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

12  
13 In the Matter of the Accusation Against:

Case No. 1004198

14 **COMPUTER INSTITUTE OF**  
15 **TECHNOLOGY; RENE AGUERO,**  
16 **OWNER**  
6444 Bellingham Avenue, Suite 201, 202  
North Hollywood, CA 91605

**ACCUSATION**

17 **Institution Code No. 1936371**

18 Respondent.  
19

20  
21  
22 Complainant alleges:

23 **PARTIES**

24 1. Dr. Michael Marion, Jr. (Complainant) brings this Accusation solely in his official  
25 capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of  
26 Consumer Affairs.

27 2. On or about February 6, 1998, the Bureau issued Approval to Operate Number  
28 1936371 to Computer Institute of Technology, Rene Aguero (Respondent). The Approval to

1 Operate was in full force and effect at all times relevant to the charges brought herein and an  
2 application for Renewal of Approval to Operate a Non-Accredited Institution is currently  
3 pending.

4 **JURISDICTION**

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

8 **STATUTORY PROVISIONS<sup>1</sup>**

9 4. Section 94937, subdivision (a)(1) of the Code states:

10 “(a) As a consequence of an investigation, which may incorporate any materials obtained or  
11 produced in connection with a compliance inspection, and upon a finding that an institution has  
12 committed a violation, the bureau may place an institution on probation or may suspend or revoke  
13 an institution's approval to operate for:

14 (1) Obtaining an approval to operate by fraud.

15 ...”

16 5. Section 94877 of the Code states:

17 “(a) The bureau shall adopt and shall enforce regulations to implement this chapter  
18 pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
19 Part 1 of Division 3 of Title 2 of the Government Code ).

20 (b) The bureau shall develop and implement an enforcement program, pursuant to Article  
21 18 (commencing with Section 94932 ) to implement this chapter. The enforcement program  
22 shall include a plan for investigating complaints filed with the bureau. The bureau shall contract  
23 with the office of the Attorney General, or other appropriate state agency, to establish a process  
24 for the bureau's staff to be trained to investigate complaints, including, but not limited to, the  
25 information, evidence, and materials needed to process complaints.

26  
27 \_\_\_\_\_  
28 <sup>1</sup> On October 11, 2009, the California Private Postsecondary Education Act of 2009 was  
signed into law. (Educ. Code §§ 94800, et seq.) The Act was recently amended, effective January  
1, 2019.

1 (c) The bureau shall institute training to ensure that its staff are equipped to review and  
2 verify the accuracy of the data contained in consumer disclosures, including, but not limited to,  
3 the School Performance Fact Sheet.

4 (d) The bureau shall establish a program to proactively identify unlicensed institutions,  
5 identify material or repeated violations of this chapter and regulations implementing this chapter,  
6 and take all appropriate legal action.”

7 6. Section 94932 states:

8 “The bureau shall determine an institution’s compliance with the requirements of this  
9 chapter. The bureau shall have the power to require reports that institutions shall file with the  
10 bureau in addition to the annual report, to send staff to an institution’s sites, and to require  
11 documents and responses from an institution to monitor compliance. When the bureau has reason  
12 to believe that an institution may be out of compliance, it shall conduct an investigation of the  
13 institution. If the bureau determines, after completing an investigation, that an institution has  
14 violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this  
15 article.”

16 7. Section 94897 of the Education Code states in relevant part:

17 “An institution shall not do any of the following:

18 ...

19 (j) In any manner make an untrue or misleading change in, or untrue or misleading  
20 statement related to, a test score, grade or record of grades, attendance record, record  
21 indicating student completion, placement, employment, salaries, or financial information,  
22 including any of the following:

23 ...

24 (3) Any other record or document required by this chapter or by the bureau.”

25 ///

26 ///

27 ///

28 ///

1           8.     Section 94930.5 states in relevant part:

2           “Subject to Section 94930 , an institution shall remit to the bureau for deposit in the Private  
3 Postsecondary Education Administration Fund the following fees, in accordance with the  
4 following schedule:

5           ...

6           (d)(1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c),  
7 inclusive, each institution that is approved to operate pursuant to this chapter shall remit both of  
8 the following:

9                   (A) An annual fee for each campus designated by the institution as a main campus  
10 location in California, in an amount equal to 0.45 percent of the campus' total gross revenue  
11 derived from students in California, but not to be less than two thousand five hundred dollars  
12 (\$2,500) and not to exceed sixty thousand dollars (\$60,000).

13                   (B) An annual campus fee for each branch of the institution in an amount equal to  
14 0.45 percent of the branch's total gross revenue derived from students in California, but not to be  
15 less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars  
16 (\$60,000).”

17           9.     Section 94934 states, in part:

18           “(a) As part of the compliance program, an institution shall submit an annual report to the  
19 bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year,  
20 or another date designated by the bureau, and it shall include the following information for  
21 educational programs offered in the reporting period:

22                   (1) The total number of students enrolled by level of degree or for a diploma.

23                   (2) The number of degrees, by level, and diplomas awarded.

24                   (3) The degree levels and diplomas offered.

25                   (4) The Student Performance Fact Sheet, as required pursuant to Section 94910 .

26                   (5) The school catalog, as required pursuant to Section 94909 .

27                   (6) The total charges for each educational program by period of attendance.

28



1 (7) A statement indicating whether the institution is, or is not, current in remitting  
2 Student Tuition Recovery Fund assessments.

3 (8) A statement indicating whether an accrediting agency has taken any final  
4 disciplinary action against the institution.

5 (9) Additional information deemed by the bureau to be reasonably required to  
6 ascertain compliance with this chapter.

7 ...”

8 10. Section 94893 states:

9 “If an institution intends to make a substantive change to its approval to operate, the  
10 institution shall receive prior authorization from the bureau. Except as provided in subdivision  
11 (a) of Section 94896 , if the institution makes the substantive change without prior bureau  
12 authorization, the institution's approval to operate may be suspended or revoked.”

13 11. Section 94894 states, in relevant part:

14 “The following changes to an approval to operate are considered substantive changes and  
15 require prior authorization:

16 ...

17 (b) A change in ownership.

18 (c) A change in control.

19 (d) A change in business organization form.

20 ...”

21 **REGULATORY PROVISIONS**

22 12. California Code of Regulations, title 5, section 74006 states:

23 “(a) An institution's annual fee is due within 30 days of the date on which the institution  
24 originally receives its approval to operate and each year thereafter on the anniversary of the date  
25 of the original approval.

26 (b) An institution shall pay its annual fee in addition to any other applicable fees.

27 (c) The annual institutional fee is based on the institution's annual revenue. For purposes of  
28 this article, annual revenue is annual gross revenue.”

1 13. California Code of Regulations, title 5, section 71640, subdivisions (a)-(d) states:

2 “(a) An institution seeking to change the business organization form, control, or ownership  
3 as defined in sections 94821, 94822, or 94823, respectively shall complete the “Change of  
4 Business Organization/Control/Ownership” form (OWN rev. 2/10) to obtain prior authorization.  
5 The form shall be submitted to the Bureau along with the appropriate fee as provided in Section  
6 94930.5(c) of the Code. An application under this section shall be signed by all signatories to the  
7 initial application, or the last approved application under this section, as well as the persons  
8 required to sign an application pursuant to section 71380 for institutions approved under section  
9 94885 of the code and section 71390 for institutions approved under section 94890 of the code.  
10 Each signature shall be dated, and each fact stated therein and each attachment thereto shall be  
11 declared to be true under penalty of perjury, in the following form:

12 ‘I declare under penalty of perjury under the laws of the State of California that the  
13 foregoing and all attachments are true and correct.

14 \_\_\_\_\_  
15 (Date) (Signature)'

16 (b) An application for a change in ownership or control shall identify the name, title,  
17 address, e-mail address and telephone number of each new person required to be listed pursuant  
18 to section 71130 in an application, as well as the persons previously listed pursuant to section  
19 71130 that will no longer have ownership or control. For each proposed person listed, the  
20 application shall include the information required pursuant to section 71130(b), (c), and (d).

21 (c) An application for a change in the form of business organization of the institution shall  
22 identify the approved organization as well as the proposed organization. If the proposed  
23 organization is incorporated, the application shall also identify the state within which the  
24 proposed organization is incorporated and the date of incorporation, along with copies of the  
25 articles of incorporation and bylaws. To the extent that a change in the form of business  
26 organization represents a change in ownership or control, the application shall include the  
27 information required by subdivision (b) of this section.

28

1 (d) In addition to the above required information, each application under this section shall  
2 include:

3 (1) The name, address, telephone number, fax number, and school code of the  
4 institution;

5 (2) The reason for the proposed change;

6 (3) The impact of the change on the financial resources of the institution, including  
7 the institution's ability to comply with section 71745;

8 (4) A description of the planned administrative relationship between the persons  
9 previously approved and the proposed owners or persons in control, including the nature and  
10 extent of the supervision by the chief academic officer, chief operating officer, chief executive  
11 officer, and administrators; and

12 (5) Any additional information required by the Bureau pursuant to section 71340 of  
13 this Chapter; and

14 (6) The name, address, email address, telephone number and fax number of the  
15 contact person for this application.

16 ...”

17 14. California Code of Regulations, title 5, section 74110 states:

18 “(a) The annual report required by Section 94934 of the Code shall include the information  
19 required by sections 94929.5 and 94934 for all educational programs offered in the prior calendar  
20 year, and all of the following for the prior calendar year:

21 (1) Information regarding institutional branch campuses, including addresses and  
22 programs offered at each campus, if applicable;

23 (2) Information regarding satellite locations, including addresses and with which  
24 campus(es) the satellite location is affiliated, if applicable;

25 (3) Name of institutional accreditors for each branch and satellite campus, and for  
26 each such campus at which any programs have programmatic accreditation, the names of the  
27 programmatic accreditor for each such program, and effective dates for each programmatic  
28 accreditation, if applicable;



1 (4) Information regarding participation in state and federal student loan and grant  
2 programs, including the total amount of funding received from each source for those students  
3 enrolled in an approved California school regardless of their state of residency;

4 (5) Information regarding participation in other public funding programs, including  
5 the amount of funding received from each public funding source; for purposes of this section,  
6 public funding is any financial aid paid on behalf of students or directly to an institution from any  
7 public source, such as the Workforce Investment Act, any veterans' financial aid programs  
8 pursuant to Section 21.4253 of Title 38 of the Code of Federal Regulations or any other financial  
9 aid program that is intended to help students pay education-related expenses, including tuition,  
10 fees, room and board, and supplies for education; and

11 (6) The total percentage of institutional income that comes from any public funding  
12 sources.”

### 13 COST RECOVERY

14 15. Section 125.3 of the Business and Professions Code provides, in pertinent part, that  
15 the Board may request the administrative law judge to direct a licentiate found to have committed  
16 a violation of violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
17 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the  
18 license to not being renewed or reinstated. If a case settles, recovery of investigation and  
19 enforcement costs may be included in a stipulated settlement.

20 16. Section 94937 of the Code provides, in pertinent part, that the Bureau may seek  
21 reimbursement costs of investigation and enforcement pursuant to section 125.3 of the Business  
22 and Professions Code but that an institution shall not be required to pay the cost of investigation  
23 to more than one agency.

### 24 FACTUAL BACKGROUND

#### 25 **Main Campus, Institution Code #1936371**

26 17. On or about August 4, 2010, the Bureau received Respondent's Application for  
27 Renewal of Approval to Operate a Non-Accredited Institution. On or about April 4, 2012, the  
28 Bureau approved Respondent's Approval to Operate an Institution at 11631 Victory Blvd, Ste



1 205, North Hollywood, CA 91606. Respondent's owner, Rene Agüero (Agüero), reported that  
2 Respondent was an individually owned; sole proprietorship and he had 100% ownership of  
3 Respondent. Agüero reported that his Federal Identification Number was XX-XXXX336.

4 18. On or about February 2, 2013, Respondent notified the Bureau of their change of  
5 location to 6444 Bellingham Ave, Ste 201 and 202, North Hollywood, CA 91605.

6 **Bell Branch, School Code #72482287**

7 19. On or about August 4, 2010, the Bureau received Respondent's Application for  
8 Addition of a Separate Branch. On or about April 18, 2012, the Bureau approved Respondent's  
9 Application to operate an additional branch at 132 N. Chicago St, Los Angeles, CA 90033.

10 Agüero reported that he was the sole owner of Respondent. On or about August 27, 2012, the  
11 Bureau approved a change of location for this branch to 4126 E. Gage Ave, Bell, GA 90201.

12 **Tujunga Branch, School Code #78788747**

13 20. On or about October 24, 2011, the Bureau received an Application for Addition of a  
14 Separate Branch from Respondent. On or about April 18, 2012, the Bureau approved  
15 Respondent's application to operate at 13601 Whittier Blvd, Whittier, CA 90605. Again, Agüero  
16 reported that he was the sole owner of Respondent. On or about March 23, 2013, the Bureau  
17 approved a change of location for this branch to 6501 Foothill Blvd, Ste 204, Tujunga, CA 91042.

18 21. On or about November 6, 2017, the Bureau received notification from Respondent to  
19 close their Tujunga location.

20 **Renewal to Operate**

21 22. On or about April 10, 2017, the Bureau received Respondent's Renewal for Approval  
22 to Operate and Offer Educational Programs for Non-Accredited Institution Application. Agüero  
23 reported that Respondent was individually owned; sole proprietorship and he had 100%  
24 ownership of Respondent.

25 23. On or about June 28, 2018, the Bureau received a revised Renewal for Approval to  
26 Operate an Institution Application form. Agüero reported that Respondent was a Limited Liability  
27 Corporation as of October 2017. Agüero reported that his Federal Identification Number was still  
28 XX-XXXX336, and he was 100% owner. No other new information was reported by Agüero.

1           24. To date, Respondent has failed to file its Annual Report for the year 2017.

2                                   **FIRST CAUSE FOR DISCIPLINE**

3                                   **(Fee Schedule)**

4           25. Respondent is subject to disciplinary action under Code sections 94930.5, subdivision  
5 (d)(1)(A)(B) and 94897, subdivision (j)(3) in conjunction with Title 5 of the California Code of  
6 Regulations, sections 74000 and 74006, and Code section in that Respondent underreported gross  
7 revenue for the fiscal years 2014, 2015, 2016, and 2017, and thereby failed to remit the proper  
8 licensing fees to the Bureau. The circumstances are as follows:

9           26. On or about April 2, 2015, Respondent reported that for fiscal year 2014 its annual  
10 gross revenue was \$213,300. Based on the formula for remittance of annual fees, Respondent  
11 paid the Bureau \$3,600. However, Respondent's financial statements for fiscal year 2014 report a  
12 gross revenue from student fees of \$693,000. Based on the formula for remittance of annual fees,  
13 Respondent should have paid approximately \$7,200 to the Bureau.

14           27. On or about February 18, 2016, Respondent reported that for fiscal year 2015 its  
15 annual gross revenue was \$530,600. Based on the formula for remittance of annual fees,  
16 Respondent paid the Bureau \$5,975. However, Respondent's financial statements for fiscal year  
17 2015 report a gross revenue from student fees of \$718,300. Based on the formula for remittance  
18 of annual fees, Respondent should have paid approximately \$7,390 to the Bureau.

19           28. On or about June 26, 2017, Respondent reported that for fiscal year 2016 its annual  
20 gross revenue was \$632,000. Based on the formula for remittance of annual fees, Respondent  
21 paid the Bureau \$2,500. However, Respondent's financial statements for fiscal year 2016 report a  
22 gross revenue of \$674,000. In addition, five insurance carriers reported that for fiscal year 2016  
23 they paid Respondent \$1,376,827 in Supplemental Job Displacement Benefits. Based on the  
24 formula for remittance of annual fees, Respondent should have paid approximately \$6,200 to the  
25 Bureau.

26           29. On or about February 28, 2018, Respondent reported that for fiscal year 2017 their  
27 annual gross revenue was \$630,000. Based on the formula for remittance of annual fees,  
28 Respondent paid the Bureau \$2,835. However, five insurance carriers reported that for fiscal year

1 2017 they paid Respondent \$2,101,676 in Supplemental Job Displacement Benefits. Based on the  
2 formula for remittance of annual fees, Respondent should have paid approximately \$9,458 to the  
3 Bureau.

4 30. Complaint refers to, and by this reference incorporates paragraphs 17 through 24 as  
5 though set forth in full.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Substantive Changes to Approval to Operate)**

8 31. Respondent is subject to disciplinary action under Code sections 94893 and 94894,  
9 subdivisions (b), (c) and (d), in conjunction with Title 5 of the California Code of Regulations,  
10 section 71640, subdivisions (a)-(d), in that Respondent failed to submit an Application for  
11 Change in Ownership, Control or Business Authorization Form to seek approval for substantive  
12 changes. The circumstances are as follows:

13 32. Respondent failed to notify the Bureau that the Bell branch was operating as a limited  
14 liability corporation and was requesting and receiving payments under a unique tax identification  
15 number.

16 33. Respondent failed to notify the Bureau that the Tujunga branch was operating as a  
17 limited liability corporation and was requesting and receiving payments under a unique tax  
18 identification number. Complaint refers to, and by this reference incorporates paragraphs 17  
19 through 24 as though set forth in full.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Annual Report Violations)**

22 34. Respondent is subject to disciplinary action under Code section 94897, subdivision  
23 (j)(3) in conjunction with Title 5 of the California Code of Regulations, section 74110,  
24 subdivisions (a)(5), in that Respondent failed to accurately report the Workforce Innovation  
25 Opportunity Act (WIOA) funds received in their 2015 and 2016 Annual Reports to the Bureau.  
26 The circumstances are as follows:  
27  
28



1           35. Respondent's Annual Report for 2015 stated that Respondent received \$84,000 in  
2 WIOA funds. However, the Employment Development Department which distributes the funds  
3 on behalf of the federal government, reported paying Respondent \$361,000.

4           36. Respondent's Annual Report for 2016 stated that Respondent received \$120,000 in  
5 WIOA funds. However, the Employment Development Department which distributes the funds  
6 on behalf of the federal government, reported paying Respondent \$320,708. Complaint refers to,  
7 and by this reference incorporates paragraphs 17 through 24 as though set forth in full.

8   **FOURTH CAUSE FOR DISCIPLINE**

9   **(Failure to File Annual Report)**

10           37. Respondent is subject to disciplinary action under Code section 94934, subdivision  
11 (a)(1)–(a)(9) and Title 5 of the California Code of Regulations, section 74110, subdivision (a)(5),  
12 in that Respondent failed to submit an Annual Report for 2017 as required. Complaint refers to,  
13 and by this reference incorporates paragraphs 17 through 24 as though set forth in full.

14   **FIFTH CAUSE FOR DISCIPLINE**

15   **(Obtaining Approval to Operate by Fraud)**

16           38. Respondent is subject to disciplinary action under Code section 94937, subdivision  
17 (a)(1) in that Respondent submitted false and misleading documents to the Bureau in order to  
18 obtain approval to operate the Bell and Tujunga locations. Complaint refers to, and by this  
19 reference incorporates paragraphs 17 through 36 as though set forth in full.

20   **PRAYER**

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

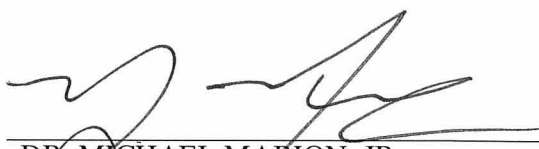
24           1. Revoking Approval to Operate Institution Code Number 1936371, issued to  
25 Computer Institute of Technology, Rene Aguro;

26           2. Ordering Rene Aguro to pay the Bureau for Private Postsecondary Education the  
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
28 Professions Code section 125.3; and,

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

DATED: 8/21/19



DR. MICHAEL MARION, JR.  
Chief  
Bureau for Private Postsecondary Education  
Department of Consumer Affairs  
State of California  
*Complainant*

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