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7	BEFORE THE	
8	DEPARTMENT OF CONSUMER AFFAIRS FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION	
9	STATE OF CALIFORNIA	
10		]
11	In the Matter of the Statement of Issues Against:	Case No. 998641
12	CHONG SHIN UNIVERSITY; KEUN SOO	
13	KIM, Owner	STATEMENT OF ISSUES
14 15	Renewal Application for Approval to Operate an Institution Non Accredited Applicant	
16	Respondent.	
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20	Complainant alleges:	
21	<u>PARTIES</u>	
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, Department of	
24	Consumer Affairs.	
25	2. On or about July 23, 2010, the Bureau for Private Postsecondary Education received	
26	an Application for Renewal of Approval to Operate an Institution Non Accredited from Chong	
27	Shin University; Keun Soo Kim (Respondent). On or about July 23, 2010, Keun Soo Kim	
28	certified under penalty of perjury to the truthfulness of all statements, answers, and	

representations in the application. The Bureau issued a Notice of Denial of the application on September 21, 2012. On August 30, 2013 the Bureau issued an Addendum to the Notice of Denial.

### **JURISDICTION**

- 3. This Statement of Issues is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the authority of the following laws. All section references are to the California Education Code unless otherwise indicated.
  - 4. Business and Professions Code section 141 states:
- "(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.
- "(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."
  - 5. Business and Professions Code section 480 states:
- "(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- "(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license."
  - 6. Business and Professions Code section 22 defines Board as:
- "'Board', as used in any provision of this Code, refers to the Board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include

"bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency"."

# 7. Code section 94885<sup>1</sup> states:

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

- "(a) The content of each educational program can achieve its stated objective.
- "(b) The institution maintains specific written standards for student admissions for each educational program and those standards are related to the particular educational program.
- "(c) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program's goals.
  - "(d) The institution maintains a withdrawal policy and provides refunds.
  - "(e) The directors, administrators, and faculty are properly qualified.
- "(f) The institution is financially sound and capable of fulfilling its commitments to students.
- "(g) That, upon satisfactory completion of an educational program, the institution gives students a document signifying the degree or diploma awarded.
- "(h) Adequate records and standard transcripts are maintained and are available to students.
- "(i) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws.

#### 8. Code section 94886 states:

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

<sup>&</sup>lt;sup>1</sup> California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

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9. Code section 94887:

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

10. Code section 94897 subdivision (i) states:

"An institution shall not do any of the following:

- "(i) Use a name in any manner improperly implying any of the following:
- (1) The institution is affiliated with any government agency, public or private corporation, agency, or association if it is not, in fact, thus affiliated.
  - (2) The institution is a public institution.
  - (3) The institution grants degrees, if the institution does not grant degrees."
- 11. Code section 94909 provides minimum content requirements for the educational institution's catalog.
- 12. Code section 94911 provides the minimum requirements for the educational institution's enrollment agreement.

# REGULATORY PROVISIONS

- 13. California Code of Regulations, title 5, division 7.5, section 71100 states:
- "(a) An applicant seeking approval to operate pursuant to Section 94886 of the Code, other than Approval to Operate by Accreditation pursuant to Section 94890(a)(1) of the Code, shall complete the "Application for Approval to 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.
- "(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."
- 14. California Code of Regulations, title 5, division 7.5, section 71140, subdivision (c) states in part: "[t]he institution shall identify the chief executive officer, chief operating officer, and chief academic officer and describe their education, experience, and qualifications to perform their duties and responsibilities."
- 15. California Code of Regulations, title 5, division 7.5, section 71170 states: "The institution shall describe in detail its mission and objectives."
  - 16. California Code of Regulations, title 5, division 7.5, section 71210 states:
- "(a) The institution shall identify and describe the educational program it offers, or proposes to offer. If the educational program is a degree program, the institution shall identify the full title which it will place on each degree awarded.
- "(b) In addition to the general title, such as "Bachelor of Arts" or "Master of Science," each degree title shall include the name of a specific major field of learning involved.
- "(c) In addition, the institution shall list the following for each educational program offered:
  - "(5) The method of instruction;
  - "(6) The graduation requirements"
  - ....??
- 17. California Code of Regulations, title 5, division 7.5, section 71865 subdivision (b) states:
- "(b) A professional Doctoral degree may only be awarded to a student who has completed a prescribed level of study normally requiring a minimum of three academic years of full-time graduate study or the equivalent in part-time study; or, if the program leads to a profession or occupation requiring state licensure, which satisfies the requirements of the state agency. The degree shall include the name of the field in which it is offered (e.g., Juris Doctor or Doctor of Music).

18. California Code of Regulations, title 5, division 7.5, section 71300 states:

"The institution shall submit a copy of the document that is awarded to a graduating student upon successful completion of each educational program."

- 19. California Code of Regulations, title 5, division 7.5, section 71310 states:
- "(a) The Form Application 94886 shall contain a description of how records required by Article 9 of the Act or this chapter are or will be organized and maintained, the types of documents contained in student files, how the records are stored, and whether academic and financial records are maintained in separate files. The description shall include a statement of the institution's procedures for security and safekeeping of records.
- (b) The description shall include the name, physical address, email address, and telephone number of the custodian of records, and the physical addresses and telephone numbers of the offices or buildings where the records will be maintained."
  - 20. California Code of Regulations, title 5, division 7.5, section 71320 states:

"The Form Application 94886 shall contain a description of the procedures used by the institution to assure that it is maintained and operated in compliance with the Act and this Division."

- 21. California Code of Regulations, title 5, division 7.5, section 71760 states:
- "Each institution shall develop and maintain adequate procedures used by the institution to assure that it is maintained and operated in compliance with the Act and this Division."
  - 22. California Code of Regulations, title 5, division 7.5, section 71770 states:
- "(a) The institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program. In addition to any specific standards for an educational program, the admissions standards must specify as applicable that:
- "(1) Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant examination as required by section 94904 of the Code."

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"(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) Except as limited by subdivision (c) of this section, a maximum of 75 percent of the units or credit that may be applied toward the award of a bachelor's degree may be derived from a combination of any or both of the following:

"(A) Units earned at institutions approved by the Bureau, public or private institutions of higher learning accredited by an accrediting association recognized by the U.S. Department of Education, or any institution of higher learning, including foreign institutions, if the institution offering the undergraduate program documents that the institution of higher learning at which the units were earned offers degree programs equivalent to degree programs proved by the Bureau or accredited by an accrediting association recognized by the U.S. Department of Education;"

"(B) Challenge examinations and standardized tests such as the College Level Placement Tests (CLEP) for specific academic disciplines."

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

"(3) No more than 30 graduate semester credits or its equivalent awarded by another institution may be credited toward a doctoral degree. This subdivision does not apply to graduate programs that lead to a profession or an occupation requiring state licensure where the licensing agency has a regulation permitting a different standard.

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23. California Code of Regulations, title 5, division 7.5, section 71710 states:

"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:

25. California Code of Regulations, title 5, division 7.5, section 71230 states:

"If the institution offers an educational program, or a portion of it, in a language other than English, the Form Application 94886 shall contain a description of all of the following for each educational program or portion thereof."

- "(a) The language in which each educational program will be offered."
- "(b) A statement that the institution has contracted with sufficient duly qualified faculty who will teach each language group of students."
- "(c) The language of the textbooks and other written materials to be used by each language group of students."
  - 26. California Code of Regulations, title 5, division 7.5, section 71850 states:

"Graduation requirements for an undergraduate degree program shall meet minimum credit requirements and shall include provisions for general education appropriate to the level and type of degree. The institution shall specify the distribution of general education credit requirements by subject area for each undergraduate degree program.

"(a) A Bachelor's degree may be awarded to a student whom the institution can document has achieved sequential learning equivalent in general education and equivalent in depth of achievement in a designated major field to that acquired in four years of study beyond high school, as measured by a minimum of 120 semester credits or its equivalent. At least 25 percent of the credit requirements for a Bachelor's degree shall be in general education."

- 27. California Code of Regulations, title 5, division 7.5, section 71865 subdivision (a) states:
- "(a) A Master's degree may only be awarded to a student who demonstrates at least the achievement of learning in a designated major field that is equivalent in depth to that normally acquired in a minimum of 30 semester credits or its equivalent or one year of study beyond the Bachelor's degree."

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- "(4) The faculty shall have sufficient expertise to support the institution's awarding of a degree identifying a specialty or major field of emphasis, demonstrated by, at a minimum:
  - "(A) That the person possesses one of the following:
- 1. a degree from: an institution approved by the Bureau or previously approved by a predecessor agency of the Bureau; or an accredited institution in the United States or Canada; or other state approved institution that documents that the institution at which the faculty member earned his or her degree is equivalent to an institution that is approved by the Bureau; or an institution outside the United States or Canada and in addition provides a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services(NACES).
  - 2. a credential generally recognized in the field of instruction.
- "(B) The degree, professional license, or credential possessed by the person shall be at least equivalent to the level of instruction being taught or evaluated;
- "(5) The institution's faculty as a whole shall possess a diverse educational background which shall be demonstrated in part by earned degrees from a variety of colleges and universities or by credentials generally recognized in the field of instruction;
- "(6) When contracting for educational services, the institution shall maintain control of, and responsibility for, all academic matters, and shall assure that the instruction and faculty satisfy the standards established by the Act and this chapter;
- "(7) The institution shall not employ or continue to employ any faculty who were adjudicated in a judicial or administrative proceeding as having violated any provision of the Act or this chapter or as having committed any act that would constitute grounds for the denial of a license under Section 480 of the Business and Professions Code;
- "(8) Each institution shall have a written Academic Freedom Policy which describes the latitude the institution allows faculty in the classroom so faculty will not inadvertently violate the principles of academic freedom. These policies shall be made available to any person upon request. The institution shall not take adverse action based on a staff member's exercise of academic freedom consistent with the institution's policy; and

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

- "(b) Instructors in an Educational Program Not Leading to a Degree.
- "(1) An institution shall employ instructors who possess the academic, experiential and professional qualifications to teach, including a minimum of three years of experience, education and training in current practices of the subject area they are teaching. If an instructor does not possess the required three years of experience, education and training in the subject area they are teaching, the institution shall document the qualifications the instructor possesses that are equivalent to the minimum qualifications.
- "(2) Each instructor shall maintain their knowledge by completing continuing education courses in his or her subject area, classroom management or other courses related to teaching.
- "(3) The institution shall not employ or continue to employ an instructor who was adjudicated in a judicial or administrative proceeding as having violated any provision of the Act or this chapter, or as having committed any act that would constitute grounds for the denial of a license under Section 480 of the Business and Professions Code."

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29. California Code of Regulations, title 5, division 7.5, section 71260 subdivision (b) states:

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"(b) For facilities that are leased or rented, the Form Application 94886 shall contain the name and address of the lessor or landlord, together with a copy of any use, lease, or rental agreements or the facilities."

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### **CAUSE FOR DENIAL OF APPLICATION**

## (Incomplete Application)

- 30. Respondent's application is subject to denial under Business and Professions Code sections 480, subdivision (a)(3)(A), Education Code section 94887 and California Code of Regulations, title 5, division 7.5, section 71100, in that Respondent submitted an incomplete application to the Bureau. Each violation is a sole and separate cause for denial. The violations are as follows:
- a. <u>No Authority to Operate.</u> On or about July 10, 2013, Respondent was adverting the institution as a multiple degree granting institution, in violation of the California Education Code (CEC) section 94886 as the institution does not have approval to operate and is prohibited from offering Educational Programs to the public, which includes advertising, publicizing, soliciting and recruiting.
- b. <u>Minimum Operating Standards</u>. Respondent failed to provide evidence that the institution has the capacity to meet the minimum operating standards as follows:
- 1. Respondent failed to submit a current organization chart and description of job duties and responsibilities, as well as current resumes for the Chief Executive Officer, Chief Operating Officer and Chief Academic Officer in violation of title 5, division 7.5 of the California Code of Regulations (CCR), section 71140 subdivisions (a) through (c).
- 2. Respondent failed to provide a comprehensive "Mission and Objectives" in the application. This is a violation of CCR section 71170.
- 3. In response to section 12, part 5 of the application, the Respondent failed to indicate the method of instruction for all programs in violation of CCR section 71210 subdivision (c)(5).
- 4. The Respondent failed to state the graduation requirements for each of the educational programs, nor did it specify whether any of the programs require a comprehensive examination or research paper in order to graduate. This is a violation of CCR section 71210 subdivision (c)(6).

- 5. The Respondent's graduation requirements for the Doctorate of Ministry is only two years, in violation with CCR section 71865 subdivision (b), which requires a minimum of three academic years of full time graduate study or its equivalent part time study.
- 6. The Respondent failed to provide a copy of the document awarded to graduating students upon completion of each educational program. Specifically, the Respondent submitted three (3) documents, which do not represent each of the six (6) proposed educational programs offered and the degree titles on the submitted documents do not correspond with the title of the education program. This is a violation of CCR section 71300.
- 7. The Respondent failed to adequately describe how the institution will organize and maintain all required documentation for each student file in violation of CCR section 71310 subdivision (a), which requires a description of how student files will be maintained safely and securely.
- 8. The Respondent failed to indicate which United States Department of Education approved "Ability-To-Benefit" (ATB) test will be used to admit students that do not have a high school diploma or its equivalent, nor did it submit a written procedure and required passing score for the ATB test. This is a violation of CCR section 71770 subdivision (a)(1) and Code section 94904.
- 9. The Respondent failed to adequately describe each educational program in violation of CCR sections 71220 subdivision (a) and 71710.
- 10. The Respondent failed to 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. This is a violation of CCR section 71770 subdivision (b)(1)(A-B), (2) and (3).
- 11. The Respondent failed to provide a description of the learning skills and other competencies to be acquired by students who complete the educational program. This is a violation of CCR section 71220 subdivision (e).
- 12. The Respondent failed to provide an adequate response to section 14 of the application relating to the language of instruction it will be using, including the use of all text books and other written materials. The Respondent further failed to provide a list of duly

qualified faculty who will provide instruction in the Korean language. These are violations of CCR section 71230 subdivisions (a) through (c).

- 13. The Respondent failed to provide sufficient documentation that it has developed syllabi for the Bachelor, Master and Doctorate programs in violation of CCR section 71710 subdivisions (c) through (f).
- 14. The respondent failed to provide an adequate description of the level of rigor for each educational program offered in violation of CCR sections 71850 subdivision (a) and 71865 subdivision (a).
- 15. The Respondent failed to provide adequate evidence of duly qualified faculty in violation of CCR 71720 subdivisions (a)(4)(A) and (b).
- 16. The Respondent failed to provide copies of faculty contracts so as to evidence actual employment by the institution. This is a violation of CCR 71720 subdivision (a).
- 17. The Respondent failed to provide sufficient evidence to determine whether the six (6) level "PRO LINGO ENGLISH" course outline written by M.C. Hagen will be used for the Intensive English Program, nor was a list of qualified faculty provided for instruction at each of the six (6) levels. This is a violation of CCR section 71720 subdivision (b)(1) through (3).
- 18. The Respondent failed to provide a written policy and procedure covering the participation of duly qualified faculty in conducting research, development of curricula, academic planning, enforcement standards of academic quality, and pursuit of academic matters related to the institution's mission and objections. This is a violation of CCR section 71720 subdivision (a)(2).
- 19. The Respondent failed to provide an updated lease agreement in violation of CCR section 71260 subdivision (b).
- c. <u>Improper Use of Acronym.</u> Respondent is improperly using the acronym "CSU" in its mission statement and on website in violation of CEC section 94897, subdivision (i)(2) as it implies the institution is affiliated with the California State University, a public educational system.