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

12
13 In the Matter of the Accusation Against:

Case No. 1005854

14 **FREDERICK W. TAYLOR UNIVERSITY**
15 **2050 W. Chapman Ave., Ste(s). 108 & 104**
Orange, CA 92868

ACCUSATION

16 **School Code No. 0702241**

17 Respondent.

18
19
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, Department of
23 Consumer Affairs.

24 2. On or about September 27, 1994, the Bureau for Private Postsecondary Education
25 issued an Approval to Operate, School Code Number 0702241 to Frederick W. Taylor University
26 owned by Vine Branches Transformation Company (Respondent). The Approval to Operate,
27 School Code Number 0702241, was in full force and effect at all times relevant to the charges
28 brought herein and will expire on April 17, 2024, unless renewed.

JURISDICTION

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

4. Section 118 of the Code states in pertinent part:

...

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

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

5. Section 94875 states:

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

6. Section 94930.5 states, in part:

...

(g) Notwithstanding subdivision (d), effective July 1, 2018, the annual fee for each campus described in subparagraphs (A) and (B) of paragraph (1) of subdivision (d) shall be in an amount equal to 0.55 percent of that campus' total gross revenue derived from students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000) for each campus.

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7. Section 94931 states, in part:

...

(b) A fee that is not paid on or before the 90th calendar day after the due date for payment of the fee shall be subject to a 35 percent late payment penalty fee.

8. 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.

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

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

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

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

11 **REGULATORY PROVISIONS**

12 9. California Code of Regulations, title 5, section 74006 states:

13 (a) An institution's annual fee is due within 30 days of the date on which the
14 institution originally receives its approval to operate and each year thereafter on the
15 anniversary of the date of the original approval.

16 (b) An institution shall pay its annual fee in addition to any other applicable fees.

17 (c) The annual institutional fee is based on the institution's annual revenue. For
18 purposes of this article, annual revenue is annual gross revenue.

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

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

25 ...

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

28 (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

1 (5) the Bureau may enforce the administrative fine as if it were a money
2 judgment pursuant to the California Code of Civil Procedure (beginning with section
3 680.010).

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

8

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

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

15 (b) The Bureau Chief, or his or her designee, or the Director, or his or her
16 designee, shall within 30 days from the Bureau's receipt of a written request for an
17 informal conference, hold an informal conference with the cited institution or person.
18 The 30-day period may be extended by the Bureau Chief or the Director for good
19 cause. The informal conference may be by telephone.

20 (c) Following the informal conference, the Bureau Chief, or his or her designee,
21 or the Director, or his or her designee, will affirm, modify, or dismiss the citation,
22 including any fine assessed and/or order of abatement issued. A written order
23 affirming, modifying, or dismissing the original citation shall be served on the cited
24 institution or person within 30 days from the informal conference. If the order affirms
25 or modifies the original citation, said order shall fix a reasonable period of time for
26 abatement of the violation and/or payment of the fine of not more than 30 days.

27 . . .

28 (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.

12. 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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1 13. California Code of Regulations, title 5, section 76130 states:

2 (a)(1) A qualifying institution shall collect the assessment from each student in an
3 educational program at the time it collects the first payment from or on behalf of the student
4 at or after enrollment. The assessment shall be collected for the entire period of enrollment,
5 regardless of whether the student pays the institutional charges in increments.

6 (2) The assessment to be collected from a re-enrolling student shall be limited to any
7 amount that is due after crediting any prior assessment amount paid by the student. The
8 enrollment agreement shall clearly identify any prior STRF assessment paid by the student.

9 (b) A qualifying institution shall complete the STRF Assessment report and remit it
10 with the STRF assessments collected from students to be received by the Bureau no later
11 than the last day of the month following the close of the quarter as follows:

- 12 (1) April 30 for the first quarter,
- 13 (2) July 31 for the second quarter,
- 14 (3) October 31 for the third quarter, and
- 15 (4) January 31 for the fourth quarter.

16 If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date
17 shall be extended to the next regular business day for the Bureau.

18 (c) The STRF Assessment report shall contain the following information:

- 19 (1) Total number of students who signed enrollment agreements for educational
20 programs during the reporting period; and
- 21 (2) Total number of students eligible for STRF who signed enrollment agreements for
22 educational programs during the reporting period; and
- 23 (3) The total number of students who signed their enrollment agreement during the
24 reporting period, were eligible for STRF, and who made their first payment during the
25 reporting period; and
- 26 (4) The total number of students who signed their enrollment agreement in a previous
27 reporting period, were eligible for STRF, and who made their first payment during the
28 current reporting period; and
- 29 (5) Total amount of institutional charges after rounding each student's institutional
30 charges to the nearest \$1,000, for all eligible STRF students whose STRF assessment was
31 collected in the reporting period; and
- 32 (6) Current contact telephone number of the person preparing the form; and

1 (7) A declaration dated and signed under penalty of perjury by the person preparing
2 the form that the form and any attachments are true and correct.

3 (d) In the event of a school closure, any collected assessments shall be remitted to the
4 Bureau within seven days following the cessation of instruction.

5 (e) Submission of all prior reports and assessments required by this section is a
6 condition of renewal.

7 **COST RECOVERY**

8 14. Business and Professions Code section 125.3 provides, in part, that the Bureau may
9 request the administrative law judge to direct a licentiate found to have committed a violation or
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
11 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
12 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
13 may be included in a stipulated settlement.

14 **FACTUAL ALLEGATIONS**

15 15. On or about June 11, 2020, the Bureau issued Citation Number 1920323 to
16 Respondent, for failure to submit a Student Tuition Recovery Fund (STRF) Assessment
17 Reporting Form for the third quarter of 2017 and the third quarter of 2019, as well as failing to
18 submit its Annual Fee for the calendar years 2018 and 2019. The Citation ordered the Institution
19 to submit the delinquent STRF Assessment Reporting Forms and pay the delinquent Annual Fees.
20 The Citation assessed an administrative fine of \$50.00 for the violations.

21 16. On July 10, 2020, the Institution submitted a waiver of rights to appeal the Citation,
22 along with a payment of the Administrative fine for \$50.00, and STRF Assessment Reporting
23 Forms.

24 17. On July 23, 2020, the Bureau mailed a letter to the Institution confirming the Bureau
25 received the Administrative Fine payment in the amount of \$50.00 for Citation 1920323, and
26 requested the Institution comply with the outstanding Order of Abatement which was to submit
27 the Annual Fee.

28 18. On August 4, 2020, the Bureau's Citation Unit confirmed with the Bureau's STRF
Unit that the Institution correctly submitted the delinquent STRF Assessment Reporting Forms.

1 The Bureau mailed three consecutive demand letters on August 20, 2020, September 17, 2020,
2 and November 12, 2020 respectively, to the Institution demanding the Institution submit the
3 Annual Fee pursuant to the Order of Abatement. To date, the Institution has not submitted their
4 Annual Fee for 2018 and 2019, and therefore, have not complied with Citation 1920323.

5 **CAUSE FOR DISCIPLINE**

6 (Failure to Abate Citation)

7 19. Respondent subjected its Accredited Institution Approval to Operate to disciplinary
8 action under title 5, California Code of Regulations, sections 75020, subdivision (c)(4) and
9 75050, subdivision (b), for failing to comply with an order of abatement in Citation Number
10 1920323, affirmed by the Bureau on or about June 11, 2020. The circumstances are set forth in
11 paragraphs 15 through 18, above.

12 **PRAYER**

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

- 16 1. Revoking Approval to Operate, School Code Number 0702241, issued to Frederick
17 W. Taylor University;
- 18 2. Ordering Frederick W. Taylor University to pay the Bureau for Private Postsecondary
19 Education the reasonable costs of the investigation and enforcement of this case, pursuant to
20 Business and Professions Code section 125.3; and,
- 21 3. Taking such other and further action as deemed necessary and proper.
- 22

23 DATED: "6/1/2021" _____

23 "Original signature on file" _____
24 DEBORAH COCHRANE
25 Chief
26 Bureau for Private Postsecondary
27 Education
28 Department of Consumer Affairs
State of California
Complainant

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