

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 HEATHER VO
Deputy Attorney General
4 State Bar No. 223418
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6317
6 Facsimile: (916) 731-2126
Attorneys for Complainant
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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1004394

12 **EL MONTE TRUCK DRIVING SCHOOL,**
13 **CRUZ MONGE, Owner**
1545 Arrow Hwy
14 Irwindale, CA 91706

ACCUSATION

15 Approval to Operate Institution Code 1938491
16 Respondent.
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18 **PARTIES**

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

22 2. On or about October 12, 1999, the Bureau for Private Postsecondary Education
23 (“Bureau”) issued Approval to Operate Number 1938491 to El Monte Truck Driving School,
24 Cruz Monge, Owner (Respondent). The Approval to Operate was in full force and effect at all
25 times relevant to the charges brought herein and will expire on January 24, 2021, unless renewed.

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JURISDICTION

3. This 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 Education Code unless otherwise indicated.

4. Business and Professions Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 94875 provides that the Bureau shall regulate private postsecondary educational institutions.

6. Section 94877 states, in relevant part, that:

“(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..... ”

7. California Code of Regulations, title 5, section 75100 provides that the Bureau may suspend, revoke or place on probation with terms and conditions an approval to operate.

STATUTORY PROVISIONS

8. Section 94934, subdivision (a), states in relevant part:

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

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

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

(3) The degree levels and diplomas offered.

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

- 1 (5) The school catalog, as required pursuant to Section 94909.
2 (6) The total charges for each educational program by period of attendance.
3 (7) A statement indicating whether the institution is, or is not, current in remitting Student
4 Tuition Recovery Fund assessments.
5 (8) A statement indicating whether an accrediting agency has taken any final disciplinary
6 action against the institution.
7 (9) Additional information deemed by the bureau to be reasonably required to ascertain
8 compliance with this chapter.
9 ...

10 **REGULATORY PROVISIONS**

- 11 9. California Code of Regulations, title 5, section 75050, subdivision (b), states:
12 “Failure of an applicant or institution issued an approval to operate to abate the violation or
13 to pay the fine within the time allowed is a ground for denial or discipline of an approval to
14 operate.”

15 **COST RECOVERY**

- 16 10. Section 94937, subdivision (d), provides that the Bureau may seek reimbursement
17 costs of investigation and enforcement pursuant Business and Professions Code section 125.3.
18 11. Business and Professions Code section 125.3 provides, in pertinent part, that the
19 Board may request the administrative law judge to direct a licentiate found to have committed a
20 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
21 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the
22 license to not being renewed or reinstated. If a case settles, recovery of investigation and
23 enforcement costs may be included in a stipulated settlement.

24 **FACTUAL ALLEGATIONS**

- 25 12. Cruz Monge is the owner of El Monte Truck Driving School (“Respondent”).
26 13. On or about April 25, 2018, Respondent was issued Notice to Comply #CA 1938491
27 0418 for violations following a Compliance review and inspection. Respondent was given 30
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1 days from the date of inspection to remedy the violations. Respondent failed to do so within the
2 30-day timeframe.

3 14. In addition, on or about December 20, 2018, the Bureau notified Respondent that a
4 required 2017 Annual Report was due on April 20, 2019, but later extended to May 16, 2019.
5 Respondent failed to submit the Annual Report for the 2017 calendar year.

6 15. On June 6, 2019, the Bureau issued Citation number #1819216 to Respondent for the
7 following violations:

8 i. Annual Report. Respondent failed to file his 2016 and 2017 Annual Reports;

9 ii. Prohibited Business Practices. Respondent engaged in Prohibited Business
10 Practices by citing to “Chapter 8, Part 59, Division 10, Title 3” in its catalog, instead of the
11 correct “California Education Act of 2009, California Code of Regulations Division 7.5”;

12 iii. Minimum Requirements for School Catalog. Respondent failed to identify
13 which Ability to Benefit Test and what passing scores it will accept in place of a high school
14 diploma or GED. Moreover, Respondent’s school catalog failed to include current total charges
15 for the program and includes costs that are outdated;

16 iv. Language of Enrollment Agreement. Respondent failed to provide a statement
17 indicating how he will provide the enrollment agreement, disclosures and statements to students
18 whose primary language is not English;

19 v. Record-Keeping Requirements. Respondent failed to comply with record-
20 keeping requirements;

21 vi. Catalog. Respondent’s catalog failed to indicate that courses are taught in
22 English only.

23 16. Pursuant to Citation No. 1819216, the Bureau ordered Respondent to comply with the
24 Orders for Abatement by correcting each violation by July 6, 2019 as well as pay a fine in the
25 amount of \$6,750.00.

26 17. The Bureau mailed three separate demand letters to Respondent on July 12, 2019,
27 September 9, 2019, and October 21, 2019, requesting compliance with Citation number 1819216.

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1 18. Respondent has not complied with the Order of Abatement and the fine remains
2 unpaid. Respondent did not appeal Citation No. 1819216 and it is now final.

3 **CAUSE FOR DISCIPLINE**

4 **(Failure to Pay Fines and Abate Violations)**

5 19. Respondent is subject to disciplinary action under California Code of Regulations,
6 title 5, section 75050, subdivision (b), in that Respondent failed to pay \$6,750.00 in fines that the
7 Bureau assessed in conjunction with the issuance of Citation No. 1819216. Respondent likewise
8 failed to comply with the Orders of Abatement set forth in the citation. Complainant refers to and
9 by this reference incorporates paragraphs 12 through 18 as though set forth in full.

10 **OTHER MATTERS**

11 20. On or about March 10, 2020, Respondent was issued Citation Number 1920250 for
12 violations including failing to submit Student Tuition Recovery Fund (STRF) Assessment
13 Reporting Forms for 2018 and 2019, and for failing to pay the annual fee for 2018 and 2019.
14 Pursuant to Citation No. 1920250, the Bureau ordered Respondent to comply with the Orders for
15 Abatement by correcting each violation by July 17, 2020 as well as pay a fine in the amount of
16 \$50.00. On July 2, 2020, the Bureau received payment of \$50.00; however, Respondent failed to
17 submit compliance with the Orders of Abatement. Respondent did not appeal Citation No.
18 1920250 and it is now final.

19 **PRAYER**

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

- 23 1. Revoking or suspending Approval to Operate Institution Code 1938491, issued to El
24 Monte Truck Driving School, Cruz Monge, Owner;
- 25 2. Ordering Cruz Monge, Owner to pay the Bureau for Private Postsecondary Education
26 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
27 Professions Code section 125.3; and,

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

DATED: “9/28/2020”

“Original signature on file”
DR. MICHAEL MARION, JR.
Chief
Bureau for Private Postsecondary
Education
Department of Consumer Affairs
State of California
Complainant

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