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

14 In the Matter of the Accusation Against:

Case No. 1005741

15 **CREATIVE CAREER OPTIONS**
16 **19 Wimbledon Court**
Dana Point, CA 92629

ACCUSATION

17 **Approval to Operate, Institution Code No.**
18 **25861237**

19 Respondent.

20 **PARTIES**

21 1. Deborah Cochrane (Complainant) brings this Accusation solely in her official
22 capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of
23 Consumer Affairs.

24 2. On or about August 8, 2016, the Bureau issued Approval to Operate, Institution Code
25 Number 25861237 to Creative Career Options (Respondent) owned by Jorge Porta. The
26 Approval to Operate, Institution Code Number 25861237 expired on August 8, 2021, and has not
27 been renewed.
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2 **JURISDICTION**

3 3. This Accusation is brought before the Director of the Department of Consumer
4 Affairs (Director) for the Bureau for Private Postsecondary Education, under the authority of the
5 following laws. All section references are to the Education Code (Code) unless otherwise
6 indicated.

7 4. Section 118 of the Bus. & Prof. Code states in pertinent part:

8 . . .

9 (b) The suspension, expiration, or forfeiture by operation of law of a license
10 issued by a board in the department, or its suspension, forfeiture, or cancellation by
11 order of the board or by order of a court of law, or its surrender without the written
12 consent of the board, shall not, during any period in which it may be renewed,
13 restored, reissued, or reinstated, deprive the board of its authority to institute or
14 continue a disciplinary proceeding against the licensee upon any ground provided by
15 law or to enter an order suspending or revoking the license or otherwise taking
16 disciplinary action against the licensee on any such ground.

17 (c) As used in this section, board includes an individual who is authorized by
18 any provision of this code to issue, suspend, or revoke a license, and 'license'
19 includes 'certificate,' 'registration,' and 'permit.'

20 5. Section 94875 states:

21 The Bureau for Private Postsecondary Education, as established by Section 6 of
22 Chapter 635 of the Statutes of 2007, is continued in existence and shall commence
23 operations. This chapter establishes the functions and responsibilities of the bureau,
24 for the purposes of Section 6 of Chapter 635 of the Statutes of 2007. The bureau shall
25 regulate private postsecondary educational institutions through the powers granted,
26 and duties imposed, by this chapter. In exercising its powers, and performing its
27 duties, the protection of the public shall be the bureau's highest priority. If protection
28 of the public is inconsistent with other interests sought to be promoted, the protection
of the public shall be paramount.

6. Section 94936 states:

(a) As a consequence of an investigation, which may incorporate any materials
obtained or produced in connection with a compliance inspection, and upon a finding
that the institution has committed a violation of this chapter or that the institution has
failed to comply with a notice to comply pursuant to Section 94935, the bureau shall
issue a citation to an institution for violation of this chapter, or regulations adopted
pursuant to this chapter.

(b) The citation may contain any of the following:

(1) An 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.

(2) Notwithstanding Section 125.9 of the Business and Professions Code, an administrative fine not to exceed five thousand dollars (\$5,000) for each violation. The bureau shall base its assessment of the administrative fine on:

(A) The nature and seriousness of the violation.

(B) The persistence of the violation.

(C) The good faith of the institution.

(D) The history of previous violations.

(E) The purposes of this chapter.

(F) The potential harm to students.

...

(c)(1) The citation shall be in writing and describe the nature of the violation and the specific provision of law or regulation that is alleged to have been violated.

(2) The citation shall inform the institution of its right to request a hearing in writing within 30 days from service of the citation.

(3) If a hearing is requested, the bureau shall select an informal hearing pursuant to Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code or a formal hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(4) If a hearing is not requested, payment of the administrative fine is due 30 days from the date of service, and shall not constitute an admission of the violation charged.

(5) If a hearing is conducted and payment of an administrative fine is ordered, the administrative fine is due 30 days from when the final order is entered.

(6) The bureau may enforce the administrative fine as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

(d) All administrative fines shall be deposited in the Private Postsecondary Education Administration Fund.

REGULATORY PROVISIONS

7. California Code of Regulations, title 5, section 75020 states, in part:

(a) The Bureau Chief, or his or her designee, or the Director's designee, is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to section 94936 of the Code against approved private, postsecondary institutions that have committed any acts or omissions that are in violation of the Act or any regulation adopted pursuant thereto.

...

(c) In addition to the requirements of section 94936 of the Code, each citation shall inform the cited institution or person that:

(1) if a hearing pursuant to the Administrative Procedure Act (APA) is not requested, payment of the administrative fine is due 30 days from the date of service, and shall not constitute an admission of the violation charged.

...

(3) if the cited institution or person desires an informal conference to contest the finding of a violation prior to an APA hearing, the informal conference shall be requested by written notice to the Bureau within 30 days from service of the citation;

(4) failure to comply with any order of abatement within the time set forth in the citation, unless the citation is being appealed, may result in disciplinary action being taken by the Bureau; and

(5) The Bureau may enforce the administrative fine as if it were a money judgment pursuant to the California Code of Civil Procedure (beginning with section 680.010).

(d) Each citation shall be served on the cited institution or person, in person, or by certified and regular mail at the address of record on file with the Bureau. Citations served by certified and regular mail shall be deemed "served" on the date of mailing.

....

8. California Code of Regulations, title 5, section 75040 states, in part:

(a) Pursuant to section 94936(c)(2) of the Code, a cited institution or person may, within 30 days of service of the citation, request a hearing in writing to the Bureau, or it is waived. In addition to contesting a citation by requesting a hearing, the cited institution or person may, within the same 30 days, submit a written request to the Bureau for an informal conference.

...

(g) If a written request for a hearing pursuant to section 94936(c)(2) of the Code, or for an informal conference as provided in subsection (a), or both, is not submitted to the Bureau within 30 days from service of the citation, the cited institution or person is deemed to have waived the right to an informal conference and/or administrative hearing.

9. California Code of Regulations, title 5, section 75050 states, in part:

...

(b) Failure of an applicant or institution issued an approval to operate to abate the violation or to pay the fine within the time allowed is a ground for denial or discipline of an approval to operate.

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COST RECOVERY

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

FACTUAL ALLEGATIONS

11. On or about December 29, 2020, the Bureau issued Citation Number 2021169 to Respondent for failure to make student records immediately available to the Bureau upon request, failure to inform the Bureau in writing of any change in information for agent of service within seven days of the change, and failure to have personnel present during normal business hours to allow the Bureau access to conduct an unannounced compliance inspection. The citation ordered Respondent to submit established policy or procedures regarding the presence of personnel during normal business hours and written submission of the institution’s name, address, telephone number, and email for the current agent for service of process. The citation included an administrative fine of \$6,500.00. On or about January 11, 2021, Respondent paid the administrative fine.

12. On February 18, April 8, and May 5, 2021, the Bureau sent three consecutive demand letters regarding the Order of Abatement. On July 6, 2021, the Bureau emailed Respondent copies of the citation and demand letters. The Bureau instructed Respondent to reply by July 14, 2021. To date, Respondent has failed to comply with the Order of Abatement.

CAUSE FOR DISCIPLINE

(Failure to Abate Citation)

13. Respondent is subject to disciplinary action under title 5, California Code of Regulations, sections 75020, subdivision (c)(4) and 75050, subdivision (b), for failing to comply

1 with the Order of Abatement in Citation Number 2021169, issued by the Bureau on or about
2 December 29, 2020 as set forth in paragraphs 11 through 12 and incorporated herein.

3 **PRAYER**

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

7 1. Revoking Approval to Operate, Institution Code Number 25861237, issued to
8 Creative Career Options;

9 2. Ordering Creative Career Options to pay the Bureau for Private Postsecondary
10 Education the reasonable costs of the investigation and enforcement of this case, pursuant to
11 Business and Professions Code section 125.3; and,

12 3. Taking such other and further action as deemed necessary and proper.
13
14

15 DATED: “5/31/2022”

“Original signature on file”

16 DEBORAH COCHRANE
17 Chief
18 Bureau for Private Postsecondary
19 Education
20 Department of Consumer Affairs
21 State of California
22 *Complainant*

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