

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MORGAN MALEK
Deputy Attorney General
4 State Bar No. 223382
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2643
6 Facsimile: (213) 897-2804
Attorneys for Complainant
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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

Case No. 998592

12 **YUIN UNIVERSITY; HENRY H. YU;**
13 **RACHEL DE CHAVEZ-ZAYAS**
14 **2007 E. Compton Blvd**
Compton, CA 90221

STATEMENT OF ISSUES

15 **Renewal of Approval to Operate and Offer**
16 **Educational Programs for Non Accredited**
17 **Institution**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about May 7, 2012, the Bureau received an Application for Renewal of
25 Approval to Operate and Offer Educational Programs for Non-Accredited Institutions from Yuin
26 University signed by Andrew Kim and Christine Lee Kim who are not the owner of record for
27 Yuin University. On or about April 23, 2012, Andrew Kim certified under penalty of perjury to
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1 the truthfulness of all statements, answers, and representations in the application. The Bureau
2 denied the Application for Renewal of Approval to Operate and Offer Educational Programs for
3 Non-Accredited Institutions on November 16, 2012.

4 JURISDICTION

5 3. This Statement of Issues is brought before the Director of the Department of
6 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
7 authority of the following laws. All section references are to the California Education Code
8 unless otherwise indicated.

9 STATUTORY PROVISIONS

10 4. Section 22 of the Business and Professions Code defines the term "board" to include
11 "bureau."

12 5. Section **94885** of the Code states:

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

15 (a) The content of each educational program can achieve its stated objective.

16 (b) The institution maintains specific written standards for student admissions for each
17 educational program and those standards are related to the particular educational program.

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

20 (d) The institution maintains a withdrawal policy and provides refunds.

21 (e) The directors, administrators, and faculty are properly qualified.

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

23 (g) That, upon satisfactory completion of an educational program, the institution gives
24 students a document signifying the degree or diploma awarded.

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

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

28 6. Section **94886** of the Code states:

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

5 7. Section **94887** of the Code states:

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

11 8. Section **94899** of the Education Code states:

12 "If an institution offers an educational program in a profession, occupation, trade, or career
13 field that requires licensure in this state, the institution shall have an educational program
14 approval from the appropriate state licensing agency to conduct that educational program in order
15 that a student who completes the educational program, except as provided in Section 94905, is
16 eligible to sit for any required licensure examination."

17 **REGULATORY PROVISIONS**

18 9. California Code of Regulations Title 5, section **71475** states:

19 (a) Unless renewed, an approval to operate shall expire at 12 midnight on the last day of the
20 institution's term of approval to operate as granted pursuant to section 94802 or section 94889 of
21 the Code.

22 (b) An institution seeking to renew its Approval to Operate pursuant to section 94891 of the
23 Code shall, prior to its expiration, complete and submit to the Bureau the "Application for
24 Renewal of Approval to Operate and Offer Educations Programs for Non-Accredited
25 Institutions," Form Application 94891 (rev. 2/10).

26 (c) The application for renewal of approval to operate and offer educational programs for
27 non-accredited institutions shall include all of the following:

28 (1) The name, institution/school code and website address of the institution.

1 (2) The physical address of the institution's primary administrative location in California.

2 (3) The mailing address, identified either by physical address or by post office box number,
3 telephone number and fax number of the institution.

4 (4) The physical address, phone number and fax number of each campus and branch at
5 which the educational programs will be offered, including the identification of the institution's
6 main location and branch locations.

7 (5) The name, address, email address, telephone number, and fax number of an individual
8 who will function as the institution's contact person for the purposes of the application.

9 (6) The form of business organization of the institution (e.g., sole proprietorship, general or
10 limited partnership, for-profit corporation, nonprofit corporation, or Limited Liability
11 Corporation). If the institution is incorporated, the institution shall also identify the state within
12 which the institution is incorporated and the date of incorporation, and provide copies of the
13 articles of incorporation and bylaws.

14 (7) The name, title, address, email address, telephone number, nature of interest and
15 percentage of ownership of each person, as defined in section 94855 of the Code, who owns or
16 controls 25% or more of the stock or an interest in the institution and, to the extent applicable,
17 each general partner, officer, corporate director, member of the board of directors, and any other
18 person who exercises substantial control over the institution's management or policies. For the
19 purpose of this paragraph, a person exercises "substantial control over the institution's
20 management or policies" if the person has the authority to cause the institution to expend money
21 or incur debt in the amount of five thousand dollars (\$5,000) or more in any year.

22 (A) For each address required, the institution shall provide a physical home address, and
23 may request that the address, email address, and telephone number, of each person described in
24 paragraph (7) be maintained as personal information.

25 (B) The federal employer identification number for partnerships or the social security
26 number for individual owners identified in the application pursuant to section 71130(a)(1).

27 (d) In addition to the form required in (b), the institution shall submit all information
28 required by section 71100(b), and the appropriate renewal fee as provided in Sections

1 94930.5(b)(1) and 94930.5(b)(2) of the Code, as applicable, to the Bureau. Except for the
2 financial statements required by subdivision (e) of this section and the statement required in
3 subdivision (f) of this section, if the information required in order to renew its approval to operate
4 is substantially similar to the information submitted by the institution in its last renewal
5 application, or initial application if it is the first renewal, the institution may state that there are no
6 substantial changes.

7 (e) The institution shall submit at the time it applies for renewal current financial statements
8 that meet the requirements of section 74115 as follows: (1) for an institution with annual gross
9 revenues of \$500,000 and over, statements shall be audited; (2) for an institution with annual
10 gross revenues less than \$500,000, statements shall be reviewed.

11 (f) The renewal application shall include a statement from any person identified in
12 subdivision (h)(1) of this section who –

13 (1) Was found in any judicial or administrative proceeding to have violated the Act or the
14 law of any other state related to untrue or misleading advertising, the solicitation of prospective
15 students for enrollment in an educational service, or the operation of a postsecondary school;

16 (2) Was denied any type of license on grounds set forth in Section 480 of the Business and
17 Professions Code;

18 (3) Was adjudicated as responsible for the closure of an institution in which there were
19 unpaid liabilities to the state or federal government or any uncompensated pecuniary losses
20 suffered by students;

21 (4) Has stipulated to a judgment or administrative order or entered a consent decree
22 involving any of the matters described in this section.

23 (5) Was convicted of any misdemeanor or felony as provided in Section 480(a)(1) of the
24 Business and Professions Code;

25 (g) The institution shall furnish in the application an explanation of any legal action
26 pending against the institution or ownership or any of the institution's owners, officers, corporate
27 directors, administrators, or instructors by any federal, state, or local law enforcement agency
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1 involving alleged acts of fraud, dishonesty, financial mismanagement, unpaid liabilities to any
2 governmental agency or claims for pecuniary loss suffered by any student.

3 **(h)** The institution shall include in its application the name, title, physical address,
4 telephone number, fax number, and e-mail address for the agent for service of process in
5 California as required by section 94943.5 of the Code. The agent shall be at an address other than
6 the address of the institution or any branch. The agent must confirm the information and
7 acknowledge in writing that he or she is the designated agent for service of process. The
8 information shall be kept current pursuant to section 74190.

9 **(i)** The institution shall include in its application an organization chart that shows the
10 governance and administrative structure of the institution and the relationship between faculty
11 and administrative positions. If there have been no substantive changes since the last submission
12 of an organizational chart, the institution may so state and is not required to submit
13 documentation.

14 **(j)** The institution shall provide in the application a description of the job duties and
15 responsibilities of each administrative and faculty position. If there have been no substantive
16 changes since the last submission, the institution may so state and is not required to submit
17 documentation.

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

23 **(l)** If the institution has a governing board, the application shall include the name, work
24 address, email address, and telephone number of each member of the governing board. If there
25 have been no substantive changes since the last submission, the institution may so state and is not
26 required to submit documentation.

27 **(m)** The application shall contain the name, work address, email address, fax number and
28 telephone number of the person with whom the Bureau will correspond and conduct legal

1 transactions on behalf of the institution. If there have been no substantive changes since the last
2 submission, the institution may so state and is not required to submit documentation.

3 (n) The institution shall describe in the application, in detail its mission and objectives. If
4 there have been no substantive changes since the last submission, the institution may so state and
5 is not required to submit documentation.

6 (o) The institution shall include, with its application, exemplars of all student enrollment
7 agreements and instruments of indebtedness.

8 (p) If an institution receives financial aid because its students qualify for it under any state
9 or federal financial aid program, the application shall include a statement of its policies, practices,
10 and disclosures regarding financial aid. If there have been no substantive changes since the last
11 submission, the institution may so state and is not required to submit documentation.

12 (q) The institution shall include in its application copies of advertising and other statements
13 disseminated to the public in any manner by the institution or its representatives that concern,
14 describe, or represent each of the following:

15 (1) The institution.

16 (2) Each educational program offered by the institution.

17 (3) If advertising is broadcast by television or radio, the application shall also include a
18 copy of the script.

19 (r) The institution shall identify and describe, in the application, the educational program it
20 offers, or proposes to offer. If the educational program is a degree program, the institution shall
21 identify the full title which it will place on each degree awarded. If there have been no substantive
22 changes since the last submission, the institution may so state and is not required to submit
23 documentation.

24 (s) The application shall include, in addition to the general title, such as "Bachelor of Arts"
25 or "Master of Science", the name of a specific major field of learning involved. If there have been
26 no substantive changes since the last submission, the institution may so state and is not required
27 to submit documentation.

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1 (t) In addition, the institution shall list in the application, the following for each educational
2 program offered unless there have been no substantive changes since the last submission. If there
3 have been no substantive changes made the institution may so state and is not required to provide
4 documentation.

5 (1) The admissions requirements, including minimum levels of prior education, preparation,
6 or training;

7 (2) If applicable, information regarding the ability-to-benefit examination as required by
8 section 94904 of the Code.

9 (3) The types and amount of general education required;

10 (4) The title of the educational programs and other components of instruction offered,
11 including a description of the level of the courses (e.g., below college level, undergraduate level,
12 graduate level);

13 (5) The mode of instruction;

14 (6) The graduation requirements.

15 (7) Whether the educational program is designed to fit or prepare students for employment
16 in any occupation. If so, the application shall identify each occupation and job title to which the
17 institution represents the educational program will lead.

18 (u) For each educational program that the institution offers or proposes to offer, the
19 application shall contain a statement that the educational program meets the requirements of
20 section 71710, as well as the following unless there have been no substantive changes since the
21 last submission. If there have been no substantive changes made the institution may so state and is
22 not required to provide documentation:

23 (1) A description of the educational program.

24 (2) A description of the equipment to be used during the educational program.

25 (3) A description of the number and qualifications of the faculty needed to teach the
26 educational program.

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1 (4) A projection, and the bases for the projection, of the number of students that the
2 institution plans to enroll in the educational program during each of the three years following the
3 date the application was submitted.

4 (5) A description of the learning, skills, and other competencies to be acquired by students
5 who complete the educational program.

6 (6) If licensure is a goal of an educational program, a copy of the approval from the
7 appropriate licensing agency. A copy of the intent to approve conditioned solely upon
8 institutional approval from the Bureau will also meet this requirement.

9 (7) Upon request, the institution shall provide to the Bureau copies of the curriculum or
10 syllabi required pursuant to section 71710.

11 (v) If the institution offers an educational program, or a portion of it, in a language other
12 than English, the application shall contain a description of all of the following for each
13 educational program or portion thereof unless there have been no substantive changes since the
14 last submission. If there have been no substantive changes made the institution may so state and is
15 not required to provide documentation.

16 (1) The language in which each educational program will be offered.

17 (2) A statement that the institution has contracted with sufficient duly qualified faculty who
18 will teach each language group of students.

19 (3) The language of the textbooks and other written materials to be used by each language
20 group of students.

21 (w)(1) The application shall contain a statement that the institution has and can maintain the
22 financial resources required pursuant to section 71745.

23 (2) The institution shall submit current, audited financial statements at the time it applies
24 for approval to operate. Each set of financial statements shall comply with Section 74115 of this
25 chapter.

26 (x) The application shall include a statement that the institution has contracted with
27 sufficient duly qualified faculty members who meet the qualifications of section 71720 unless
28 there have been no substantive changes since the last submission. If there have been no

1 substantive changes made the institution may so state and is not required to provide
2 documentation.

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

8 (2) For facilities that are leased or rented, the application shall contain the name and address
9 of the lessor or landlord, together with a copy of any use, lease, or rental agreements for the
10 facilities unless there have been no substantive changes since the last submission. If there have
11 been no substantive changes made the institution may so state and is not required to provide
12 documentation.

13 (3) The application shall include, in addition to the description of the physical facilities,
14 building diagrams or campus maps to assist the Bureau in locating these facilities. The diagrams
15 or maps shall identify the location of classrooms, laboratories, workshops, and libraries unless
16 there have been no substantive changes since the last submission. If there have been no
17 substantive changes made the institution may so state and is not required to provide
18 documentation.

19 (4) The description in the application shall include specifications of significant equipment
20 that demonstrate that the equipment meets the standards prescribed by the Code and this chapter
21 and is sufficient to enable students to achieve the educational objectives of each education
22 program unless there have been no substantive changes since the last submission. If there have
23 been no substantive changes made the institution may so state and is not required to provide
24 documentation.

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

3 (6) The application shall contain a list of all permits, certifications, or other evidence of
4 inspections or authorizations to operate required by the jurisdictions within which the institution
5 operates that the institution has obtained, and/or an explanation as to why those permits,
6 certifications, or inspections have not yet been obtained unless there have been no substantive
7 changes since the last submission. If there have been no substantive changes made the institution
8 may so state and is not required to provide documentation.

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

18 (aa) If an institution represents to the public, in any manner, that it offers job placement
19 assistance, the application shall include a description of the job placement assistance that it
20 provides unless there have been no substantive changes since the last submission. If there have
21 been no substantive changes made the institution may so state and is not required to provide
22 documentation.

23 (bb) The application shall include a copy of the institution's catalog, in published or
24 proposed-to-be-published form. The catalog shall meet the requirements of the Act and of section
25 71810.

26 (cc) The institution shall submit with the application, a copy of the document that is
27 awarded to a graduating student upon successful completion of each educational program unless
28 there have been no substantive changes since the last submission. If there have been no

1 substantive changes made the institution may so state and is not required to provide
2 documentation.

3 **(dd)**(1) The application shall contain a description of how records required by Article 9 of
4 the Act or this chapter are or will be organized and maintained, the types of documents contained
5 in student files, how the records are stored, and whether academic and financial records are
6 maintained in separate files. The description shall include a statement of the institution's
7 procedures for security and safekeeping of records unless there have been no substantive changes
8 since the last submission. If there have been no substantive changes made the institution may so
9 state and is not required to provide documentation.

10 (2) The description in the application shall include the name, physical address, email
11 address, and telephone number of the custodian of records, and the physical addresses and
12 telephone numbers of the offices or buildings where the records will be maintained unless there
13 have been no substantive changes since the last submission. If there have been no substantive
14 changes made the institution may so state and is not required to provide documentation.

15 **(ee)** The application shall contain a description of the procedures used by the institution to
16 assure that it is maintained and operated in compliance with the Act and this Division.

17 **(ff)**(1) The institution shall include in the application any material facts as defined by
18 section 71340, which have not otherwise been disclosed in the application that might reasonably
19 affect the Bureau's decision to grant an approval to operate. In this context, a fact would be
20 "material" if it would change the Bureau's decision concerning the institution's ability to comply
21 with any applicable provisions of the Act.

22 (2) The institution may also include in the application any other facts which the institution
23 would like the Bureau to consider in deciding whether to grant an approval to operate.

24 (3) For the purposes of this section, a fact is "material" if, without its inclusion into the
25 application, the information contained in the application would be false, misleading, or
26 incomplete.

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

4 (1) Signatories:

5 (A) Each owner of the institution, or

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

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

9 **(hh)** In addition to the fees required by subdivision (d) of this section:

10 (1) An application for renewal that is received by the Bureau more than 30 days after the
11 expiration of the approval to operate shall be submitted with the 25 percent late payment penalty
12 fee required by section 94931(a) of the Code.

13 (2) An application for renewal that is received by the Bureau more than 90 days after the
14 expiration of the approval to operate shall be submitted with the 35 percent late payment penalty
15 fee required by section 94931(b) of the Code.

16 **(ii)** Provided that a complete renewal application is received by the Bureau prior to the
17 expiration of the approval, a valid approval to operate shall continue until the Bureau has acted
18 upon the renewal application.

19 **(jj)** An approval to operate that has expired may be renewed at any time within 6 months
20 after its expiration on filing of an application for renewal and, as a condition precedent to
21 renewal, payment of all accrued and unpaid renewal fees, late payment penalty fees prescribed in
22 subdivision (e) of this section, and any other fees that would have been due in order to renew
23 timely. After an approval to operate has expired for more than 6 months, the approval is
24 automatically cancelled and the institution must submit a complete application pursuant to section
25 71100, meet all current requirements, and pay all fees that would have been due in order to timely
26 renew, in order to apply for approval.

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

1 10. California Code of Regulations Title 5, section **71655** states:

2 (a) An institution that made a substantive change as defined in section 94894 of the Code
3 between July 1, 2007, and December 31, 2009, may continue to operate, but shall comply with,
4 and is subject to, the Code and this Division, and shall submit an application for a substantive
5 change to an approval to operate to the Bureau pursuant to this article within six months of that
6 application becoming available.

7 (b) An incomplete application filed under this Article will render it ineligible for
8 processing, or subject to denial.

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

12 (d) In addition to the grounds stated in subdivisions (a) and (b) of this section, the Bureau
13 may deny an application on the following grounds:

14 (1) failure to establish that the proposed change will meet the institutional operating
15 standards set forth in Chapter 3 of this Division; or

16 (2) any act or failure to act that would constitute grounds for revocation.

17 11. California Code of Regulations Title 5, section **71720** states:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (6) When contracting for educational services, the institution shall maintain control of,
5 and responsibility for, all academic matters, and shall assure that the instruction and faculty
6 satisfy the standards established by the Act and this chapter;

7 (7) The institution shall not employ or continue to employ any faculty who were
8 adjudicated in a judicial or administrative proceeding as having violated any provision of the Act
9 or this chapter or as having committed any act that would constitute grounds for the denial of a
10 license under Section 480 of the Business and Professions Code;

11 (8) Each institution shall have a written Academic Freedom Policy which describes the
12 latitude the institution allows faculty in the classroom so faculty will not inadvertently violate the
13 principles of academic freedom. These policies shall be made available to any person upon
14 request. The institution shall not take adverse action based on a staff member's exercise of
15 academic freedom consistent with the institution's policy; and

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

20 (b) Instructors in an Educational Program Not Leading to a Degree.

21 (1) An institution shall employ instructors who possess the academic, experiential and
22 professional qualifications to teach, including a minimum of three years of experience, education
23 and training in current practices of the subject area they are teaching. If an instructor does not
24 possess the required three years of experience, education and training in the subject area they are
25 teaching, the institution shall document the qualifications the instructor possesses that are
26 equivalent to the minimum qualifications.

27 (2) Each instructor shall maintain their knowledge by completing continuing education
28 courses in his or her subject area, classroom management or other courses related to teaching.

1 (3) The institution shall not employ or continue to employ an instructor who was
2 adjudicated in a judicial or administrative proceeding as having violated any provision of the Act
3 or this chapter, or as having committed any act that would constitute grounds for the denial of a
4 license under Section 480 of the Business and Professions Code.

5 12. California Code of Regulations Title 5, section **71740** states:

6 (a) A degree granting institution shall make available for student use a library and other
7 learning resources.

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

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

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

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

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

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

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

25 13. California Code of Regulations Title 5, section **71745** states:

26 (a) The institution shall document that it has at all times sufficient assets and financial
27 resources to do all of the following:
28

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

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

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

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

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

8 (6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the
9 end of the most recent fiscal year when using generally accepted accounting principles, or for an
10 institution participating in Title IV of the federal Higher Education Act of 1965, meet the
11 composite score requirements of the U.S. Department of Education. For the purposes of this
12 section, current assets does not include: intangible assets, including goodwill, going concern
13 value, organization expense, startup costs, long-term prepayment of deferred charges, and non-
14 returnable deposits, or state or federal grant or loan funds that are not the property of the
15 institution but are held for future disbursement for the benefit of students. Unearned tuition shall
16 be accounted for in accordance with general accepted accounting principles.

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

20 (1) consents in writing to be sued in California;

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

23 (3) designates and maintains an agent for service of process, consistent with section
24 74190;

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

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

1 (c) An institution shall provide to the Bureau its most current financial statements upon
2 request.

3 14. California Code of Regulations Title 5, section **71760** states:

4 Each institution shall develop and maintain adequate procedures used by the institution to
5 assure that it is maintained and operated in compliance with the Act and this Division.

6 15. California Code of Regulations Title 5, section **71800** states:

7 In addition to the requirements of section 94911 of the Code, an institution shall provide to
8 each student an enrollment agreement that contains at the least the following information:

9 (a) The name and address of the institution and the addresses where instruction will be
10 provided.

11 (b) Period covered by the enrollment agreement.

12 (c) Program start date and scheduled completion date.

13 (d) Date by which the student must exercise his or her right to cancel or withdraw, and the
14 refund policy, including any alternative method of calculation if approved by the Bureau pursuant
15 to section 94921 of the Code.

16 (e) Itemization of all institutional charges and fees including, as applicable:

17 (1) tuition;

18 (2) registration fee (non-refundable);

19 (3) equipment;

20 (4) lab supplies or kits;

21 (5) Textbooks, or other learning media;

22 (6) uniforms or other special protective clothing;

23 (7) in-resident housing;

24 (8) tutoring;

25 (9) assessment fees for transfer of credits;

26 (10) fees to transfer credits;

27 (11) Student Tuition Recovery Fund fee (non-refundable);

28 (12) any other institutional charge or fee.

1 (f) Charges paid to an entity other than an institution that is specifically required for
2 participation in the educational program.

3 16. California Code of Regulations Title 5, section **71810** states:

4 (a) Each institution shall provide a catalog pursuant to section 94909 of the Code, which
5 shall be updated annually. Annual updates may be made by the use of supplements or inserts
6 accompanying the catalog. If changes in educational programs, educational services, procedures,
7 or policies required to be included in the catalog by statute or regulation are implemented before
8 the issuance of the annually updated catalog, those changes shall be reflected at the time they are
9 made in supplements or inserts accompanying the catalog.

10 (b) The catalog shall contain the information prescribed by Section 94909 of the Code and
11 all of the following:

12 (1) The specific beginning and ending dates defining the time period covered by the
13 catalog;

14 (2) A statement of the institution's missions and purposes and the objectives underlying
15 each of its educational programs;

16 (3) If the institution admits students from other countries, whether visa services are
17 provided or whether the institution will vouch for student status, and any associated charges;

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

23 (5) Whether any instruction will occur in a language other than English and, if so, the level
24 of proficiency required and the kind of documentation of proficiency, such as the United States
25 Foreign Service Language Rating System, that will be accepted;

26 (6) The institution's policies and practices regarding any form of financial aid, including all
27 consumer information which the institution is required to disclose to the student under any state
28 or federal financial aid program;

1 (7) The institution's policies and procedures for the award of credit for prior experiential
2 learning, including assessment policies and procedures, provisions for appeal, and all charges that
3 a student may be required to pay;

4 (8) The institution's standards for student achievement;

5 (9) A description of the facilities and of the types of equipment and materials that will be
6 used for instruction;

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

9 (11) If the institution offers distance education, the approximate number of days that will
10 elapse between the institution's receipt of student lessons, projects, or dissertations and the
11 institution's mailing of its response or evaluation.

12 (12) A description of all student services;

13 (13) Housing information including all of the following:

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

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

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

20 (14) Policies on student rights, including the procedure for addressing student grievances;
21 and

22 (15) Policies on the retention of student records.

23 17. California Code of Regulations Title 5, section **71930, subsection (d)** states:

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

28 18. California Code of Regulations Title 5, section **74115** states:

1 (a) This section applies to every set of financial statements required to be prepared or filed
2 by the Act or by this chapter.

3 (b) A set of financial statements shall contain, at a minimum, a balance sheet, an income
4 statement, and a cash flow statement, and the preparation of financial statements, shall comply
5 with all of the following:

6 (1) Audited and reviewed financial statements shall be conducted and prepared in
7 accordance with the generally accepted accounting principles established by the American
8 Institute of Certified Public Accountants by an independent certified public accountant who is not
9 an employee, officer, or corporate director or member of the governing board of the institution.

10 (2) Financial statements prepared on an annual basis as required by section 74110(b) shall
11 be prepared in accordance with the generally accepted accounting principles established by the
12 American Institute of Certified Public Accountants. Nonprofit institutions shall provide annual
13 financial statements as required under generally accepted accounting principles for nonprofit
14 organizations.

15 (3) The financial statements shall establish that the institution meets the requirements for
16 financial resources required by Section 71745.

17 (4) If an audit performed to determine compliance with any federal or state student financial
18 aid program reveals any failure to comply with the requirements of the program and the
19 noncompliance creates any liability or potential liability for the institution, the financial
20 statements shall reflect the liability or potential liability.

21 (5) Any audits shall demonstrate that the accountant obtained an understanding of the
22 institution's internal financial control structure, assessed any risks, and has reported any material
23 deficiencies in the internal controls.

24 (c) Work papers for the financial statements shall be retained for five years from the date of
25 the statements and shall be made available to the Bureau upon request.

26 (d) "Current" with respect to financial statements means completed no sooner than 120
27 days prior to the time it is submitted to the Bureau, and covering no less than the most recent
28 complete fiscal year. If more than 8 months will have elapsed between the close of the most

1 recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover no
2 less than five months of that current fiscal year.

3 **DENIAL OF APPLICATION FOR RENEWAL OF APPROVAL TO OPERATE**

4 **FIRST CAUSE FOR DENIAL OF APPLICATION FOR**

5 **RENEWAL OF APPROVAL TO OPERATE**

6 (Failure to Clearly Identify the CEO, COO and CAO)

7 19. Respondent's Application for Renewal of Approval to Operate is subject to denial
8 under California Code of Regulations, Title 5, sections 71475, subsections (i)-(k), in that
9 Respondent did not clearly identify the Chief Executive Officer (CEO) and Chief Academic
10 Officer (CAO). The job description and duties for administrative and faculty positions are too
11 vague. The Bureau was unable to make an assessment of the CEO and CAO's experience and
12 qualifications.

13 **SECOND CAUSE FOR DENIAL OF APPLICATION FOR**

14 **RENEWAL OF APPROVAL TO OPERATE**

15 (Failure to Submit Documentation in Support of its Governing Board)

16 20. Respondent's Application for Renewal of Approval to Operate is subject to denial
17 under California Code of Regulations, Title 5, section 71475, subsection (l), in that Respondent
18 failed to submit documentation in support of its governing board.

19 **THIRD CAUSE FOR DENIAL OF APPLICATION FOR**

20 **RENEWAL OF APPROVAL TO OPERATE**

21 (Institution's Enrollment Agreement Failed to Meet the Minimum Requirements)

22 21. Respondent's Application for Renewal of Approval to Operate is subject to denial
23 under California Code of Regulations, Title 5, sections 71800 and 71475, subsection (o), and
24 Education Code section 94911, in that Respondent's Enrollment Agreement failed to meet the
25 minimum requirements as specified by the Education Code section 94911 and California Code of
26 Regulations, Title 5, sections 71800, and 71475 subsection (o).

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1 **FOURTH CAUSE FOR DENIAL OF APPLICATION FOR**

2 **RENEWAL OF APPROVAL TO OPERATE**

3 (Failure to Provide Relevant Documentation)

4 22. Respondent's Application for Renewal of Approval to Operate is subject to denial
5 under California Code of Regulations, Title 5, sections 71475, subsection (p), in that Respondent
6 failed to provide relevant documentation. The document provided by the Respondent was the
7 catalog's refund policy.

8 **FIFTH CAUSE FOR DENIAL OF APPLICATION FOR**

9 **RENEWAL OF APPROVAL TO OPERATE**

10 (Failure to Complete Section 13 of Form Application for
11 the School of Oriental Medicine and Acupuncture Programs)

12 23. Respondent's Application for Renewal of Approval to Operate is subject to denial
13 under California Code of Regulations, Title 5, sections 71475, subsections (r) through (t), in that
14 Respondent failed to complete section 13 of Form Application for the School of Oriental
15 Medicine and Acupuncture Programs and provide the responsive documents applicable to section
16 13.

17 **SIXTH CAUSE FOR DENIAL OF APPLICATION FOR**

18 **RENEWAL OF APPROVAL TO OPERATE**

19 (Failure to Complete Section 14 of Form Application for
20 the School of Oriental Medicine and Acupuncture Programs)

21 24. Respondent's Application for Renewal of Approval to Operate is subject to denial
22 under California Code of Regulations, Title 5, section 71475, subsection (u), in that Respondent
23 failed to complete section 14 of Form Application for the School of Oriental Medicine and
24 Acupuncture Programs and provide the responsive documents applicable to section 14.

25 **SEVENTH CAUSE FOR DENIAL OF APPLICATION FOR**

26 **RENEWAL OF APPROVAL TO OPERATE**

27 (Failure to Provide the Responsive Documents Applicable to Section 15 of Form Application for
28 the School of Oriental Medicine and Acupuncture Programs)

1 25. Respondent's Application for Renewal of Approval to Operate is subject to denial
2 under California Code of Regulations, Title 5, section 71475, subsection (v), in that Respondent
3 failed to provide the responsive documents applicable to Section 15 of Form Application for the
4 School of Oriental Medicine and Acupuncture Programs.

5 **EIGHTH CAUSE FOR DENIAL OF APPLICATION FOR**
6 **RENEWAL OF APPROVAL TO OPERATE**

7 (Failure to Provide Financial Statements)

8 26. Respondent's Application for Renewal of Approval to Operate is subject to denial
9 under California Code of Regulations, Title 5, sections 71475, subsection (w), 74115 and 71745,
10 in that Respondent failed to provide the required financial statements.

11 **NINTH CAUSE FOR DENIAL OF APPLICATION FOR**
12 **RENEWAL OF APPROVAL TO OPERATE**

13 (Failure to Provide Sufficient Evidence that Duly Qualified Faculty Members Were Hired)

14 27. Respondent's Application for Renewal of Approval to Operate is subject to denial
15 under California Code of Regulations, Title 5, sections 71475, subsection (x) and 71720,
16 subsection (a), in that Respondent failed to provide sufficient evidence that duly qualified faculty
17 members were hired to deliver the educational program. The documentation provided by the
18 Respondent is Yuin University's faculty appointment process.

19 **TENTH CAUSE FOR DENIAL OF APPLICATION FOR**
20 **RENEWAL OF APPROVAL TO OPERATE**

21 (Failure to Provide Sufficient Evidence Required by Section 18 of Form Application)

22 28. Respondent's Application for Renewal of Approval to Operate is subject to denial
23 under California Code of Regulations, Title 5, section 71475, subsection (y), in that Respondent
24 failed to provide sufficient evidence as required by section 18 of the Form Application.

25 **ELEVENTH CAUSE FOR DENIAL OF APPLICATION FOR**
26 **RENEWAL OF APPROVAL TO OPERATE**

27 (Failure to Provide Sufficient Evidence that the Library and other learning
28 resources are sufficient to support the instructional needs of Distance Education

1 Students Required by Section 19 of Form Application)

2 29. Respondent's Application for Renewal of Approval to Operate is subject to denial
3 under California Code of Regulations, Title 5, sections 71740 and 71475, subsection (z), in that
4 Respondent failed to provide sufficient evidence that the library and other learning resources are
5 sufficient to support the instructional needs of the distance education students.

6 **TWELFTH CAUSE FOR DENIAL OF APPLICATION FOR**
7 **RENEWAL OF APPROVAL TO OPERATE**

8 (Failure to Provide Sufficient Evidence that the Institution's
9 Catalog Meets the Minimum Requirements)

10 30. Respondent's Application for Renewal of Approval to Operate is subject to denial
11 under California Code of Regulations, Title 5, sections 71810 and 71475, subsection (bb) and
12 Education Code section 94909, in that Respondent failed to provide sufficient evidence that Yuin
13 University's catalog meets the minimum requirements pursuant to Education Code section 94909
14 and California Code of Regulations, Title 5, sections 71810 and 71475, subsection (bb).

15 **THIRTEENTH CAUSE FOR DENIAL OF APPLICATION FOR**
16 **RENEWAL OF APPROVAL TO OPERATE**

17 (Failure to Provide Sufficient Recordkeeping Policy and Procedures Evidence)

18 31. Respondent's Application for Renewal of Approval to Operate is subject to denial
19 under California Code of Regulations, Title 5, sections 71930, subsection (d) and 71475,
20 subsection (dd), in that Respondent failed to provide sufficient recordkeeping policy and
21 procedures evidence. Yuin University's policy and procedures in effect does not entail adequate
22 maintenance of records pursuant to California Code of Regulations, Title 5, sections 71930,
23 subsection (d) and 71475, subsection (dd).

24 **FOURTEENTH CAUSE FOR DENIAL OF APPLICATION FOR**
25 **RENEWAL OF APPROVAL TO OPERATE**

26 (Failure to Provide Sufficient Self-Monitoring Evidence)

27 32. Respondent's Application for Renewal of Approval to Operate is subject to denial
28 under California Code of Regulations, Title 5, sections 71760 and 71475, subsection (ee), in that

1 Respondent failed to provide sufficient self-monitoring evidence. Respondent failed to provide
2 any supporting documents in support of the self-monitoring section of the Application Form.

3 **PRAYER**

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

7 1. Denying the application of Yuin University; Henry H. Yuin; Rachel De Chavez-
8 Zayas for a Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited
9 Institutions

10 2. Taking such other and further action as deemed necessary and proper.

11
12
13 DATED:

September 10, 2014


JOANNE WENZEL

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

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