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

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

Case No. 1000950

13 **TTL COLLEGE;**  
14 **TAM NGUYEN, OWNER**

**STATEMENT OF ISSUES**

15 **Application for Renewal of Approval to**  
16 **Operate an Institution Non-Accredited**

17 Respondent.

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 August 13, 2010, the Bureau for Private Postsecondary Education  
24 (“Bureau”) received an Application for Renewal of Approval to Operate an Institution Non-  
25 Accredited (application number 22802) from Respondent TTL College; Tam Nguyen, Owner  
26 (“Respondent”). On or about May 9, 2011, the Bureau sent Respondent a deficiency letter.  
27 Between June 1, 2011 and December 22, 2014, the Bureau and Respondent exchanged  
28 correspondence regarding Respondent’s application.

1           3.     On or about July 22, 2015, the Bureau issued Respondent a Notice of Denial of  
2 Application for Renewal of Approval to Operate. On or about August 3, 2015, the Bureau  
3 received a request for an administrative hearing from Respondent. On or about August 10, 2015,  
4 the Bureau received additional documents from Respondent intended to resolve issues of non-  
5 compliance in Respondent's application.

#### 6                                   JURISDICTION

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

10          5.     California Business and Professions Code Section 118, subdivision (b) provides, in  
11 part:

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

19          6.     Section 94886 provides:

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

24          7.     Section 94887 provides:

25           “An approval to operate shall be granted only after an applicant has presented sufficient  
26 evidence to the bureau, and the bureau has independently verified the information provided by the  
27 applicant through site visits or other methods deemed appropriate by the bureau, that the  
28

1 applicant has the capacity to satisfy the minimum operating standards. The bureau shall deny an  
2 application for an approval to operate if the application does not satisfy those standards.”

3 8. Section 94891 provides, in part:

4 “(b) To be granted a renewal of an approval to operate, the institution shall demonstrate its  
5 continued capacity to meet the minimum operating standards.”

6 REGULATORY PROVISIONS<sup>1</sup>

7 9. California Code of Regulations, title 5, section 71240 states, in part:

8 . . .

9 “(b) The institution shall submit current, reviewed financial statements at the time it applies  
10 for approval to operate. Each set of financial statements shall comply with Section 74115 of this  
11 chapter.”

12 10. California Code of Regulations, title 5, section 71745 states, in part:

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

15 . . .

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

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

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

19 “(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the  
20 end of the most recent fiscal year when using generally accepted accounting principles, or for an  
21 institution participating in Title IV of the federal Higher Education Act of 1965, meet the  
22 composite score requirements of the U.S. Department of Education. For the purposes of this  
23 section, current assets does not include: intangible assets, including goodwill, going concern  
24 value, organization expense, startup costs, long-term prepayment of deferred charges, and non-  
25 returnable deposits, or state or federal grant or loan funds that are not the property of the

26 \_\_\_\_\_  
27 <sup>1</sup> The California Private Postsecondary Education Act of 2009 was recently amended, effective  
28 January 1, 2015. See Senate Bill No. 1247. This Statement of Issues is based on the pre-  
amendment version of the Act.

1 institution but are held for future disbursement for the benefit of students. Unearned tuition shall  
2 be accounted for in accordance with general accepted accounting principles.”

3 11. California Code of Regulations, title 5, section 74115 states, in part:

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

6 . . .

7 “(d) ‘Current’ with respect to financial statements means completed no sooner than 120  
8 days prior to the time it is submitted to the Bureau, and covering no less than the most recent  
9 complete fiscal year. If more than 8 months will have elapsed between the close of the most  
10 recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover no  
11 less than five months of that current fiscal year.”

12 FIRST CAUSE FOR DENIAL OF APPLICATION

(Financial Statements)

13 (Cal. Code Regs., title 5, §§ 71240, subd. (b) and 74115, subd. (d))

14 12. Respondent’s application is subject to denial because Respondent failed to include  
15 “current” financial statements with its application. (Cal. Code Regs., title 5, §§ 71240, subd. (b)  
16 and 74115, subd. (d)). In particular, with its application, Respondent provided reviewed financial  
17 statements on September 15, 2015, for the year ending in December 31, 2014. But more than  
18 eight months had elapsed between the time Respondent submitted these financial statements and  
19 the close of the most recent fiscal year (2014). Accordingly, the report should have included no  
20 less than five months of the current fiscal year (2015).

21 SECOND CAUSE FOR DENIAL OF APPLICATION

(Financial Resources)

22 (Cal. Code Regs., title 5, § 71745, subd. (a)(3), (4), (5), and (6))

23 13. Respondent’s application is subject to denial because the application does not  
24 demonstrate that Respondent has sufficient assets and financial resources to maintain the  
25 minimum standards required by applicable statutes and regulations; pay timely refunds as  
26 required by applicable statutes; pay all operating expenses due within 30 days; and maintain a  
27 ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent  
28 fiscal year when using generally accepted accounting principles. (Cal. Code Regs., title 5, §


1 71745, subd. (a)(3), (4), (5), and (6)). In particular, financial statements offered by Respondent  
2 read that Respondent's ratio of current assets to current liabilities is approximately 0.53 to 1.00.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Bureau for Private Postsecondary Education issue a decision:

- 6 1. Denying Respondent's Application for Renewal of Approval to Operate an Institution  
7 Non-Accredited (application number 22802); and  
8 2. Taking such other and further action as deemed necessary and proper.

9  
10  
11  
12 DATED: 10/23/15

  
13 JOANNE WENZEL  
14 Chief  
15 Bureau for Private Postsecondary Education  
16 Department of Consumer Affairs  
17 State of California  
18 *Complainant*

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