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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 Statement of Issues
12 Against:

Case No. 998608

13 **SAFeway TRUCK DRIVING SCHOOL;**
14 **BALWINDER KAUR; owner**
15 **Renewal of Approval to Operate and Offer**
16 **Educational Programs for Non-Accredited**
17 **Institutions Applicant**
18 **Institution Code: 53555593**

STATEMENT OF ISSUES

Respondent.

18 Complainant alleges:

19 PARTIES

- 20 1. Laura Metune (Complainant) brings this Statement of Issues solely in her official
21 capacity as the Chief of the Bureau for Private Postsecondary Education ("Bureau"), Department
22 of Consumer Affairs.
- 23 2. On or about March 2, 2012, the Bureau received an Application for Renewal of Approval to
24 Operate and Offer Educational Programs for Non-Accredited Institutions (#24501) from
25 Balwinder Kaur, owner (Respondent). On or about February 29, 2012, Respondent certified
26 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
27 application. On or about March 20, 2012, the Bureau mailed a deficiency to Respondent.
28 Subsequently, Respondent submitted addendums or additional documentation to address the

1 deficiencies. Five subsequent deficiency notices were sent to Respondent. Each time Respondent
2 attempted to modify the deficient items on the application. The Bureau denied application #24501
3 on October 12, 2012.

4 **JURISDICTION**

5 3. This Statement of Issues is brought before the Director of the Department of
6 Consumer Affairs (Director) for the Bureau under the authority of the following laws.

7 **STATUTORY PROVISIONS**

8 4. Business and Professions Code section 22 defines the term "board" to include
9 "bureau."

10 5. Business and Professions Code section 480 states, in pertinent part:

11 "(a) A board may deny a license regulated by this code on the grounds that the applicant
12 has one of the following:

13

14 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
15 would be grounds for suspension or revocation of license.

16 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
17 substantially related to the qualifications, functions, or duties of the business or profession for
18 which application is made. . . ."

19 6. Education Code section 94885¹ states:

20 "The bureau shall, by January 1, 2011, adopt by regulation minimum operating standards
21 for an institution that shall reasonably ensure that all of the following occur:

22 "(a) The content of each educational program can achieve its stated objective.

23 "(b) The institution maintains specific written standards for student admissions for each
24 educational program and those standards are related to the particular educational program.

25 "(c) The facilities, instructional equipment, and materials are sufficient to enable students
26 to achieve the educational program's goals.

27 _____
28 ¹ California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

1 “(d) The institution maintains a withdrawal policy and provides refunds.

2 “(e) The directors, administrators, and faculty are properly qualified.

3 “(f) The institution is financially sound and capable of fulfilling its commitments to
4 students.

5 “(g) That, upon satisfactory completion of an educational program, the institution gives
6 students a document signifying the degree or diploma awarded.

7 “(h) Adequate records and standard transcripts are maintained and are available to
8 students.

9 “(i) The institution is maintained and operated in compliance with this chapter and all
10 other applicable ordinances and laws.

11 7. Education Code section 94886 states:

12 “Except as exempted in Article 4 (commencing with Section 94874) or in compliance with
13 the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,
14 conduct, or do business as a private postsecondary educational institution in this state without
15 obtaining an approval to operate under this chapter.”

16 8. Education Code section 94887:

17 “An approval to operate shall be granted only after an applicant has presented sufficient
18 evidence to the bureau, and the bureau has independently verified the information provided by the
19 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
20 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
21 for an approval to operate if the application does not satisfy those standards.”

22 9. Education Code section 94909 provides minimum content requirements for the
23 educational institution’s catalog and states in pertinent part:

24 “(a) Prior to enrollment, an institution shall provide a prospective student, either in writing
25 or electronically, with a school catalog containing, at a minimum, all of the following:

26 (6) If the educational program is designed to lead to positions in a profession, occupation,
27 trade, or career field requiring licensure in this state, a notice to that effect and a list of the
28 requirements for eligibility for licensure.

1 (8) A detailed description of institutional policies in the following areas:

2 (A) Admissions policies, including the institution's policies regarding the acceptance of
3 credits earned at other institutions or through challenge examinations and achievement tests,
4 admissions requirements for ability-to-benefit students, and a list describing any transfer or
5 articulation agreements between the institution and any other college or university that provides
6 for the transfer of credits earned in the program of instruction. If the institution has not entered
7 into an articulation or transfer agreement with any other college or university, the institution shall
8 disclose that fact."

9 10. Education Code section 94911 provides the minimum requirements for the
10 educational institution's enrollment agreement and states in pertinent part:

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

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

15 * * *

16 (i) (1) The following statement: "Prior to signing this enrollment agreement, you must be
17 given a catalog or brochure and a School Performance Fact Sheet, which you are encouraged to
18 review prior to signing this agreement. These documents contain important policies and
19 performance data for this institution. This institution is required to have you sign and date the
20 information included in the School Performance Fact Sheet relating to completion rates,
21 placement rates, license examination passage rates, salaries or wages, and the most recent three-
22 year cohort default rate, if applicable, prior to signing this agreement."

23 (2) Immediately following the statement required by paragraph (1), a line for the student
24 to initial, including the following statement: "I certify that I have received the catalog, School
25 Performance Fact Sheet, and information regarding completion rates, placement rates, license
26 examination passage rates, salary or wage information, and the most recent three-year cohort
27 default rate, if applicable, included in the School Performance Fact sheet, and have signed,
28 initialed, and dated the information provided in the School Performance Fact Sheet."

1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 5, division 7.5, section 71100 states:

3 “(a) An applicant seeking approval to operate pursuant to Section 94886 of the Code,
4 other than Approval to Operate by Accreditation pursuant to Section 94890(a)(1) of the Code,
5 shall complete the "Application for Approval to Operate for an Institution Not Accredited," Form
6 Application 94886 (rev. 2/10). An applicant seeking approval to operate by accreditation pursuant
7 to Section 94890(a)(1) of the Code shall comply with section 71390.

8 “(b) An applicant shall submit the completed form, the information or documentation,
9 required by this Article, the appropriate application fee as provided in Section 94930.5(a)(1) of
10 the Code, and any appropriate annual fee as required by Article 1 of Chapter 5 of this Division, to
11 the Bureau.

12 “(c) An application that fails to contain all of the information required by this article shall
13 render it incomplete.”

14 12. California Code of Regulations, title 5, division 7.5, section 71770, subdivision (b)
15 states:

16 “(b) The institution shall specify the maximum credit it will transfer from another
17 institution for each educational program, and the basis upon which the transferred credit will be
18 awarded.

19 (1) Except as limited by subdivision (c) of this section, a maximum of 75 percent of the
20 units or credit that may be applied toward the award of a bachelor's degree may be derived from a
21 combination of any or both of the following:

22 (A) Units earned at institutions approved by the Bureau, public or private institutions of
23 higher learning accredited by an accrediting association recognized by the U. S. Department of
24 Education, or any institution of higher learning, including foreign institutions, if the institution
25 offering the undergraduate program documents that the institution of higher learning at which the
26 units were earned offers degree programs equivalent to degree programs approved by the Bureau
27 or accredited by an accrediting association recognized by the U.S. Department of Education;

28

1 (B) Challenge examinations and standardized tests such as the College Level
2 Placement Tests (CLEP) for specific academic disciplines.

3 (2) No more than 20% of graduate semester units or the equivalent in other units awarded
4 by another institution may be transferred for credit toward a Master's degree. An institution may
5 accept transfer credits only from the institutions of higher learning described in subsection (1)(A).

6 (3) No more than 30 graduate semester credits or its equivalent awarded by another
7 institution may be credited toward a doctoral degree. This subdivision does not apply to graduate
8 programs that lead to a profession or an occupation requiring state licensure where the licensing
9 agency has a regulation permitting a different standard."

10 13. California Code of Regulations, title 5, division 7.5, section 71800 provides the
11 minimal information required within the enrollment agreement in addition to the requirements of
12 section 94911 and states:

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

15 (a) The name and address of the institution and the addresses where instruction will be
16 provided.

17 (b) Period covered by the enrollment agreement.

18 (c) Program start date and scheduled completion date.

19 (d) Date by which the student must exercise his or her right to cancel or withdraw, and the
20 refund policy, including any alternative method of calculation if approved by the Bureau pursuant
21 to section 94921 of the Code.

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

23 (1) tuition;

24 (2) registration fee (non-refundable);

25 (3) equipment;

26 (4) lab supplies or kits;

27 (5) Textbooks, or other learning media;

28 (6) uniforms or other special protective clothing;

- 1 (7) in-resident housing;
2 (8) tutoring;
3 (9) assessment fees for transfer of credits;
4 (10) fees to transfer credits;
5 (11) Student Tuition Recovery Fund fee (non-refundable);
6 (12) any other institutional charge or fee.
7 (f) Charges paid to an entity other than an institution that is specifically required for
8 participation in the educational program."

9 14. California Code of Regulations, title 5, division 7.5, section 71810 provides minimum
10 content requirements for the school's catalog pursuant to Education Code section 94909 and
11 states in pertinent part:

12 "(b) The catalog shall contain the information prescribed by Section 94909 of the Code and
13 all of the following:

14 (13) Housing information including all of the following:

15 (A) Whether the institution has dormitory facilities under its control;

16 (B) The availability of housing located reasonably near the institution's facilities and an
17 estimation of the approximate cost or range of cost of the housing; and

18 (C) If the institution has no responsibility to find or assist a student in finding housing, a
19 clear and conspicuous statement so indicating. A statement that the program is "non- residential"
20 does not satisfy this subparagraph..

21 CAUSES FOR DENIAL OF APPLICATION

22 (Incomplete Application)

23 15. Respondent's application is subject to denial under Business and Professions Code
24 sections 480, subdivision (a)(3)(A), Education Code section 94887 and California Code of
25 Regulations, title 5, division 7.5, section 71100, subdivisions (a) – (c), in that on or about March
26 2, 2013, Respondent submitted an incomplete application to the Bureau, each ground is a sole and
27 separate cause for denial. The grounds are as follows:

28 a. Catalog Deficiencies. Respondent failed to provide a catalog that contains a notice

1 and a list of the requirements for eligibility for licensure, where the educational program is
2 designed to lead to positions in a profession, occupation, trade, or career field requiring licensure
3 in this state, violating Educational Code sec. 94909, subd. (a)(6).

4 b. Catalog Deficiencies. Respondent failed to provide a catalog that contains admission
5 policies, including the policies regarding acceptance of credits earned at other institutions or
6 through challenge examinations and achievement tests, requirements for ability-to-benefit
7 students, and a list describing any transfer or articulation agreements between the institution and
8 any other college or university that provides for the transfer of credits earned in the program of
9 instruction. If the institution has not entered into an articulation or transfer agreement with any
10 other college or university, the institution shall disclose that fact, violating Education Code
11 section 94909, subd. (a)(8)(A) and California Code of Regulations, title 5, division 7.5, section
12 71770, subdivision (b)(1-3).

13 c. Catalog Deficiencies. Respondent failed to provide a catalog that contains Housing
14 information to include all of the following: (A) whether the institution has dormitory facilities
15 under its control; (B) The availability of housing located reasonably near the institution's
16 facilities and an estimation of the approximate cost or range of cost of the housing; and (C) If the
17 institution has no responsibility to find or assist a student in finding housing, a clear and
18 conspicuous statement so indicating, violating California Code of Regulations, title 5, division
19 7.5, section 71810, subdivisions (b)(13) (A-C).

20 d. Enrollment Agreement Deficiencies. Respondent failed to provide an enrollment
21 agreement that includes a schedule of total charges, including a list of nonrefundable charges and
22 the student's obligation to the Student Tuition Recovery Fund (STRF), clearly identified as a
23 nonrefundable charge, violating Education Code section 94911, subd. (b). Respondent's
24 statement within this section that indicates non-resident students are not eligible for STRF is
25 incorrect. Further, Respondent's statement indicating STRF assessment is \$2.50 per \$1,000 of
26 tuition is incorrect since the assessment is based on total institutional charges, not solely tuition.

27
28

1 e. Enrollment Agreement Deficiencies. Respondent failed to provide an enrollment
2 agreement that includes the specific required statements and a line for the student to initial,
3 violating Education Code section 94911, subdivisions (i)(1-2).

4 f. Enrollment Agreement Deficiencies. Respondent provided an enrollment agreement
5 that while in compliance with California Code of Regulations, title 5, division 7.5, section 71800,
6 subdivisions (a-f), makes the following incorrect statements: that non-resident students are not
7 eligible for STRF; and that the STRF assessment is \$2.50 per \$1,000 of tuition, when in fact the
8 assessment is based on total institutional charges, not solely tuition.

9 PRAYER

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

- 13 1. Denying the application of Safeway Truck Driving School; Balwinder Kaur, owner
14 for a Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited
15 Institutions;
- 16 2. Taking such other and further action as deemed necessary and proper.

17
18 DATED: June 3, 2013

Laura Metune
LAURA METUNE

Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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