

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 LESLIE A. WALDEN
Deputy Attorney General
4 State Bar No. 196882
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-3465
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Statement of Issues
Against:

Case No. 997878

12 **PRESTON UNIVERSITY, CA LLC**
13 ABDUL BASIT, President
ABDUL HAMID
14 MUNAZZA BASIT, and
JERRY HAENISCH
15

STATEMENT OF ISSUES

16 3701 Wilshire Blvd, Suite 220
Los Angeles, CA 90010

17 Application for Approval to Operate a Non-
Accredited Institution
18

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

- 22 1. Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official
23 capacity as the Deputy Bureau Chief of the Bureau for Private Postsecondary Education,
24 Department of Consumer Affairs (Bureau).
- 25 2. On or about July 28, 2010, the Bureau received an Application for Approval to
26 Operate as an Institution Not Accredited from Preston University, CA LLC; Abdul Basit, Abdul
27 Hamid, Munazza Basit and Jerry Haenisch (Respondent). On or about July 8, 2010, Abdul Basit,
28 Abdul Hamid, Munazza Basit and Jerry Haenisch certified under penalty of perjury to the

1 truthfulness of all statements, answers and representations in the application. The Bureau denied
2 the application on December 9, 2011.

3 **JURISDICTION**

4 3. This Statement of Issues is brought before the Director of Consumer Affairs
5 (Director) for the Bureau under the authority of the following laws.

6 **STATUTORY PROVISIONS**

7 4. Business and Professions Code section 477 as used in this division provides in
8 pertinent part:

9 (a) "Board" includes "bureau" . . .

10 (b) "License" includes certificate, registration or other means to engage in a business
11 or profession regulated by this code.

12 5. Business and Professions Code section 141 states, in pertinent part:

13 "(a) For any licensee holding a license issued by a board under the jurisdiction of the
14 department, a disciplinary action taken by another state, by any agency of the federal government,
15 or by another country for any act substantially related to the practice regulated by the California
16 license, may be a ground for disciplinary action by the respective state licensing board. A
17 certified copy of the record of the disciplinary action taken against the licensee by another state,
18 an agency of the federal government, or another country shall be conclusive evidence of the
19 events related therein. . . ."

20 6. Business and Professions Code section 480 states, in pertinent part:

21 "(a) A board may deny a license regulated by this code on the grounds that the applicant
22 has one of the following:

23
24 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
25 would be grounds for suspension or revocation of license.

26 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
27 substantially related to the qualifications, functions, or duties of the business or profession for
28 which application is made. . . ."

1 7. Education Code section 94885¹ states:

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

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

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

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

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

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

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

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

15 “(h) Adequate records and standard transcripts are maintained and are available to
16 students.

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

19 8. Education Code section 94886 states:

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 9. Education Code section 94887:

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

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

1 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
2 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
3 for an approval to operate if the application does not satisfy those standards.”

4 10. Education Code section 94909 provides minimum content requirements for the
5 educational institution’s catalog and brochures.

6 11. Education Code section 94911 provides the minimum requirements for the
7 educational institution’s enrollment agreement.

8 **REGULATORY PROVISIONS**

9 12. California Code of Regulations, title 5, division 7.5, section 71100 states:

10 “(a) An applicant seeking approval to operate pursuant to Section 94886 of the Code,
11 other than Approval to Operate by Accreditation pursuant to Section 94890(a)(1) of the Code,
12 shall complete the "Application for Approval to Operate for an Institution Not Accredited," Form
13 Application 94886 (rev. 2/10). An applicant seeking approval to operate by accreditation pursuant
14 to Section 94890(a)(1) of the Code shall comply with section 71390.

15 “(b) An applicant shall submit the completed form, the information or documentation,
16 required by this Article, the appropriate application fee as provided in Section 94930.5(a)(1) of
17 the Code, and any appropriate annual fee as required by Article 1 of Chapter 5 of this Division, to
18 the Bureau.

19 “(c) An application that fails to contain all of the information required by this article shall
20 render it incomplete.š’

21 13. California Code of Regulations, title 5, division 7.5, section 71130 states, in pertinent
22 part:

23 “

24 “(c) The institution shall provide a statement from any person identified in subdivision (a)
25 of this section who --

26 “(1) Was found in any judicial or administrative proceeding to have violated the Act or the
27 law of any other state related to untrue or misleading advertising, the solicitation of prospective
28 students for enrollment in an educational service, or the operation of a postsecondary school; .s.i.”

1 14. California Code of Regulations, title 5, division 7.5, section 71140, subdivision (c)
2 states that “[t]he institution shall identify the chief executive officer, chief operating officer, and
3 chief academic officer and describe their education, experience, and qualifications to perform
4 their duties and responsibilities.”

5 15. California Code of Regulations, title 5, division 7.5, section 71180 states that “[t]he
6 institution shall include, with its Form Application 94886, exemplars of all student enrollment
7 agreements and instruments of indebtedness.”

8 16. California Code of Regulations, title 5, division 7.5, section 71210 states:

9 “(a) The institution shall identify and describe the educational program it offers, or
10 proposes to offer. If the educational program is a degree program, the institution shall identify the
11 full title which it will place on each degree awarded.

12 “(b) In addition to the general title, such as "Bachelor of Arts" or "Master of Science,"
13 each degree title shall include the name of a specific major field of learning involved.

14 “(c) In addition, the institution shall list the following for each educational program
15 offered:

16 “(1) The admissions requirements, including minimum levels of prior education,
17 preparation, or training;

18 “(2) If applicable, information regarding the ability-to-benefit examination as required by
19 section 94904 of the Code;

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

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

24 “(5) The method of instruction;

25 “(6) The graduation requirements; and

26 “(7) Whether the educational program is designed to fit or prepare students for
27 employment in any occupation. If so, the Form Application 94886 shall identify each occupation
28 and job title to which the institution represents the educational program will lead.”

1 17. California Code of Regulations, title 5, division 7.5, section 71220 states:

2 "For each educational program that the institution offers or proposes to offer, the Form
3 Application 94886 shall contain a statement that the educational program meets the requirements
4 of section 71710, as well as the following:

5 "(a) A description of the educational program.

6 "(b) A description of the equipment to be used during the educational program.

7 "(c) A description of the number and qualifications of the faculty needed to teach the
8 educational program.

9 "(d) A projection, and the bases for the projection, of the number of students that the
10 institution plans to enroll in the educational program during each of the three years following the
11 date the Form Application 94886 was submitted.

12 "(e) A description of the learning, skills, and other competencies to be acquired by
13 students who complete the educational program.

14 "(f) If licensure is a goal of an educational program, a copy of the approval from the
15 appropriate licensing agency if required. A copy of the intent to approve conditioned solely upon
16 institutional approval from the Bureau will also meet this requirement.

17 "Upon request, the institution shall provide to the Bureau copies of the curriculum or
18 syllabi required pursuant to section 71710."

19 18. California Code of Regulations, title 5, division 7.5, section 71250 states that "[t]he
20 Form Application 94886 shall include a statement that the institution has contracted with
21 sufficient duly qualified faculty members who meet the qualifications of section 71720."

22 19. California Code of Regulations, title 5, division 7.5, section 71270 states:

23 "The Form Application 94886 shall include a description of library holdings, services, and
24 other learning resources, including policies and procedures for supplying them to students who do
25 not receive classroom instruction. The description need not consist of a list of each holding. The
26 description shall include an explanation of how the library and other learning resources are
27 sufficient to support the instructional needs of students and, if no facilities exist at the institution,
28 how and when students may obtain access to a library and other learning resources as required by

1 the curriculum.”

2 20. California Code of Regulations, title 5, division 7.5, section 71340, subdivision (a),
3 states:

4 “The institution shall include in the Form Application 94886 any material facts, which have
5 not otherwise been disclosed in the Form Application 94886 that without inclusion would cause
6 the information in the Form Application 94866 to be false, misleading or incomplete or that might
7 reasonably affect the Bureau's decision to grant an approval to operate. In this context, a fact
8 would be "material" if it would alter the Bureau's determination concerning the institution's
9 ability to comply with any applicable provisions of the Act.”

10 21. California Code of Regulations, title 5, division 7.5, section 71720 states, in pertinent
11 part:

12 “(a) An Educational Program Leading to a Degree.

13
14 “(4) The faculty shall have sufficient expertise to support the institution's awarding of a
15 degree identifying a specialty or major field of emphasis, demonstrated by, at a minimum:

16 “(A) That the person possesses one of the following:

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

24 “2. a credential generally recognized in the field of instruction.

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

27 22. California Code of Regulations, title 5, division 7.5, section 71740 states:

28 “(a) A degree granting institution shall make available for student use a library and other

1 learning resources.

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

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

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

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

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

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

18 “(4) Document compliance with paragraphs (1), (2), and (3).”

19 23. California Code of Regulations, title 5, division 7.5, section 71745, subdivision (a)
20 states:

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

23

24 “(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the
25 end of the most recent fiscal year when using generally accepted accounting principles, .s. .”

26 24. California Code of Regulations, title 5, division 7.5, section 71800 provides the
27 minimal information required within the enrollment agreement in addition to the requirements of
28 section 94911.

1 25. California Code of Regulations, title 5, division 7.5, section 71810 provides minimum
2 content requirements for the school's catalog pursuant to Education Code section 94909.

3 26. California Code of Regulations, title 5, division 7.5, section 71930, subdivision (b)(1)
4 states that "[i]n addition to permanently retaining a transcript as required by section 94900(b) of
5 the Code, the institution shall maintain for a period of 5 years the pertinent student records
6 described in Section 71920 from the student's date of completion or withdrawal."

7 CAUSES FOR DENIAL OF APPLICATION

8 (Incomplete Application)

9 27. Respondent's application is subject to denial under Business and Professions Code
10 sections 480, subdivision (a)(3)(A), Education Code section 94887 and California Code of
11 Regulations, title 5, division 7.5, section 71100, subdivisions (a)- (c), in that on or about July 28,
12 2010, Respondent submitted an incomplete application to the Bureau. Each violation is a sole and
13 separate cause for denial. The violations are as follows:

14 a. Incorrect Application Form. Respondent failed to submit to the Bureau Form
15 Application 94886 (rev. 2/10) or updated Form Application 94886 (rev. 7/10), violating
16 California Code of Regulations, title 5, division 7.5, section 71100, subdivisions (a)- (c).

17 b. Corporate Bylaws. Respondent's bylaws fail to be executed by the proper members
18 of the corporation, violating California Code of Regulations, title 5, division 7.5, section 71100,
19 subdivisions (a)- (c).

20 c. Institution Ownership and Control, Violations of Law. Respondent failed to provide
21 the Bureau with pertinent information regarding it being issued two (2) "cease and desist" orders
22 from other states, Wyoming and Alabama, violating California Code of Regulations, title 5,
23 division 7.5, section 71130, subdivision (c)(1).

24 i. On or about March 22, 2007, Wyoming Department of Education sent
25 correspondence to Respondent acknowledging that "[Respondent] is voluntarily closing on March
26 31, 2007 and will no longer operate as a private post-secondary degree granting institution in
27 Wyoming." Thereafter, on or about July 20, 2009, the Wyoming Office of the Attorney General
28 issued to Respondent a "Notice to Cease and Desist Operation in Wyoming".

1 ii. On or about February 6, 2009, the Alabama Department of Postsecondary
2 Education notified Respondent that their Private School License renewal application had been
3 denied, and to “cease and desist all operations in Alabama.”

4 d. Organization and Management. Respondent failed to properly disclose and/or
5 clearly identify the Chief Operating Officer (COO) and Chief Academic Officer (CAO), violating
6 California Code of Regulations, title 5, division 7.5, section 71140, subdivision (c).

7 e. Exemplars of Student Agreements. Respondent failed to provide an Enrollment
8 Agreement that met the minimum requirements pursuant to Education Code section 94911 and
9 California Code of Regulations, title 5, division 7.5, section 71800.s

10 f. Instruction and Degrees Offered. Respondent failed to provide supporting
11 documentation as required by number 12 of the Form Application 94886 for each educational
12 program being offered by the institution, violating California Code of Regulations, title 5,
13 division 7.5, section 71210, subdivisions (a)s- (c).

14 g. Description of Each Educational Program. Respondent failed to provide supporting
15 documentation as required by number 13 of the Form Application 94886 for each educational
16 program being offered by the institution, violating California Code of Regulations, title 5,
17 division 7.5, section 71220, subdivisions (a)s- (f).

18 h. Financial Resources and Statements. Respondent failed to provide financial
19 statements sufficient for the Bureau’s evaluation and/or to demonstrate that the institution is able
20 to maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater, violating
21 California Code of Regulations, title 5, division 7.5, section 71745, subdivision (a)(6).

22 i. Page 8 of the financial statements, Report on Internal Control Over Financial
23 Reporting: the independent auditor’s report noted material weaknesses in the Respondent’s
24 internal control procedures.

25 ii. Page 9 states: “The report is intended solely for the information and use of
26 management and the Alabama Department of Postsecondary Education and is not intended to be
27 and should not be used by anyone other than these specified parties.”
28

1 i. Faculty Information. Respondent failed to provide documentation sufficient to verify
2 the qualification of each faculty member and/or demonstrate that it has hired sufficient and duly
3 qualified staff to teach the educational programs being offered by the institution, violating
4 California Code of Regulations, title 5, division 7.5, sections 71250 and 71720.

5 j. Libraries and Other Learning Resources. Respondent failed to provide an on-site
6 library, relying on other sources as their library, violating California Code of Regulations, title 5,
7 division 7.5, sections 71270 and 71740, subdivision (d).

8 k. Catalog. Respondent failed to have their catalog meet the minimum requirements,
9 violating Education Code section 94909, and California Code of Regulations, title 5, division 7.5,
10 section 71810.

11 l. Recordkeeping. Respondent failed to provide their policy for student record
12 retentions on-site and the retaining period for student transcripts, violating California Code of
13 Regulations, title 5, division 7.5, section 71930, subdivision (b)(1).

14 m. Misleading Additional Information. Respondent failed to accurately clarify and
15 inform the Bureau of the facts leading to its transition to California from Wyoming and Alabama,
16 and provided misleading and inaccurate information regarding it being issued "cease and desist
17 orders" from Alabama, in February 2009, and Wyoming, in July 2009, and its voluntary closing
18 in Wyoming, in March 2007, violating California Code of Regulations, title 5, division 7.5,
19 section 71340, subdivision (a).

20
21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Director issue a decision:

24 1. Denying Preston University, CA LLC's Application for Approval to Operate for an
25 Institution Not Accredited;

26
27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: 5/1/2012

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

LA2012602476
4/10/2012dmm
51092429.doc