Code of Regulations, title 5, division 7.5, section 71735
27 subdivision (a) (1) and (2) in that the institution did not demonstrate that sufficient facilities and
28 necessary equipment to support the achievement of the educational objectives of the educational

1 programs would be made available to students. The school campus (the owner's home) does not
2 contain program specific equipment (recording equipment, radio broadcasting equipment, etc.).
3 The institution represents that such equipment is available at the mentors' studios, however the
4 use of the equipment is outside of the institution's control and therefore the institution cannot
5 ensure that the equipment is sufficient to reasonably assure that a student acquires the necessary
6 level of education training, skill, and experience to obtain employment in the field of training.
7 Moreover, the institution represents that students may "shadow" the mentors, but not handle the
8 equipment which may not be adequate for the students to be able to perform the tasks associated
9 with the occupation or job title to which the educational program was represented to lead.

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 The Broadcasters and Sportscasters Mentoring Group for
15 an Approval to Operate and Institution Non-Accredited;
- 16 2. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 9-8-16



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

25 LA2016601018
26 52189988.doc
27
28