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

13 In the Matter of the First Amended Accusation Case No. 999484
14 Against:
15 **GILIGIA COLLEGE**
16 **15643 Sherman Way, Suite 140**
Van Nuys, CA 91406
17 **Institution Code: 55199106**
18
19 Respondent.
20

FIRST AMENDED ACCUSATION

21
22 Complainant alleges:

23 **PARTIES**

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

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2. On or about February 22, 2007, the Bureau for Private Postsecondary Education (“Bureau”) issued Institution Code 55199106 to Giligia College (“Respondent” or “Giligia”). The renewal of the Approval to Operate was denied on November 16, 2017, and the appeal is pending.

JURISDICTION

3. This First Amended Accusation is brought before the Director of the Department of Consumer Affairs (“Director”) for the Bureau under the authority of the following laws. All section references are to the California Education Code unless otherwise indicated.

STATUTORY PROVISIONS¹

4. Section 94877 of the Code states:

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

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

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

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

¹ 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 5. Section 94897 of the Code states:

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

3 ...

4 “(g) Offer to compensate a student to act as an agent of the institution with regard to the
5 solicitation, referral, or recruitment of any person for enrollment in the institution, except that an
6 institution may award a token gift to a student for referring an individual, provided that the gift is
7 not in the form of money, no more than one gift is provided annually to a student, and the gift’s
8 cost is not more than one hundred dollars (\$100).

9 ...

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

14 “(1) A financial report filed with the bureau.

15 “(2) Information or records relating to the student’s eligibility for student financial aid at
16 the institution.

17 “(3) Any other record or document required by this chapter or by the bureau.

18 “(k) Willfully falsify, destroy, or conceal any document of record while that document of
19 record is required to be maintained by this chapter.

20 6. Section 94899 of the Code states:

21 “‘If an institution offers an educational program in a profession, occupation, trade, or career
22 field that requires licensure in this state, the institution shall have an educational program
23 approval from the appropriate state licensing agency to conduct that educational program in order
24 that a student who completes the educational program, except as provided in Section 94905, is
25 eligible to sit for any required licensure examination.”

26 7. Section 94901 of the Education Code states in relevant part:

27 “(a) An institution’s recruiters shall be employees.

28

1 (b) (1) An institution shall issue identification to each recruiter identifying the recruiter and
2 the institution.

3 (2) The recruiter shall have the issued identification with him or her while recruiting.”

4 8. Section 94902 of the Education Code states in relevant part:

5 “(a) A student shall enroll solely by means of executing an enrollment agreement. The
6 enrollment agreement shall be signed by the student and by an authorized employee of the
7 institution.

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

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

12

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

18 9. Section 94905 of the Education Code states:

19 “(a) During the enrollment process, an institution offering educational programs designed to
20 lead to positions in a profession, occupation, trade, or career field requiring licensure in this state
21 shall exercise reasonable care to determine if the student will not be eligible to obtain licensure in
22 the profession, occupation, trade, or career field at the time of the student’s graduation and shall
23 provide all students enrolled in those programs with a written copy of the requirements for
24 licensure established by the state, including any applicable course requirements established by the
25 state. If the minimum course requirements of the institution exceed the minimum requirements
26 for state licensure, the institution shall disclose this information, including a list of those courses
27 that are not required for state licensure. The institution shall not execute an enrollment agreement
28

1 with a student that is known to be ineligible for licensure, unless the student's stated objective is
2 other than licensure.

3 (b) During the enrollment process, an institution may discuss internships and student jobs
4 available to the student during the student's attendance at the institution. If the institution
5 discusses internships and student jobs, the institution shall disclose the number of requests for
6 internship and student job placement assistance received by the institution during the immediately
7 preceding calendar year and the number of actual placements during that year.

8 (c) During the enrollment process, an institution offering educational programs designed to
9 lead to positions in a profession, occupation, trade, or career field where voluntary licensure by a
10 government agency is available, shall provide its students seeking to enroll in those programs
11 with a written copy of the requirements for that voluntary licensure."

12 10. Section 94909 of the Education Code states in relevant part:

13 "(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a
14 prospective student, either in writing or electronically, with a school catalog containing, at a
15 minimum, all of the following:

16 ...

17 (3) The following statements:

18 ...

19 (B) 'As a prospective student, you are encouraged to review this catalog prior to signing an
20 enrollment agreement. You are also encouraged to review the School Performance Fact Sheet,
21 which must be provided to you prior to signing an enrollment agreement.'"

22 11. Section 94912 of the Education Code states:

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

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1 12. Section 94919 of the Education Code states:

2 “(a) An institution that participates in the federal student financial aid programs complies
3 with this article by complying with applicable regulations of the federal student financial aid
4 programs under Title IV of the federal Higher Education Act of 1965.

5 “(b) The institution shall advise each student that a notice of cancellation shall be in
6 writing, and that a withdrawal may be effectuated by the student’s written notice or by the
7 student’s conduct, including, but not necessarily limited to, a student’s lack of attendance.

8 “(c) The institution shall also provide a pro rata refund of nonfederal student financial aid
9 program moneys paid for institutional charges to students who have completed 60 percent or less
10 of the period of attendance.

11 “(d) Institutions shall refund 100 percent of the amount paid for institutional charges, less a
12 reasonable deposit or application fee not to exceed two hundred fifty dollars (\$250), if notice of
13 cancellation is made through attendance at the first class session, or the seventh day after
14 enrollment, whichever is later.”

15 13. Section 94920 of the Code states in relevant part:

16 “An institution that does not participate in the federal student financial aid programs shall
17 do all of the following:

18 ...

19 “(d) The institution shall have a refund policy for the return of unearned institutional
20 charges if the student cancels an enrollment agreement or withdraws during a period of
21 attendance. The refund policy for students who have completed 60 percent or less of the period of
22 attendance shall be a pro rata refund.

23 14. Section 94921 of the Code states:

24 “An institution offering an educational program for which the refund calculations set forth
25 in this article cannot be utilized because of the unique way in which the educational program is
26 structured, may petition the bureau for an alternative method of calculating tuition refunds.”

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1 15. Section 94929.7 of the Education Code states in relevant part:

2 “(a) The information used to substantiate the rates and information calculated pursuant to
3 Sections 94929 and 94929.5 shall do both of the following:

4 (1) Be documented and maintained by the institution for five years from the date of the
5 publication of the rates and information.

6 (2) Be retained in an electronic format and made available to the bureau upon request.

7 (b) An institution shall provide a list of employment positions used to determine the number
8 of graduates employed in the field for purposes of calculating job placement rates pursuant to this
9 article.”

10 **REGULATORY PROVISIONS**

11 16. California Code of Regulations, title 5, section 71660 states:

12 “An institution shall notify the Bureau of a non-substantive change including: change of
13 location of less than 10 miles; addition of a program related to the approved programs offered by
14 the institution; addition of a new branch five miles or less from the main or branch campus;
15 addition of a satellite; and change of mailing address. All such notifications shall be made within
16 30 days of the change and sent to the Bureau, in writing, to the address listed in section 70020.”

17 17. California Code of Regulations, title 5, section 71750 states in relevant part:

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

21 (1) The amount owed equals the daily charge for the program (total institutional charge,
22 divided by the number of days or hours in the program), multiplied by the number of days student
23 attended, or was scheduled to attend, prior to withdrawal.

24 (2) Except as provided for in subdivision (a)(3) of this section, all amounts paid by the
25 student in excess of what is owed as calculated in subdivision (a)(1) shall be refunded.

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 (4) For purposes of determining a refund under the Act and this section, a student shall be
6 considered to have withdrawn from an educational program when he or she withdraws or is
7 deemed withdrawn in accordance with the withdrawal policy stated in its catalog.

8 ...

9 (f) The institution shall maintain a cancellation and withdrawal log, kept current on a
10 monthly basis, which shall include the names, addresses, telephone numbers, and dates of
11 cancellations or withdrawal of all students who have cancelled the enrollment agreement with, or
12 withdrawn from, the institution during the calendar year.”

13 18. California Code of Regulations, title 5, section 71770 states in relevant part:

14 “(c) If credit for prior experiential learning is to be granted, the policy for granting such
15 credit shall be included in the institution's catalog.”

16 19. California Code of Regulations, title 5, section 71810 states in relevant part:

17 “(b) The catalog shall contain the information prescribed by Section 94909 of the Code and
18 all of the following:

19 ...

20 (7) The institution's policies and procedures for the award of credit for prior experiential
21 learning, including assessment policies and procedures, provisions for appeal, and all charges that
22 a student may be required to pay;

23 ...

24 (14) Policies on student rights, including the procedure for addressing student grievances;”

25 20. California Code of Regulations, title 5, section 71920 states in relevant part:

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

28

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

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

7 ...

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

10 (4) Records of the dates of enrollment and, if applicable, withdrawal from the institution,
11 leaves of absence, and graduation; and

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

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

16 (9) A document showing the total amount of money received from or on behalf of the student
17 and the date or dates on which the money was received;

18 (10) A document specifying the amount of a refund, including the amount refunded for tuition
19 and the amount for other itemized charges, the method of calculating the refund, the date the refund
20 was made, and the name and address of the person or entity to which the refund was sent;”.

21 21. California Code of Regulations, title 5, section 71930 states in relevant part:

22 “(d) The institution shall maintain a second set of all academic and financial records required
23 by the Act and this chapter at a different location unless the original records, including records
24 stored pursuant to subdivision (b) of this section, are maintained in a manner secure from damage
25 or loss. An acceptable manner of storage under this subsection would include fire resistant cabinets.

26 (e) All records that the institution is required to maintain by the Act or this chapter shall be
27 made immediately available by the institution for inspection and copying during normal business
28 hours by the Bureau and any entity authorized to conduct investigations.”

1 22. California Code of Regulations, title 5, section 74112 states in relevant part:

2 “(f) Total Charges. The institution's Annual Report and Performance Fact Sheet shall
3 include the total charges for a student to complete the program within 100% of the program
4 length. The institution must include the disclosure that there may be additional charges if the
5 program is not completed on-time.

6 Total charges shall be disclosed in the Performance Fact Sheet in a format substantially
7 similar to the format listed below (dates and numbers are for example only):

8 **Cost of Educational Program:**

9 Total Charges for the program for students completing on-time in 20XX: \$50,000.

10 Total Charges may be higher for students that do not complete on-time.

11 Student's Initials: _____ Date: _____

12 **Initial only after you have had sufficient time to read and understand the information.**

13 ...

14 (m) Documentation supporting all data reported shall be maintained electronically by the
15 institution for at least five years from the last time the data was included in either an Annual
16 Report or a Performance Fact Sheet and shall be provided to the Bureau upon request; the data for
17 each program shall include at a minimum:

18 (1) the list of job classifications determined to be considered gainful employment for the
19 educational program;

20 (2) student name(s), address, phone number, email address, program completed, program
21 start date, scheduled completion date, and actual completion date;

22 (3) graduate's place of employment and position, date employment began, date employment
23 ended, if applicable, actual salary, hours per week, and the date employment was verified;

24 (4) for each employer from which employment or salary information was obtained, the
25 employer name(s) address and general phone number, the contact person at the employer and the
26 contact's phone number and email address, and all written communication with employer
27 verifying student's employment or salary;

28

1 (5) for students who become self-employed, all documentation necessary to demonstrate
2 self-employment;

3 (6) a description of all attempts to contact each student or employer;

4 (7) any and all documentation used to provide data regarding license examinations and
5 examination results.”

6 23. California Code of Regulations, title 5, section 76140 states in relevant part:

7 “(a) A qualifying institution shall collect and maintain records of student information to
8 substantiate the data reported on the STRF Assessment Reporting Form and records of the
9 students' eligibility under the Fund. Such records shall include the following for each student:

10 (1) Student identification number,

11 ...

12 (3) Email address,

13 ...

14 (7) Date enrollment agreement signed,

15 (8) Courses and course costs,

16 ...

17 (11) Third-party payer identifying information,

18 (12) Total institutional charges charged, and

19 (13) Total institutional charges paid.”

20 **COST RECOVERY PROVISION**

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

27 25. Section 94937 of the Code provides, in pertinent part, that the Bureau may seek
28 reimbursement costs of investigation and enforcement pursuant 125.3 of the Business and

1 Professions Code but that an institution shall not be required to pay the cost of investigation to
2 more than one agency.

3
4 **FACTUAL BACKGROUND**

5 26. On or about February 26, 2014, the Bureau received an enforcement referral from a
6 Bureau Compliance Analyst. The referral resulted from Respondent's failure to clear all items on
7 a Notice to Comply following the Bureau's announced compliance inspection of Respondent.
8 Subsequent to the Bureau analyst's referral, the Bureau received two additional complaints
9 against Respondent.

10 27. The second complaint was received by the Bureau on or about July 12, 2017. It was
11 filed by a former student, K.T. The complaint alleged the following: (1) K.T. was enrolled in
12 Respondent's Medical Billing Program and the program was more focused on medical coding
13 than medical billing; (2) Respondent encouraged K.T. to falsify information on his job
14 applications; (3) Respondent promised to, but did not assist K.T. in his job search; (4) K.T. was
15 not taught enough during the Medical Billing Program to pass the certification test; (5)
16 Respondent provided K.T. with a Toshiba Windows 8 laptop, valued in excess of \$100, in return
17 for recruiting students for a CPR class being offered at Giligia.

18 28. On October 24, 2017, a Bureau Compliance Analyst submitted a referral. The
19 referral resulted from a review of the documents submitted by Respondent during a Bureau desk
20 inspection. The review showed that Respondent had violated regulations related to Uniform Data
21 Annual Reports, Performance Fact Sheets, record keeping requirements, and prohibited business
22 practices.

23 29. On October 27, 2017, the Bureau notified Respondent that their application for a
24 Renewal for Approval to Operate and Offer Education Programs for Non-Accredited Institutions
25 in California was denied.²

26
27 ² A Statement of Issues, Bureau Case No. 1003079 was filed on May 21, 2018 in this
28 related matter. The OAH Number for the Statement of Issues matter is 2018060904. The hearing
for this matter is set for June 27, 2019.

1 30. On May 17, 2018, a Bureau investigator traveled to Giligia to conduct a field
2 investigation based on the three complaints. In the course of the investigation, the investigator
3 collected and copied many documents, including but not limited to student files, Respondent's
4 Catalog, and the Student Handbook. The investigator determined that Respondent is in violation
5 of sections of the Code and the California Code of Regulations, set forth in greater detail below.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Notifications of Non-Substantive Changes)**

8 31. Respondent is subject to disciplinary action under Code section 94877, subdivision
9 (a) in conjunction with Title 5 of the California Code of Regulations, section 71660, in that
10 Respondent offered a Cardiopulmonary Resuscitation ("CPR") program to its students without
11 notifying the Bureau of the addition to Respondent's roster of programs. This course is not
12 offered in Respondent's Catalog. The Bureau investigator researched the Bureau's database,
13 School Automated Information Link ("SAIL"). The investigator determined that CPR is not, nor
14 has it ever been, an approved program offered by Respondent. Complaint refers to, and by this
15 reference incorporates paragraphs 26 through 30 as though set forth in full.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Withdrawals and Refunds)**

18 32. Respondent is subject to disciplinary action under Code sections 94877, subdivision
19 (a) in conjunction with Title 5 of the California Code of Regulations, section 71750, subdivisions
20 (c) and (f), and Code section 94920, subdivision (d) in that Respondent failed to comply with
21 requirements relating to the issuance of refunds. On or about May 17, 2018, the Bureau
22 investigator obtained five random student files as well as the 2018 Giligia catalog, the 2018
23 Student Handbook, and the current version of Respondent's enrollment agreement. Respondent's
24 failure to comply with requirements relating to refunds and withdrawals are set forth in greater
25 detail below:

26 i. The documents revealed that Respondent's refund policy does not meet the
27 requirements that there be a specific pro rata refund for students who attend less than 60 percent
28 of the program period of attendance. Instead, Respondent calculates refunds based on the length

1 of the period for which a student is enrolled, rather than the pro rata refund calculation, i.e.
2 Students in programs longer than 12 months are released from paying beyond the first 12 months
3 if they withdraw in first year, whereas if a students withdraws after the first 12 months,
4 Respondent's 2018 catalog states, "If a student withdraws during any subsequent period
5 following the first 12 months, the student's refund for the unused portion of the tuition applicable
6 to the period of withdrawal." Refunds for programs that are 12 months or less are as follows:

- 7 • For attendance of 10 percent or less of their program period, student will receive a
8 refund at least 90 percent of the money they paid Respondent;
- 9 • Above 10 percent through 25 percent, the student is refunded 50 percent;
- 10 • Above 25 percent through 50 percent, the student is refunded 25 percent;
- 11 • After 50 percent attendance, Respondent may retain all of the tuition.

12 ii. Respondent failed to maintain a cancellation and withdrawal log, kept current on a
13 monthly basis, which contains the following information: the names, addresses, telephone
14 numbers, and dates of cancellations/withdrawals of all students who have cancelled the
15 enrollment agreement with, or withdrawn from the institution during the calendar year. The logs
16 obtained by the Bureau investigator are lacking the required information. Complaint refers to, and
17 by this reference incorporates paragraphs 26 through 30 as though set forth in full.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Admissions Standards and Transferred Credits Policy)**

20 33. Respondent is subject to disciplinary action under Code section 94877, subdivision
21 (a) in conjunction with Title 5 of the California Code of Regulations, section 71770, subdivision
22 (c), in that Respondent failed to include an experiential learning policy in the catalog as required.
23 Complaint refers to, and by this reference incorporates paragraphs 26 through 30 as though set
24 forth in full.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Catalog)**

3 34. Respondent is subject to disciplinary action under Code section 94877, subdivision
4 (a) in conjunction with Title 5 of the California Code of Regulations, section 71810, subdivisions
5 (b)(7) and (b)(14), in that Respondent's Catalog has the following deficiencies:

6 i. Respondent's catalog does not state whether the institution accepts experiential
7 learning credit and does not have policies or procedures as required to address the topic.

8 ii. Respondent's catalog does not contain a policy for addressing student grievances or
9 student rights as required. The catalog's only grievance policy is for faculty and employees.

10 Complaint refers to, and by this reference incorporates paragraphs 26 through 30 as though
11 set forth in full.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Student Records)**

14 35. Respondent is subject to disciplinary action under Code section 94877, subdivision
15 (a) in conjunction with Title 5 of the California Code of Regulations, section 71920, subdivisions
16 (b)(1)(A), (b)(3), (b)(4), (b)(5)(A), (b)(9), and (b)(10), in that Respondent failed to maintain
17 student records as follows:

18 i. Respondent failed to maintain verification within its student files of students'
19 completion of high school or the equivalent, or documentation establishing the student's ability to
20 do college-level work, such as an ability to benefit test;

21 ii. Respondent failed to retain all documentation signed by students, including School
22 Performance Fact Sheets ("SPFS"), attendance forms, as well as financial forms;

23 iii. Respondent failed to maintain the required documentation regarding students'
24 attendance in or withdrawals from its respective programs;

25 iv. Respondent failed to maintain student transcripts;

26 v. Respondent failed to maintain ledgers of students' accounts. Respondent also had
27 incomplete billing statements for students, which in several instances, contradict the tuition
28 amounts listed on the enrollment agreements.

1 vi. Respondent's files pertaining to student withdrawal were incomplete and did not
2 contain all the required calculation information or required refund amounts.

3 Complaint refers to, and by this reference incorporates paragraphs 26 through 30 as though
4 set forth in full.

5 **SIXTH CAUSE FOR DISCIPLINE**

6 **(Maintenance of Records)**

7 36. Respondent is subject to disciplinary action under Code section 94877, subdivision
8 (a) in conjunction with Title 5 of the California Code of Regulations, section 71930, subdivisions
9 (d) and (e), in that Respondent failed to maintain a second set of academic and financial records
10 and to make those records available for inspection and copying by the Bureau or other authorized
11 investigative entities. On or about October 8, 2018, the Bureau investigator requested the
12 following documentation from Respondent: Student Tuition Recovery Fund ("STRF") and SPFS
13 backup data for 2016, 2017, and 2018; a copy of the 2016 SPFS; faculty files for Giligia
14 instructors U.B., N.M., R.B., R.M., S.R., P.B., and T.H. Respondent has not provided the
15 requested documentation to the Bureau. Complaint refers to, and by this reference incorporates
16 paragraphs 26 through 30 as though set forth in full.

17 **SEVENTH CAUSE FOR DISCIPLINE**

18 **(Uniform Data – Annual Report, Performance Fact Sheet)**

19 37. Respondent is subject to disciplinary action under Code section 94877, subdivision
20 (a) in conjunction with Title 5 of the California Code of Regulations, section 74112, subdivisions
21 (f) and (m)(1) through (7), in that Respondent's Annual Report and Performance Fact Sheet did
22 not include the total charges for a student to complete a program. Additionally, Respondent failed
23 to provide the Bureau with the data reported in the Annual Report and Performance Fact Sheet,
24 including but not limited to the following: student names and contact information; graduates'
25 place of employment and employment information; data regarding license examination and
26 examination results, and descriptions of all attempts to contact students and/or employers.
27 Complaint refers to, and by this reference incorporates paragraphs 26 through 30 as though set
28 forth in full.

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Record Keeping Requirements)**

3 38. Respondent is subject to disciplinary action under Code section 94877, subdivision
4 (a) in conjunction with Title 5 of the California Code of Regulations, section 76140, subdivisions
5 (a)(1), (a)(3), (a)(7), (a)(8), (a)(11), (a)(12) and (a)(13), in that Respondent was required to collect
6 and maintain records of student information to substantiate the data reported on the STRF
7 Assessment Reporting Form and records of the students' eligibility under the fund, specifically,
8 the students' identification numbers, email addresses, course information and cost, date of
9 signature for enrollment agreements, third party payer information, and total institutional charges,
10 as set forth below:

11 i. Respondent failed to include student identification numbers on many of the files
12 collected by the Bureau investigator at Giligia on or about May 17, 2018;

13 ii. Respondent provided invalid/nonworking student email addresses to the Bureau on
14 May 17 and 30, 2018.

15 iii. Multiple enrollment agreements collected by the Bureau were not signed and/or dated
16 by the student or Respondent's administrator.

17 iv. During the Bureau investigator's May 17, 2018 visit, many of the student files
18 collected list conflicting course costs and content of the courses. Furthermore, the course tuition
19 as listed on the enrollment agreements does not match the tuition as listed in the catalog that was
20 current at the time of the student enrollment.

21 v. Respondent's owner, Hovanes Kartounian, informed the Bureau investigator during
22 the May 17, 2018 site visit, that Respondent gets the majority of its students through back-to-
23 work programs, which are funded by third-party payers. None of the files obtained by the Bureau
24 on May 17, 31, and June 6, 2018, contained the full documentation showing the payments,
25 interactions, and contact between Respondent and the third-party payers.

26 vi. Respondent failed to include financial ledgers in the students' files, as well as the
27 exact amounts billed for each student's tuition, or the exact amount paid for each student's
28 tuition.

1 Complaint refers to, and by this reference incorporates paragraphs 26 through 30 as though
2 set forth in full.

3 **NINTH CAUSE FOR DISCIPLINE**

4 **(Prohibited Business Practices)**

5 39. Respondent is subject to disciplinary action under section 94897, subdivisions (g),
6 (j)(3) and (k), of the Code in that Respondent engaged in prohibited business practices as follows:

7 i. Respondent employed student K.T. to recruit fellow students for a CPR course that
8 Respondent offered as part of its medical billing program. Respondent paid student K.T. for his
9 recruitment efforts by giving him a Toshiba laptop with Windows 8 installed. The value of the
10 laptop exceeded \$100.

11 ii. During the May 17, 2018 field investigation, the Bureau investigator found
12 documents that indicate that Respondent had falsified student files, stating that the students had
13 fulfilled the requirements of their course of study. The student files show that that at least one
14 student did not complete the required number of course hours and should have not have graduated
15 from their program. Student S.T. received a Certificate of Completion for the Respondent's
16 Taxation program on April 14, 2017. However, student S.T.'s Transcript of Academic Record
17 states that S.T. only completed 17 of the 20 units required to graduate.

18 iii. The student files collected and copied by the Bureau investigator during the May 17,
19 2018 field investigation, when contrasted with documents supplied by Respondent on May 31,
20 2018 and June 6, 2018, indicate that Respondent falsified and altered the student files by adding
21 signature and/or changing students' dates of attendance for their programs. Respondent's records
22 reflect that student L.M. completed the 20-unit Medical Billing program on February 23, 2018.
23 This program requires completion of 415 hours of coursework. During the May 17, 2018 field
24 investigation, the Bureau investigator made copies of student L.M.'s student file. The daily
25 attendance sheet copied by the investigator contained an attendance record showing L.M.'s
26 attendance on the following dates only: October 2-6, 2017. Respondent emailed additional
27 documents to the Bureau investigator on May 31, 2018. These additional documents included
28 documents from L.M.'s student file that were missing during the May 17, 2018 field

1 investigation, including the Transcript Academic Record, as well as attendance records that
2 contained L.M.'s purported signature on all six pages of the attendance record, from October 2,
3 2017 through February 23, 2018.

4 Complaint refers to, and by this reference incorporates paragraphs 26 through 30 as though
5 set forth in full.

6 **TENTH CAUSE FOR DISCIPLINE**

7 **(Approval Required for Programs Leading to Licensed Professions)**

8 40. Respondent is subject to disciplinary action under sections 94899 and 94905 of the
9 Code, in that Respondent offered a Pharmacy Technician program in 2016 without agency
10 approval and failed to inform the students that this licensure was required for this profession.
11 Respondent did not provide information on the licensing requirements or examination as required.
12 Complaint refers to, and by this reference incorporates paragraphs 26 through 30 as though set
13 forth in full.

14 **ELEVENTH CAUSE FOR DISCIPLINE**

15 **(Requirements for Recruiters)**

16 41. Respondent is subject to disciplinary action under section 94901 of the Code, in that
17 Respondent asked student K.T. to recruit new students for Respondent's CPR program.
18 Respondent did not issue student K.T. with identification to carry with in him while acting in the
19 role of recruiter. Complainant refers to, and by this reference incorporates paragraph 26 through
20 30 as though set forth in full.

21 **TWELFTH CAUSE FOR DISCIPLINE**

22 **(General Enrollment Requirements)**

23 42. Respondent is subject to disciplinary action under section 94902, subdivisions (a),
24 (b)(1) and (b)(3) of the Code, in that Respondent failed to provide all students with copies of the
25 Catalog and SPFS. In addition, during the May 17, 2018 field investigation, the Bureau
26 investigator collected and copied student files, many of which are missing signed copies of the
27 SPFS. Complaint refers to, and by this reference incorporates paragraphs 26 through 30 as though
28 set forth in full.

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2 **THIRTEENTH CAUSE FOR DISCIPLINE**

3 **(Minimum Requirements for School Catalog)**

4 43. Respondent is subject to disciplinary action under section 94909, subdivisions (a)(3)
5 (B) of the Code, in that Respondent was required to include required statements in the school
6 catalog pertaining to review of the catalogue and SPFS. Respondent failed to include the
7 following required statement:

8 “(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a
9 prospective student, either in writing or electronically, with a school catalog containing, at a
10 minimum, all of the following:

11 ...
12 (3) The following statements:

13 ...
14 (B) ‘As a prospective student, you are encouraged to review this catalog prior to signing an
15 enrollment agreement. You are also encouraged to review the School Performance Fact Sheet,
16 which must be provided to you prior to signing an enrollment agreement.

17 Complaint refers to, and by this reference incorporates paragraphs 26 through 30 as though
18 set forth in full.

19 **FOURTEENTH CAUSE FOR DISCIPLINE**

20 **(Signature, Initials Required)**

21 44. Respondent is subject to disciplinary action under section 94912 of the Code in that
22 Respondent was required to have its students sign, date, and initial various parts of the Enrollment
23 Agreement. In the course of the May 17, 2018 field investigation, the Bureau investigator
24 obtained multiple student files which were not properly signed by both the students and
25 Respondent. Complaint refers to, and by this reference incorporates paragraphs 26 through 30 as
26 though set forth in full.

27 **FIFTEENTH CAUSE FOR DISCIPLINE**

28 **(Institution Participating in Federal Student Financial Aid Programs)**

45. Respondent is subject to disciplinary action under section 94919 of the Code, in that
Respondent is an institution that participates in the federal student financial aid program and is
therefore required to issue pro rata refunds of nonfederal student financial aid program moneys
paid for institutional charges to students who have completed 60 percent or less of the period of

1 attendance. However, Respondent's refund policy does not meet the requirement as it calculates
2 refunds based on the length of time, for example, refunding students who attend 10 percent of
3 their program at least 90 percent of the fees, while students who attend between 10 and 25 percent
4 are refunded 25 percent of the fees. Complaint refers to, and by this reference incorporates
5 paragraphs 26 through 30 as though set forth in full.

6 **SIXTEENTH CAUSE FOR DISCIPLINE**

7 **(Alternative Refund Calculation)**

8 46. Respondent is subject to disciplinary action under section 94921 of the Code in that
9 Respondent was required to obtain approval from the Bureau before implementing an alternative
10 method of calculating student refunds and failed to do so. Complaint refers to, and by this
11 reference incorporates paragraphs 26 through 30 as though set forth in full.

12 **SEVENTEENTH CAUSE FOR DISCIPLINE**

13 **(Documentation of Performance Data)**

14 47. Respondent is subject to disciplinary action under section 94929.7, subdivisions
15 (a)(1), (a)(2) and (b), of the Code in that Respondent is required to document and retain the
16 information used to substantiate and calculate the completion rate for each program, as well as the
17 job placement rate, license examination passage rate, salary and wage information of graduates,
18 three-year cohort federal loan default rate. Respondent is also required to document and retain
19 information. On or about October 18, 2018, the Bureau requested the above information from
20 Respondent, who failed to provide the requested information. Furthermore, on the same date, the
21 Bureau requested additional information, including a list of employment positions use to
22 determine the number of graduates employed in the field for purposes of calculating job
23 placement rates. Respondent failed to provide the information. Complaint refers to, and by this
24 reference incorporates paragraphs 26 through 30 as though set forth in full.

25 **PRAYER**

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

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1. Revoking or suspending Approval to Operate, Institution Code 55199106, issued to Respondent;
2. Ordering Respondent 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 Education Code section 94937; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/3/19



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

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