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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 Accusation Against: Case No. 1002310
13 **CAREER ADVANCEMENT SOLUTIONS**
14 **1530 Meridian Avenue, Suite 103**
San Jose, CA 95125 **ACCUSATION**
15 **Approval to Operate No. 25448282**
16 Respondent.
17

18 Complainant alleges:

19 PARTIES

- 20 1. Dr. Michael Marion, Jr. (Complainant) brings this Accusation solely in his official
21 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
22 Consumer Affairs.
23 2. On or about May 16, 2003, the Bureau for Private Postsecondary Education issued an
24 Approval to Operate Number 25448282 to Career Advancement Solutions (Respondent).
25 Respondent's approval to operate was in full force and effect at all times relevant to the charges
26 brought in this Accusation.

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7. Section 94894 of the Education Code states:

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

...

“(e) A change of location.

...

“(g) A significant change in the method of instructional delivery.

...”

8. Section 94902 of the Education Code states:

...

“(b) An enrollment agreement is not enforceable unless all of the following requirements are met:

(1) The student has received the institution's catalog and School Performance Fact Sheet prior to signing the enrollment agreement.

...

(3) Prior to the execution of the enrollment agreement, the student and the institution have signed and dated the information required to be disclosed in the Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of Section 94910. Each of these items in the Student Performance Fact Sheet shall include a line for the student to initial and shall be initialed and dated by the student.

...”

9. Section 94904 of the Education Code states:

“(a) Except as provided in subdivision (c), before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed by the United States Department of Education pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.). The student shall not enroll unless the student achieves a score, as specified

1 by the United States Department of Education, demonstrating that the student may benefit from
2 the education and training being offered.

3 ...”

4 10. Section 94911 of the Education Code states:

5 "An enrollment agreement shall include, at a minimum, all of the following:

6 ...

7 "(b) A schedule of total charges, including a list of any charges that are nonrefundable and
8 the student's obligations to the Student Tuition Recovery Fund, clearly identified as
9 nonrefundable charges.

10 ...”

11 11. Section 94912 of the Education Code states:

12 "Prior to the execution of an enrollment agreement, the information required to be disclosed
13 pursuant to subdivisions (a) to (d), inclusive, of Section 94910 shall be signed and dated by the
14 institution and the student. Each of these items shall also be initialed and dated by the student."

15 12. Section 94913 of the Education Code states:

16 "(a) An institution that maintains an Internet Web site shall provide on that Internet Web
17 site all of the following:

18 (1) The school catalog.

19 ...

20 (5) The institution's most recent annual report submitted to the bureau.

21 ...”

22 13. Section 94920 of the Education Code states:

23 "An institution that does not participate in the federal student financial aid programs shall
24 do all of the following:

25 ...

26 "(e) The institution shall pay or credit refunds within 45 days of a student's cancellation or
27 withdrawal."

28 14. California Code of Regulations, title 5, section 71600 states:

1 “(a) An institution seeking to make a significant change in its method of instructional
2 delivery shall complete the ‘Significant Change in Method of Instructional Delivery’ form (INS
3 rev. 2/10) to obtain prior authorization. For the purposes of this section a ‘significant change in
4 instructional delivery’ is any change that alters the way students interact with faculty or access
5 significant equipment. The form shall be submitted to the Bureau along with the appropriate fee
6 as provided in Section 94930.5(c) of the Code. For an institution approved under section 94885 of
7 the Code, it shall be signed and dated by the signatory(ies) required by section 71380, and for an
8 institution approved under section 94890 of the Code, it shall be signed and dated by the
9 signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto
10 shall be declared to be true under penalty of perjury, in the following form:

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

13 _____

14 _____

15 (Date)

16 (Signature)’

17 ...”

18 15. California Code of Regulations, title 5, section 71750 states:

19 “(a) Every institution shall make refunds that are no less than the refunds required under the
20 Act and this Division.

21 ...

22 “(c) A pro rata refund pursuant to section 94919(c) or 94920(d) or 94927 of the Code shall
23 be no less than the total amount owed by the student for the portion of the educational program
24 provided subtracted from the amount paid by the student, calculated as follows:

25 ...

26 (3) Except as provided herein, all amounts that the student has paid shall be subject to
27 refund unless the enrollment agreement and the refund policy outlined in the catalog specify
28 amounts paid for an application fee or deposit not more than \$250.00, books, supplies, or

1 equipment, and specify whether and under what circumstances those amounts are non-refundable.
2 Except when an institution provides a 100% refund pursuant to section 94919(d) or section
3 94920(b) of the Code, any assessment paid pursuant to section 94923 of the Code is non-
4 refundable.

5 ...

6 “(e) An institution shall refund any credit balance on the student's account within 45 days
7 after the date of the student's completion of, or withdrawal from, the educational program in
8 which the student was enrolled. For purposes of this subdivision and section 94919(d) of the
9 Code, “day” means calendar day.

10 ...”

11 16. California Code of Regulations, title 5, section 71770 states:

12 “(a) The institution shall establish specific written standards for student admissions for each
13 educational program. These standards shall be related to the particular educational program. An
14 institution shall not admit any student who is obviously unqualified or who does not appear to
15 have a reasonable prospect of completing the program. In addition to any specific standards for an
16 educational program, the admissions standards must specify as applicable that:

17 (1) Each student admitted to an undergraduate degree program, or a diploma program, shall
18 possess a high school diploma or its equivalent, or otherwise successfully take and pass the
19 relevant examination as required by section 94904 of the Code.

20 ...”

21 17. California Code of Regulations, title 5, section 71800 states:

22 “In addition to the requirements of section 94911 of the Code, an institution shall provide to
23 each student an enrollment agreement that contains at the least the following information:

24 ...

25 “(e) Itemization of all institutional charges and fees including, as applicable:

- 26 (1) tuition;
- 27 (2) registration fee (non-refundable);
- 28 (3) equipment;

- 1 (4) lab supplies or kits;
- 2 (5) Textbooks, or other learning media;
- 3 (6) uniforms or other special protective clothing;
- 4 (7) in-resident housing;
- 5 (8) tutoring;
- 6 (9) assessment fees for transfer of credits;
- 7 (10) fees to transfer credits;
- 8 (11) Student Tuition Recovery Fund fee (non-refundable);
- 9 (12) any other institutional charge or fee.

10 ...”

11 18. California Code of Regulations, title 5, section 71810 states:

12 “(a) Each institution shall provide a catalog pursuant to section 94909 of the Code, which
13 shall be updated annually. Annual updates may be made by the use of supplements or inserts
14 accompanying the catalog. If changes in educational programs, educational services, procedures,
15 or policies required to be included in the catalog by statute or regulation are implemented before
16 the issuance of the annually updated catalog, those changes shall be reflected at the time they are
17 made in supplements or inserts accompanying the catalog.

18 ...”

19 19. California Code of Regulations, title 5, section 71920 states:

20 ...

21 “(b) In addition to the requirements of section 94900, the file shall contain all of the
22 following pertinent student records:

23 (1) Written records and transcripts of any formal education or training, testing, or
24 experience that are relevant to the student's qualifications for admission to the institution or the
25 institution's award of credit or acceptance of transfer credits including the following:

26 (A) Verification of high school completion or equivalency or other documentation
27 establishing the student's ability to do college level work, such as successful completion of an
28 ability-to-benefit test;

1 ...

2 (3) Copies of all documents signed by the student, including contracts, instruments of
3 indebtedness, and documents relating to financial aid;

4 ...

5 (5) In addition to the requirements of section 94900(b) of the Code, a transcript showing all
6 of the following:

7 (A) The courses or other educational programs that were completed, or were attempted but
8 not completed, and the dates of completion or withdrawal;

9 ...”

10 COST RECOVERY

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

17 FIRST CAUSE FOR DISCIPLINE

18 (Failure to Provide Students with Complete Enrollment Agreement)
19 (Ed. Code, § 94902, subd. (b)(1) and (3), § 94911, subd. (b), § 94912; Cal. Code Regs., title 5, §
20 71800, subds. (e)(1), (2), (3), (4), (5), (11), and (12).)

21 21. Respondent has subjected its approval to operate to disciplinary action in that the
22 enrollment agreements Respondent provided for certain students failed to contain the minimum
23 required information, which includes but is not limited to the following: tuition fees, registration
24 fees, books/material fees, and total fees. In addition, several of the same enrollment agreements
25 were missing required signatures, initials, and/or dates. Furthermore, several Student
26 Performance Fact Sheets were missing signatures and/or dates. (Ed. Code, § 94902, subd. (b)(1)
27 and (3), § 94911, subd. (b), § 94912; Cal. Code Regs., title 5, § 71800, subds. (e)(1), (2), (3), (4),
28 (5), (11), and (12).)

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

1. Revoking or suspending Approval to Operate Number 25448282, issued to Career Advancement Solutions;
2. Ordering Career Advancement Solutions to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

3/8/18



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

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