Bureau for Private Postsecondary Education
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Manuel Sequeira, Owner
Charles Grant, Owner
Truck Driving Academy
3100 Fite Circle, #105
Sacramento, CA 95827

INSTITUTION CODE: 3402821
CITATION NUMBER: 1314018
CITATION ISSUANCE/SERVICE DATE: November 17, 2014
DUE DATE: December 17, 2014
FINE AMOUNT: $ 15,005.00
ORDER OF ABATEMENT INCLUDED: YES

Yvette Johnson issues this Citation: Assessment of Fine and Order of Abatement in her official capacity as Enforcement Chief of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to Manuel Sequeira and Charles Grant, Owners of Truck Driving Academy located at 3100 Fite Circle #105, Sacramento, CA, 95827 pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5 CCR) section 75020 for the violations described below.

VIOLATION

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the code section(s) of law you are charged with violating.
1.	**Violation:** CEC 94897 (c) – Prohibited Business Practices *"An institution shall not do any of the following: (c) Advertise concerning job availability, degree of skill, or length of time required to learn a trade or skill unless the information is accurate and not misleading."* The institution advertised a 4 week training program. The institution extended the program requiring students to learn a new driving course. The institution advertised 111.5 hours of drive time with the 4 week training period. The institution did not provide 111.5 hours of drive time in the four weeks of training.

	Order of Abatement: The Bureau orders that the institution remove any false or misleading statements regarding the courses offered. Revise the program to accurately reflect the amount of time it will take to complete the driving course and submit evidence of compliance to the Bureau. **Assessment of Fine** The fine for this violation is $1,001.00
2.	**Violation:** CEC 94897 (k) – Prohibited Business Practices *"An institution shall not do any of the following: (k) Willfully falsify, destroy, or conceal any document of record while that document of record is required to be maintained by this chapter."* The institution failed to provide the requested student files after a letter was sent to the school requesting them despite the school confirming they had received the letter and would send the documentation. **Order of Abatement:** The Bureau orders that the school provide the requested student record for student, D.P. **Assessment of Fine:** The fine for this violation is $501.00
3.	**Violation:** 94900.5 (b) – Required Institutional Records *"An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information: (b) The names and addresses of the members of the institution's faculty and records of the educational qualifications of each member of the faculty."* The institution failed to maintain a public driving record for an instructor in his faculty file. **Order of Abatement** The Bureau orders that the institution implement a system to maintain complete and accurate faculty records in compliance with CEC 94900.5. Submit evidence of compliance to the Bureau. **Assessment of Fine:** There is no fine for this violation as the institution has provided the Bureau with the current faculty file containing all required documentation.
4.	**Violation:** 94900.5 (c) – Required Institutional Records *"An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information:* *(c) Any other records required to be maintained by this chapter, including, but not limited to, records maintained pursuant to Article 16 (commencing with Section 94928)."* According to a California Highway Patrol (CHP) report, the institution failed to maintain vehicle maintenance records.

	Order of Abatement: The Bureau orders that the institution implement a system to maintain complete and accurate vehicle records in compliance with CEC 94900.5. Submit evidence of compliance to the Bureau. **Fine Assessment:** The fine for this violation is $501.00
5.	**Violation:** CEC 94920 (e) – Mandatory Cancellation, Withdrawal, and Refund Policies *"(e) The institution shall pay or credit refunds within 45 days of a student's cancellation or withdrawal."* AND CCR 71750 (e) - Withdrawals and Refunds *"(e) An institution shall refund any credit balance on the student's account within 45 days after the date of the student's completion of, or withdrawal from, the educational program in which the student was enrolled. For purposes of this subdivision and section 94919(d) of the Code, "day" means calendar day."* The institution failed to provide a refund to the student within 45 days of the student's withdrawal. The institution has ignored letters from the Bureau ordering payment to student. **Order of Abatement:** The Bureau orders that the institution pay student, D.P., a refund of $1,280.00. Submit evidence of payment to the Bureau. **Assessment of Fine:** The fine for this assessment is $5,000.00
6.	**Violation:** CCR 71720 (b) (1) – Faculty *"(b) Instructors in an Educational Program Not Leading to a Degree.* *(1) An institution shall employ instructors who possess the academic, experiential and professional qualifications to teach, including a minimum of three years of experience, education and training in current practices of the subject area they are teaching. If an instructor does not possess the required three years of experience, education and training in the subject area they are teaching, the institution shall document the qualifications the instructor possesses that are equivalent to the minimum qualifications."* The institution employed an instructor teaching on the road training who was not qualified to train students. **Order of Abatement:** The Bureau orders that the institution remove any unqualified instructors and hire instructors in compliance with CCR 71720 (b) (1). Please provide a list of current instructors and qualifications of each. **Assessment of Fine:** The fine for this violation is $2,500.00

7.	**Violation:** CCR 71735 (a) (2) (b) – Facilities and Equipment *"(a) An institution shall have sufficient facilities and necessary equipment to support the achievement of the educational objectives of all of the courses and educational programs in which students are enrolled. If an institution represents that the educational service will fit or prepare a student for employment in a particular occupation or as described in particular job titles, either of the following conditions shall be met:* *(2) The institution shall establish that the equipment used for instruction or provided to a student is not obsolete and is sufficient for instructional purposes to reasonably assure that a student acquires the necessary level of education, training, skill, and experience to obtain employment in the field of training and to perform the tasks associated with the occupation or job title to which the educational program was represented to lead."* Trucks used for training are not sufficient for training students due to repeated mechanical failures. CHP found Truck Driving Academy equipment to be substandard. Two of three trucks inspected by CHP were not sufficient to be used for instruction. **Order of Abatement:** The Bureau orders that the institution take the proper steps to ensure that the equipment used for instruction is not obsolete and is sufficient for instructional purposes in compliance with CCR 71735 (a) (2). Submit evidence of compliance to the Bureau including maintenance records, CHP Biennial Inspection of Terminals (BIT) number, and proof that any advertised vehicles for instruction are available for use. **Assessment of Fine:** The fine for this violation is $2501.00
8.	**Violation:** CCR 71735 (b) Facilities and Equipment *"(b) An institution's facilities, including heating and cooling, ventilation, lighting, classrooms, laboratories, and campus environs, shall be well-maintained. The institution shall maintain all valid permits required by any public agencies relating to the health and safety of the institution's facilities and equipment on file, and such permits shall be available to the Bureau upon request."* The institution failed to properly maintain the trucks used for instruction according to complainant and CHP's inspection report and unsatisfactory rating. The institution failed to obtain the State required BIT number from the CHP. Two of three trucks were ordered to be "out of service" by the CHP upon investigation. **Order of Abatement:** The Bureau orders that the institution maintain its equipment according to CCR 71735 (b). Provide evidence to the Bureau. **Assessment of Fine:** The fine for this violation is $2500.00
9.	**Violation:** CCR 71930 (e) – Maintenance of Records *"(e) All records that the institution is required to maintain by the Act or this chapter shall be made*

	immediately available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations." The institution failed to provide complainants student file, and a listing of dropped, cancelled, withdrawn and graduated students for 2013. **Order of Abatement:** The Bureau orders that the institution provide the requested records. **Assessment of Fine:** The fine for this violation is $501.00
	TOTAL ADMINISTRATIVE FINE DUE: $15,005.00

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5 CCR Sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **$15,005.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

ORDER OF ABATEMENT

In accordance with the provisions of CEC Section 94936 and 5 CCR Section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

BACKGROUND

On August 6, 2013 the Bureau received a complaint alleging that Truck Driving Academy falsely advertised a four week program; there was a lack of instruction, and equipment; and failure to make a timely refund. Through the course of the investigation the above mentioned violations were found.

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **December 17, 2014**, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **November 17, 2014.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **December 17, 2014**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Renee Campos, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Renee Campos, Enforcement Analyst, at (916) 431-6940 or Renee.Campos@dca.ca.gov.

Yvette Johnson

Yvette Johnson
Enforcement Chief

November 17, 2014
Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First Class Mail