1 2 3 4 5 6 7 8	DEPARTMENT OF C	RE THE CONSUMER AFFAIRS
10		E POSTSECONDARY EDUCATION CALIFORNIA
11		
12	In the Matter of the Statement of Issues	Case No. 999520
13	Against:	Cust 140. 777320
14	ADVANCE ENGLISH ACADEMY, ZACHARY B. CAPTAIN, OWNER	STATEMENT OF ISSUES
15	Institution Code No. 44933240 Satellite School Code No. 78865090	
16		
17	Respondent.	
18		
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 January 10, 2012, the Bureau for Private Postsecondary Education	
25	(Bureau) received an Application for Renewal of Approval to Operate an Institution Non-	
26	Accredited from Advance English Academy, Zachary B. Captain, Owner (Respondent). On or	
27	about July 15, 2013, the Bureau issued Respondent a letter explaining the deficiencies in its	
28	application.	1 .

- 3. On or about August 15, 2013, Respondent emailed the Bureau asking for additional time to submit documentation in support of its application. On or about September 23, 2013, Respondent sent the Bureau a written response to its July 15, 2013 deficiency letter, which included additional and supplemental documents in support of Respondent's application.
- 4. On or about September 25, 2013, the Bureau issued a second deficiency letter. On or about October 28, 2013, Respondent sent the Bureau a written response to the second deficiency letter, including additional and supplemental documents in support of Respondent's application. This response included a statement from Zachary B. Captain, dated October 7, 2013, certifying under penalty of perjury the truthfulness of all statements, answers, and representations in the application.
- 5. On or about February 20, 2014, the Bureau issued Respondent a formal Notice of Denial of Application for Renewal of Approval to Operate an Institution Non-Accredited.

JURISDICTION

6. 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 Education Code unless otherwise indicated.

STATUTORY PROVISIONS

7. Section 94886 of the Code 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."

8. Section 94887 of the Code states:

"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

other payer, and you have no separate agreemen	nt to repay the third party.'
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1	(b) In addition to the statement described under subdivision (a) of this section, a qualifying		
2	institution shall include the following statement on its current schedule of student charges:		
3	institution share morage the following statement on its current schedule of statement charges.		
4	You may be eligible for STRF if you are a California resident or are enrolled in a residency		
5	program, prepaid tuition, paid the STRF assessment, and suffered an economic loss as a result of		
6	any of the following:		
7			
8	4. There was a material failure to comply with the Act or this Division within 30 days		
9	before the school closed or, if the material failure began earlier than 30 days prior to closure, the		
10	period determined by the Bureau.		
11	CALICES FOR PENIAL OF A DRIVEN		
12	CAUSES FOR DENIAL OF APPLICATION		
13	FIRST CAUSE FOR DENIAL OF APPLICATION (Noncompliance with Minimum Operating Standards; Financial Resources)		
14	(Educ. Code §§ 94887 and 94891, subd. (b), and Cal. Code Regs., title 5, §§ 71700; 71745, subd. (a)(6); and 74115, subd. (b)(3))		
15	18. Respondent's application is subject to denial because it fails to document that		
16	Respondent has sufficient assets and financial resources to maintain a ratio of current assets to		
17	current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal year. (Educ. Code		
18	§§ 94887 and 94891, subd. (b), and Cal. Code Regs., title 5, §§ 71700; 71745, subd. (a)(6); and		
19	74115, subd. (b)(3)).		
20	19. In particular, Respondent submitted an application indicating its ratio of current assets		
21	to current liabilities is 0.66. This ratio of current assets to current liabilities is below that required		
22	by applicable statutes and California regulations.		
23	SECOND CAUSE FOR DENIAL OF APPLICATION		
24	(Noncompliance with Minimum Operating Standards; Access to School Catalog) (Educ. Code §§ 94887; 94891, subd. (b); and 94909, subd. (a))		
25	20. Respondent's application is subject to denial because it fails to comply with		
26	California law requiring a method for prospective students to access school catalogs. (Educ.		
27	Code §§ 94887; 94891, subd. (b); and 94909, subd. (a)).		
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finding housing, the catalog contain a clear and conspicuous statement so indicating...." The

statement in Respondent's proposed catalog indicating that the institution is "non-residential" is not clear and conspicuous, and Respondent did not make this statement conspicuous using bold, capitalized, or underlined font.

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Noncompliance with Minimum Operating Standards; Format of Enrollment Agreement) (Educ. Code §§ 94887; 94891, subd. (b); and 94911, subd. (c))

- 27. Respondent's application is subject to denial because the proposed enrollment agreement fails to comply with California law. (Educ. Code §§ 94887; 94891, subd. (b); and 94911, subd. (c)).
- 28. In particular, Section 94911, subdivision (c) requires that an enrollment agreement contain, in underlined capital letters, on the same page as the student signature block, the following information: the total charges for the current period of attendance, the estimated total charges for the entire educational program, and the total charges the student is obligated to pay upon enrollment. Respondent's proposed enrollment agreement contains this information on a page other than the page containing the student signature block.

SIXTH CAUSE FOR DENIAL OF APPLICATION

(Noncompliance with Minimum Operating Standards; Content of Enrollment Agreement) (Educ. Code §§ 94887 and 94891, subd. (b), and Cal. Code Regs., title 5, §§ 71700 and 76215, subds. (a) and (b))

- 29. Respondent's application is subject to denial because the proposed enrollment agreement fails to comply with California law. (Educ. Code §§ 94887 and 94891, subd. (b), and Cal. Code Regs., title 5, §§ 71700 and 76215, subds. (a) and (b)).
- 30. In particular, Respondent's proposed enrollment agreement contains language similar to but different from that specifically required in California Code of Regulations, title 5, section 76125, subdivisions (a) and (b). Respondent's proposed enrollment agreement reads in relevant part: "You may be eligible for STRF if you are a California resident or are enrolled in a residency program, prepaid tuition, paid STRF assessment" California law requires that this statement read: "You may be eligible for STRF if you are a California resident or are enrolled in a residency program, prepaid tuition, paid <u>the STRF</u> assessment" (Cal. Code Regs., title 5, §