

**BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
STATE OF CALIFORNIA**

In the Matter of the Citation Against:

ALEXANDER CUSIANOVIC, OWNER, LAS AMERICAS TRUCK DRIVING SCHOOL

738 S. Waterman Avenue, A20

San Bernadino, CA 92408

Citation No.: 2223018

OAH Case No.: 2023020812

Respondent.

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on December 1, _____, 2023.

It is so ORDERED October 1, 2023.

"Original Signature on File"

RYAN MARCROFT
DEPUTY DIRECTOR, LEGAL AFFAIRS DIVISION
DEPARTMENT OF CONSUMER AFFAIRS

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BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
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In the Matter of the Citation Against:

**ALEXANDER CUSIANOVIC, OWNER, LAS AMERICAS TRUCK
DRIVING SCHOOL, Respondent.**

Agency Case No. 2223018

OAH No. 2023020812

PROPOSED DECISION

Erlinda Shrenger, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on August 7, 2023.

Michael Yi, Deputy Attorney General, represented complainant Christina Villanueva, in her official capacity as Discipline Manager for the Bureau for Private Postsecondary Education (Bureau), Department of Consumer Affairs.

Alexander Cusianovic (respondent), owner of Las Americas Truck Driving School, represented himself.

Oral and documentary evidence was received. The record closed and the matter was submitted for decision on August 7, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. On August 24, 2022, complainant, acting in her official capacity, issued Citation Number 2223018 (Citation) to respondent, as the owner of Las Americas Truck Driving School (LATOS). The Citation charged respondent with violating Education Code section 94886 for operating a private postsecondary educational (PPE) institution without Bureau approval.

2. The Citation imposed an administrative fine of \$25,000 and contained an Order of Abatement requiring that respondent cease operating as a PPE institution unless he obtained Bureau approval or qualified for an exemption under Education Code section 94874. The Order of Abatement ordered, among other things, that respondent "must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media, including www.lasmericastrucking.com, and any other websites not identified here that are associated with [LATOS], until such time as an approval to operate is obtained from the Bureau." (Exh. 1, p. A2.)

3. The Citation ordered respondent to pay the administrative fine and submit evidence of compliance with the Order of Abatement within 30 days from August 24, 2022, the date of service of the Citation. The Citation notified respondent of his appeal rights.

4. On September 1, 2022, respondent filed a Notice of Appeal of Citation, which contained his requests for an informal conference and an administrative hearing to contest the Citation. (Exh. 1, p. AS.)

5. On September 29, 2022, Enforcement Chief Elizabeth Elias held an informal telephone conference with respondent regarding the Citation. Following the informal telephone conference, the Bureau decided to affirm the Citation on the grounds that "[n]o new substantive facts were presented at the conference." (Exh. 1, p. A6.)

6. On October 12, 2022, the Bureau notified respondent, in writing, of its decision to affirm the Citation and extend the deadline for respondent to pay the \$25,000 administrative fine and submit evidence of compliance with the Order of Abatement, to November 11, 2022. (Exh. 1, p. A8.)

7. On October 19, 2022, respondent notified the Bureau he wished to proceed with an administrative hearing. (Exh. 1, p. A10.) This hearing ensued.

Bureau Investigations

8. Paul Bradshaw has been an investigator for the Bureau for nine and one-half years. He is familiar with the Bureau's laws and regulations. Mr. Bradshaw conducted the Bureau's investigations of consumer complaints submitted by L.R., O.G., and C.L., respectively, that are the subject of this case. (All consumers are identified by initials to protect their privacy.) Mr. Bradshaw prepared written investigation reports that summarized his findings and conclusions. (Exhs. 6, 17, 18.) At hearing, Mr. Bradshaw testified credibly regarding the investigations.

Consumer L.R.

9. On April 19, 2022, the Bureau received an online complaint submitted by consumer L.R. regarding LATOS. In the complaint, L.R. indicated he was a current student of LATOS. L.R. had enrolled in LATOS for training to pass the California

Department of Motor Vehicles (OMV) examination for a Class A truck driver's license. On January 8, 2021, LR. paid \$1,500 to LATOS and signed an enrollment agreement. The enrollment agreement stated, in part: "At no additional cost, the student [LR.] will be taken to OMV to pass the final test up to 3 times." (Exh. 9.) LR. claimed he was not able to complete his OMV testing because LATOS failed to get him his appointments with the OMV.

10. At the Bureau's request, LR. provided Mr. Bradshaw with a copy of the enrollment agreement he signed with LATOS, a receipt for the \$1,500 payment he made to LATOS, a screen shot of a text message for a OMV appointment on April 19, 2022, and a copy of the front cover of the study materials for the course. (Exhs. 9-12.)

11. The letterhead on the enrollment agreement showed the name Las Americas Technical and Vocational School, Inc., and the address 738 S. Waterman Avenue in San Bernardino. (Exh. 9.) LR.'s name appeared in the spaces provided for "Student Name" and "Student Signature." (*Ibid*) The name Las Americas Trucking School was typed on the signature line for "School Representative." (*Ibid*)

12. The letterhead on the receipt LR. was given for his \$1,500 payment showed the name American Tech Logistics, Inc., and the address 738 S. Waterman Avenue, Suite A-20, in San Bernardino. (Exh. 10.) The letterhead also showed the name and logo for LATOS. (*Ibid*)

13. The front cover of the study materials LR. received showed the title as "Las Americas Trucking School" and "Study Material 2019-2020." (Exh. 12.) Under the name Las Americas Trucking School is the statement: "Licensed under the California Bureau of Private Post Secondary Education." (*Ibid*) The front cover also showed the

name and logo for LATOS, the address 738 S. Waterman Avenue, #A-20, in San Bernardino, and the website address www.lasamestrucking.com. (*Ibid*)

14. On May 10, 2022, Mr. Bradshaw researched and took screen shots of the lasamestrucking.com website. The name and logo for LATOS was prominently displayed on the website. (Exh. 13.) Mr. Bradshaw found the website advertised training for \$3,500 (Basic Training for Class A-Manual and Automatic) and \$2,800 (OMV Mandatory Training). (*Ibid*) Mr. Bradshaw explained the Bureau considers this training as education that leads to job opportunities. Mr. Bradshaw also found the website advertised training for a "special offer" cash payment of \$2,950. (Exh. 14.)

15. On May 10, 2022, Mr. Bradshaw researched the Bureau's database of approved schools. He found LATOS was not listed in the database. (Exh. 15.) Mr. Bradshaw explained that if a school is not listed in the Bureau's database, it is not licensed or approved to operate by the Bureau. According to the Bureau's records, LATOS "does not have an approval to operate granted by the Bureau," and "has not submitted an application for approval to operate or for verification of exempt status." (Exh. 2.)

16. On May 11, 2022, Mr. Bradshaw spoke by telephone with LR. Mr. Bradshaw, in his written report, summarized L.R.'s statement as follows: "I never did finish the school. They were supposed to get me three free tests at the OMV by appointments. I did one of them and failed. The school kept telling me to stretch out my time for testing because the OMV is backed up. The result is too much time has gone by and now I am being told I need to get certified because of a new OMV law. The school wants to charge me another \$1,800 dollars for the certification. I am not paying this because the school is at fault." (Exh. 6, p. A49.)

17. Based on the findings of his investigation, Mr. Bradshaw concluded that LATOS conducted business as a PPE institution without first obtaining an approval to operate from the Bureau, in violation of Education Code section 94886.

18. At hearing, Mr. Bradshaw testified he researched LATOS on Yelp and found a statement by respondent, who is identified as "Business Owner," which states in part: "Hello, I'm Alex Cusianovic. I started [LATOS] 20 years ago after immigrating from Chile ... " (Exh. 16.) Mr. Bradshaw testified this Yelp statement was further evidence connecting respondent to LATOS. Respondent, on cross-examination, denied the Yelp statement was about him. He claimed he did not write the statement but also claimed "This is very old. I never wrote this." Respondent's denial was not credible.

Consumer D.G.

19. On March 8, 2022, the Bureau received an on online complaint submitted by consumer D.G. regarding LATOS. In her complaint. D.G. claimed she was not able to learn about driving trucks because "the instructor was less than helpful and displayed no interest in instructing students." (Exh. 17, p. A68.) D.G. was seeking a refund of the monies she paid to LATOS. D.G. had enrolled in LATOS on December 15, 2021, and withdrew on March 1, 2022. (*Id* at p. A74.) At the Bureau's request, D.G. provided Mr. Bradshaw with pictures of her enrollment agreement and the front cover of the study materials she received.

20. The letterhead on D.G.'s enrollment agreement showed the names American Tech Logistics and Las Americas Trucking, and the address 738 S. Waterman Avenue in San Bernardino. (Exh. 17, p. ABO.) D.G.'s name appeared in the spaces provided for "Student Name" and "Student Signature." (*Ibid*) The name Las Americas Trucking School was typed on the signature line for "School Representative." (*Ibid*)

The enrollment agreement was dated and signed on November 15, 2021. The enrollment agreement indicated the "COL Training Cost" was \$2,500 and O.G. made an initial payment of \$1,500. (*Ibid*)

21. The front cover of the study materials O.G. received was identical to the front cover of the study materials received by L.R. Both front covers showed the title as "Las Americas Trucking School" and "Study Material 2019-2020," and showed the name and logo for LATOS, the address 738 S. Waterman Avenue, #A-20, in San Bernardino, and the address for the lasamericatrucking.com website. (Exh. 17, p. A81 [D.G.'s cover page]; Exh. 12, p. A62 [L.R.'s cover page].) The cover page also included the statement that Las Americas Trucking School was "Licensed under the California Bureau of Private Post Secondary Education." (Exh. 17, p. A81.)

22. On July 11, 2022, Mr. Bradshaw took screen shots from the lasamericatrucking.com website. The website advertised a Basic Training, Class A-Manual and Automatic course for \$3,500, and a OMV Mandatory Training course for \$2,800. (Exh. 17, p. A82.) On July 11, 2022, Mr. Bradshaw also researched the Bureau's database and found LATOS was not listed in the database. (*Id*, at p. A83.)

23. On July 14, 2022, Mr. Bradshaw called two telephone numbers for LATOS, specifically, (909) 245-1530 [front cover of study materials] and (909) 248-2366 [lasamericatrucking.com website]. (Exh. 14, p. A64; Exh. 17, p. A81; Exh. 12, p. A62.) There was no response at either number. On July 14, 2022, Mr. Bradshaw sent an email to LATOS requesting that a representative of LATOS contact him. (Exh. 17, p. B84.) Mr. Bradshaw did not receive a response to his email.

24. Based on the findings of his investigation of D.G.'s consumer complaint, Mr. Bradshaw concluded that LATOS conducted business as a PPE institution without

first obtaining an approval to operate from the Bureau, in violation of Education Code section 94886.

Consumer C.L.

25. On May 18, 2022, the Bureau received an on online complaint submitted by consumer C.L. regarding LATOS. In his complaint, C.L. alleged, among other things, that LATOS and its staff were unprofessional, the yard was a hazard for students and staff, the two trucks used for instruction were old with stiff clutches so that students could not practice correctly, and the school failed to set up testing appointments with the OMV and had also cancelled multiple appointments. (Exh. 18, p. A93.)

26. C.L. did not respond to the Bureau's written request that he provide Mr. Bradshaw with documents and information related to his complaint against LATOS. The Bureau received no documents or information from C.L. On July 12, 2022, Mr. Bradshaw spoke by telephone with C.L., who indicated to Mr. Bradshaw he appreciated the effort by the Bureau regarding his complaint.

27. As discussed in Findings 22 and 23, above, on July 11 and 14, 2022, Mr. Bradshaw found the lasamericatrucking.com website advertised truck driving courses, LATOS was not listed in the Bureau's database of approved institutions, and he was unable to reach LATOS by telephone or email.

28. Based on the findings of his investigation of C.L.'s consumer complaint, Mr. Bradshaw concluded that LATOS conducted business as a PPE institution without first obtaining an approval to operate from the Bureau, in violation of Education Code section 94886.

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Respondent's Testimony

29. Respondent testified he is the current owner of American Tech Logistics, Inc., which operates at 738 S. Waterman Avenue, Suite A-20, in San Bernardino. American Tech Logistics, Inc. is a California corporation that was formed in November 2022. Respondent testified he is the corporation's president, chief executive officer, chief financial officer, and director.

30. Respondent contends he is not the owner of LATOS, which he contends is no longer in business. Respondent contends "I am not Las Americas" and "Las Americas is not me." At hearing, respondent presented a Purchase Agreement dated June 24, 2017, pursuant to which respondent sold a business called Las Americas Technical and Vocational School to Ricardo Hinojosa. (Exh. B.) The Purchase Agreement indicated respondent was the President of Las Americas Technical and Vocational School, Inc., a California corporation, and that Las Americas Technical and Vocational School engaged in the business of "Truck Driving Training." (*Ibid*)

31. Respondent testified that Mr. Hinojosa operated Las Americas Technical and Vocational School, Inc., at 738 S. Waterman Avenue, Suite A-20, in San Bernardino, which is the same office as American Tech Logistics, Inc. According to respondent, Mr. Hinojosa operated Las Americas Technical and Vocational School from June 2017 until September 2022. Mr. Hinojosa began operating the school at the 738 S. Waterman Avenue address in January 2021. Respondent testified Mr. Hinojosa was in charge of the school and respondent assisted by teaching him the business.

32. Respondent testified that when Mr. Hinojosa left the business, his company, American Tech Logistics, Inc., continued to operate the school. Respondent asserted that Bureau approval was not needed because American Tech Logistics, Inc.

charged less than \$2,500 for the training courses. However, when asked to explain why the lasamestrucking.com website advertised training courses that cost \$3,500 and \$2,800, respondent claimed that was a mistake.

33. Respondent testified he spoke with consumer LR. in April 2022, when LR. came to American Tech Logistics, Inc.'s offices asking about taking a OMV license examination. Respondent told LR. that his contract with Las Americas Technical and Vocational School was expired and he needed to comply with new requirements for Entry-Level Driver Training (ELDT) by the Federal Motor Carrier Safety Administration. Respondent told LR. it would cost \$1,800 to comply with the ELDT requirements. Respondent testified LR. did not believe him and left.

34. Respondent testified that American Tech Logistics, Inc. operated a truck driving school starting in January 2023, which is when he claimed the new ELDT requirements went into effect. When asked why he spoke to consumer LR. in the prior year, in April 2022, respondent claimed American Tech Logistics, Inc. was, at that time, in the process of getting certified for the ELDT program. Respondent claimed the federal transportation agency was taking over for the Bureau and the California OMV would not allow students to take the license examination unless they complied with the federal requirements. Respondent presented no documentation or other information to corroborate these claims.

35. When asked why LR.'s enrollment agreement identified the school representative as Las Americas Trucking School, respondent claimed that was due to a mistake because the computer was not updated. When asked why the receipt for LR.'s \$1,500 payment was issued by American Tech Logistics, Inc., respondent claimed that was also a mistake. Respondent claimed that LR. made the payment in January 2021

and then disappeared; he did not come back until 2022 and then started to complain when respondent told him about the new ELOT requirements.

36. When shown screen shots from the lasamestrucking.com website (Exhibits 13 and 14), respondent claimed he was not familiar with the matters depicted in the screen shots.

37. Respondent testified that American Tech Logistics, Inc. uses the same lasamestrucking.com website associated with LATOS and Las Americas Trucking School. He confirmed that American Tech Logistics, Inc. has not used any other website. Respondent could not explain why the Yelp page for American Tech Logistics, Inc. displayed the lasamestrucking.com website and made reference to Las Americas Trucking School. (Exhs. 19-21.)

Analysis of Evidence

38. Respondent's testimony failed to establish his claim that he is not the owner of LATOS. His testimony was not straightforward and at times confusing. The difficulty in sorting out the various entities was due to his use of variations of the "Las Americas" names along with the name American Tech Logistics, Inc. on enrollment agreements, receipts, and study materials, and on websites and Yelp pages. Respondent's testimony did not clear up the confusion.

39. Respondent presented an additional defense that no Bureau approval was required because the training offered by LATOS cost less than \$2,500. This defense has no basis in the governing law. Operating a PPE institution requires either an approval or an exemption granted by the Bureau. (Ed. Code, §§ 94886, 94874.) Respondent presented no evidence of either an approval or an exemption.

40. Mr. Bradshaw's testimony was straightforward and supported by the documentary evidence. Mr. Bradshaw's testimony convincingly established that respondent used American Tech Logistics, Inc. to operate a truck driving school under the "Las Americas" name at the 738 S. Waterman Avenue location, for which he had no prior approval to operate from the Bureau and had not been granted an exemption by the Bureau. Respondent's operation of an unapproved PPE institution harmed consumers LR., D.G., and C.L., who filed complaints with the Bureau.

LEGAL CONCLUSIONS

Legal Principles

1. This matter is governed by the California Private Postsecondary Education Act of 2009 (Act), set forth at Education Code section 94800 et seq., and the implementing regulations set forth at California Code of Regulations, title 5, section 75010 et seq. The Bureau is the state agency responsible for regulating PPE institutions in accordance with the Act. "In exercising its powers, and performing its duties, the protection of the public shall be the bureau's highest priority." (Ed. Code, § 94875.)

2. The Bureau is authorized to issue a citation to a person (defined as a natural person or business organization) for committing any acts or omissions that are in violation of the Act or the regulations. (Ed. Code, §§ 94936, 94855; Bus. & Prof. Code, §§ 125.9, 149; Cal. Code Regs., tit. 5, § 75020.) A citation may contain an order of abatement and impose administrative fines. (*Ibid*)

3. Education Code section 94886 provides, in pertinent part: "Except as exempted in Article 4 (commencing with Section 94874) ... 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."

4. Education Code section 94857 defines "postsecondary education" as "a formal institutional educational program whose instruction is designed primarily for students who have completed or terminated their secondary education or are beyond the compulsory age of secondary education, including programs whose purpose is academic, vocational, or continuing professional education."

5. Education Code section 94874 lists the types of institutions that are exempt from the Act. Such exempt institutions include the following: "An institution offering either of the following: [11 ... 11] (2) Continuing education or license examination preparation, if the institution or the program is approved, certified, or sponsored by any of the following: [11] (A) A government agency, other than the bureau, that licenses persons in a particular profession, occupation, trade, or career field." (Ed. Code, § 94874, subd. (d)(2)(A).)

6. Education Code section 94874.7 provides, in part: "The bureau shall establish, by regulation, a process pursuant to which an institution that is exempt from this chapter may request, and obtain, from the bureau verification that the institution is exempt." In order to obtain verification from the Bureau that it is exempt pursuant to Education Code section 94874, an institution must submit an application to the Bureau in accordance with California Code of Regulations, title 5, section 71395.

7. Education Code section 94944 provides: "Notwithstanding any other provision of law, the bureau shall cite any person, and that person shall be subject to a fine not to exceed one hundred thousand dollars (\$100,000), for operating an

institution without proper approval to operate issued by the bureau pursuant to this chapter."

8. Education Code section 94936, subdivision (b)(1), provides that a citation may include "[a]n order of abatement that may require an institution to demonstrate how future compliance with this chapter or regulations adopted pursuant to this chapter will be accomplished." Business and Professions Code section 149, subdivision (a)(1), provides that an order of abatement may include an order to cease unlawful advertising.

Disposition

9. Cause exists to affirm the Citation in that respondent operated as a PPE institution without Bureau approval or verification of exempt status, in violation of Education Code sections 94886, 94874, and 94874.7, and California Code of Regulations, title 5, section 71395, based on Factual Findings 1-40.

10. Respondent shall pay the \$25,000 administrative fine within 30 days of the effective date of this Decision. (Ed. Code, § 94936, subd. (c)(5).) Respondent shall also submit proof of compliance with the Order of Abatement, as set forth in the Order below, within 30 days of the effective date of this Decision.

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ORDER

1. Citation number 2223018, issued to Alex Cusianovic (Respondent), owner of Las Americas Truck Driving School (Institution), is affirmed.

2. Respondent shall pay the administrative fine of \$25,000 within 30 days of the effective date of this Decision and Order.

3. Respondent shall provide the Bureau with evidence of compliance with the Order of Abatement contained in Citation Number 2223018, within 30 days of the effective date of this Decision and Order, as follows:

A. Respondent shall cease to operate the Institution as a private postsecondary educational institution unless the Institution qualifies for an exemption under Education Code section 94874.

B. Respondent shall discontinue recruiting or enrolling students for the Institution and shall cease all instructional services and advertising in any form or type of media, including www.lasmericastrucking.com, and any other websites not identified in the Citation that are associated with the Institution, until such time as an approval to operate is obtained from the Bureau.

C. Respondent shall disconnect all telephone service numbers including, but not limited to, (909) 245-1530 and (909) 248-2366, that are associated with the Institution, until such time as an approval to operate is obtained from the Bureau.

D. Respondent shall submit to the Bureau a school closure plan for the Institution pursuant to Education Code section 94926. Respondent shall provide a

roster of each student currently enrolled at the Institution. The roster shall include the names of the students, their contact information (including phone number, email address, and physical address), the programs in which they are enrolled, and the amount paid for the programs.

DATE: 09/19/2023

“Original Signature on File”

ERLINDA SHRENGER

Administrative Law Judge

Office of Administrative Hearings