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BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: **AZTECA TRUCK TRAINING, EVERARDO H. ALVARADO, Owner** **Application for Approval to Operate an Institution Non-Accredited Applicant** Respondent.	Case No. 1000862 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

1. Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official capacity as the Chief of the Bureau for Private Postsecondary Education, Department of Consumer Affairs.

2. On or about December 23, 2013, the Bureau for Private Postsecondary Education received an application for Approval to Operate an Institution Non-Accredited from Azteca Truck Training, Everardo H. Alvarado, Owner (Respondent). Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. On December 27, 2013, the Bureau advised Respondent that the application was incomplete. On or about January 27, 2014, the Bureau received additional information from Respondent in response

to the incomplete application. On December 4, 2014, the Bureau sent a Deficiency letter to Respondent listing the deficiencies. On January 5, 2015, the Bureau received documents from Respondent in response to the Deficiency letter. The Bureau denied the application on June 22, 2015. Respondent appealed the denial on July 16, 2015.

JURISDICTION

3. This Statement of Issues is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau for Private Postsecondary Education[1], under the authority of the following laws. All section references are to the Education Code[2] unless otherwise indicated.

4. Section 94891 states[3]:

"(a) The bureau shall adopt by regulation the process and procedures whereby an institution may obtain a renewal of an approval to operate.

(b) To be granted a renewal of an approval to operate, the institution shall demonstrate its continued capacity to meet the minimum operating standards.

(c) (1) An institution that is denied renewal of an approval to operate may file an appeal in accordance with the procedures established by the bureau pursuant to Section 94888.

(2) An institution that has filed an appeal of a denial of a renewal application may continue to operate during the appeal process, but must disclose in a written statement, approved by the bureau, to all current and prospective students, that the institution's application for renewal of approval to operate was denied by the bureau because the bureau determined the application did not satisfy the requirements to operate in California, that the institution is appealing the bureau's decision, and that the loss of the appeal may result in the institution's closure.

(3) If the bureau determines that the continued operation of the institution during the appeal process poses a significant risk of harm to students, the bureau shall make an emergency decision pursuant to its authority provided in Section 94938."

STATUTORY PROVISIONS

5. Section 94886 states:

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

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[1] The former BPPVE sunsetted on July 1, 2007. On October 11, 2009, the Bureau for Private Postsecondary Education Act of 2009 ("Act") (AB 48) was signed into law. The Act, became operative on January 1, 2010, and established the Bureau for Private Postsecondary Education ("Bureau").

[2] California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

[3] Effective January 1, 2015.

6. Section 94887 states:

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

7. Section 94911 states:

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

(a) The name of the institution and the name of the educational program, including the total number of credit hours, clock hours, or other increment required to complete the educational program.

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

(c) In underlined capital letters on the same page of the enrollment agreement in which the student's signature is required, the total charges for the current period of attendance, the estimated total charges for the entire educational program, and the total charges the student is obligated to pay upon enrollment.

. . .

(e) (1) A disclosure with a clear and conspicuous caption, "STUDENT'S RIGHT TO CANCEL," under which it is explained that the student has the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later.

(2) The disclosure shall contain the institution's refund policy and a statement that, if the student has received federal student financial aid funds, the student is entitled to a refund of moneys not paid from federal student financial aid program funds.

(3) The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund.

. . .

(g) A statement specifying that, if the student is eligible for a loan guaranteed by the federal or state government and the student defaults on the loan, both of the following may occur:

(1) The federal or state government or a loan guarantee agency may take action against the student, including applying any income tax refund to which the person is entitled to reduce the balance owed on the loan.

(2) The student may not be eligible for any other federal student financial aid at another institution or other government assistance until the loan is repaid.

(h) The transferability disclosure that is required to be included in the school catalog, as specified in paragraph (15) of subdivision (a) of Section 94909.

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

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

. . .

(k) The following statement above the space for the student's signature:

"I understand that this is a legally binding contract. My signature below certifies that I have read, understood, and agreed to my rights and responsibilities, and that the institution's cancellation and refund policies have been clearly explained to me."

8. Section 94916 states:

"An institution extending credit or lending money to an individual for institutional and noninstitutional charges for an educational program shall cause any note, instrument, or other evidence of indebtedness taken in connection with that extension of credit or loan to be conspicuously marked on its face in at least 12-point type with the following notice:

"NOTICE"

"You may assert against the holder of the promissory note you signed in order to finance the cost of the educational program all of the claims and defenses that you could assert against this institution, up to the amount you have already paid under the promissory note."

9. Section 94909 states:

"(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a prospective student, either in writing or electronically, with a school catalog containing, at a minimum, all of the following:

(1) The name, address, telephone number, and, if applicable, Internet Web site address of the institution.

(2) Except as specified in Article 2 (commencing with Section 94802), a statement that the institution is a private institution and that it is approved to operate by the bureau.

(3) The following statements:

(A) "Any questions a student may have regarding this catalog that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers)."

(B) "As a prospective student, you are encouraged to review this catalog prior to signing an enrollment agreement. You are also encouraged to review the School Performance Fact Sheet, which must be provided to you prior to signing an enrollment agreement."

(C) "A student or any member of the public may file a complaint about this institution with the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by completing a complaint form, which can be obtained on the bureau's Internet Web site (Internet Web site address)."

(4) The address or addresses where class sessions will be held.

(5) A description of the programs offered and a description of the instruction provided in each of the courses offered by the institution, the requirements for completion of each program, including required courses, any final tests or examinations, any required internships or externships, and the total number of credit hours, clock hours, or other increments required for completion.

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

(7) Information regarding the faculty and their qualifications.

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

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

(B) Cancellation, withdrawal, and refund policies, including an explanation that the student has the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later. The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund consistent with the requirements of Article 13 (commencing with Section 94919).

(C) Probation and dismissal policies.

(D) Attendance policies.

(E) Leave-of-absence policies.

(9) The schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program.

(10) A statement reporting whether the institution participates in federal and state financial aid programs, and if so, all consumer information that is required to be disclosed to the student pursuant to the applicable federal and state financial aid programs.

(11) A statement specifying that, if a student obtains a loan to pay for an educational program, the student will have the responsibility to repay the full amount of the loan plus interest, less the amount of any refund, and that, if the student has received federal student financial aid

funds, the student is entitled to a refund of the moneys not paid from federal student financial aid program funds.

(12) A statement specifying whether the institution has a pending petition in bankruptcy, is operating as a debtor in possession, has filed a petition within the preceding five years, or has had a petition in bankruptcy filed against it within the preceding five years that resulted in reorganization under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. Sec. 1101 et seq.).

(13) If the institution provides placement services, a description of the nature and extent of the placement services.

(14) A description of the student's rights and responsibilities with respect to the Student Tuition Recovery Fund. This statement shall specify that it is a state requirement that a student who pays his or her tuition is required to pay a state-imposed assessment for the Student Tuition Recovery Fund. This statement shall also describe the purpose and operation of the Student Tuition Recovery Fund and the requirements for filing a claim against the Student Tuition Recovery Fund.

(15) The following statement:

"NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS EARNED AT OUR INSTITUTION

The transferability of credits you earn at (name of institution) is at the complete discretion of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or certificate) you earn in (name of educational program) is also at the complete discretion of the institution to which you may seek to transfer. If the (credits or degree, diploma, or certificate) that you earn at this institution are not accepted at the institution to which you seek to transfer, you may be required to repeat some or all of your coursework at that institution. For this reason you should make certain that your attendance at this institution will meet your educational goals. This may include contacting an institution to which you may seek to transfer after attending (name of institution) to determine if your (credits or degree, diploma, or certificate) will transfer."

(16) A statement specifying whether the institution, or any of its degree programs, are accredited by an accrediting agency recognized by the United States Department of Education. If the institution is unaccredited and offers an associate, baccalaureate, master's, or doctoral degree, or is accredited and offers an unaccredited program for an associate, baccalaureate, master's, or doctoral degree, the statement shall disclose the known limitations of the degree program, including, but not limited to, all of the following:

(A) Whether a graduate of the degree program will be eligible to sit for the applicable licensure exam in California and other states.

(B) A degree program that is unaccredited or a degree from an unaccredited institution is not recognized for some employment positions, including, but not limited to, positions with the State of California.

(C) That a student enrolled in an unaccredited institution is not eligible for federal financial aid programs.

. . .

10. Section 94897 states:

"An institution shall not do any of the following:

(a) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on a diploma.

. . .

(l) Use the terms "approval," "approved," "approval to operate," or "approved to operate" without stating clearly and conspicuously that approval to operate means compliance with state standards as set forth in this chapter. If the bureau has granted an institution approval to operate, the institution may indicate that the institution is "licensed" or "licensed to operate," but may not state or imply either of the following:

(1) The institution or its educational programs are endorsed or recommended by the state or by the bureau.

(2) The approval to operate indicates that the institution exceeds minimum state standards as set forth in this chapter."

. . .

11. Section 94900 states:

"(a) An institution shall maintain records of the name, address, e-mail address, and telephone number of each student who is enrolled in an educational program in that institution.

(b) An institution shall maintain, for each student granted a degree or certificate by that institution, permanent records of all of the following:

(1) The degree or certificate granted and the date on which that degree or certificate was granted.

(2) The courses and units on which the certificate or degree was based.

(3) The grades earned by the student in each of those courses."

REGULATORY PROVISIONS

12. California Code of Regulations, title 5, section 71140 states:

"(a) The institution shall include in its Form Application 94886 an organization chart that shows the governance and administrative structure of the institution and the relationship between faculty and administrative positions.

. . .

(c) The institution shall identify the chief executive officer, chief operating officer, and chief academic officer and describe their education, experience, and qualifications to perform their duties and responsibilities."

13. California Code of Regulations, title 5, section 71730 states:

"(a) Each institution shall have a chief executive officer, a chief operating officer and chief academic officer. One person may serve more than one function."

. . .

14. California Code of Regulations, title 5, section 71800 states:

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

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

(b) Period covered by the enrollment agreement.

. . .

(e) Itemization of all institutional charges and fees including, as applicable:
(1) tuition;
(2) registration fee (non-refundable);
(3) equipment;
(4) lab supplies or kits;
(5) Textbooks, or other learning media;
(6) uniforms or other special protective clothing;
(7) in-resident housing;
(8) tutoring;
(9) assessment fees for transfer of credits;
(10) fees to transfer credits;
(11) Student Tuition Recovery Fund fee (non-refundable);
(12) any other institutional charge or fee."

. . .

15. California Code of Regulations, title 5, section 76120 states:

"(a) Each qualifying institution shall collect an assessment of zero dollars ($0) per one thousand dollars ($1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident or is enrolled in a residency program. For institutional charges of one thousand dollars ($1,000) or less, the assessment is zero dollars ($0)."

. . .

16. California Code of Regulations, title 5, section 76215 states:

"(a) A qualifying institution shall include the following statement on both its enrollment agreement for an educational program and its current schedule of student charges:

"You must pay the state-imposed assessment for the Student Tuition Recovery Fund (STRF) if all of the following applies to you:

1. You are a student in an educational program, who is a California resident, or are enrolled in a residency program, and prepay all or part of your tuition either by cash, guaranteed student loans, or personal loans, and

2. Your total charges are not paid by any third-party payer such as an employer, government program or other payer unless you have a separate agreement to repay the third party.

You are not eligible for protection from the STRF and you are not required to pay the STRF assessment, if either of the following applies:

1. You are not a California resident, or are not enrolled in a residency program, or

2. Your total charges are paid by a third party, such as an employer, government program or other payer, and you have no separate agreement to repay the third party.

(b) In addition to the statement described under subdivision (a) of this section, a qualifying institution shall include the following statement on its current schedule of student charges:

"The State of California created the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic losses suffered by students in educational programs who are California residents, or are enrolled in a residency programs attending certain schools regulated by the Bureau for Private Postsecondary and Vocational Education.

You may be eligible for STRF if you are a California resident or are enrolled in a residency program, prepaid tuition, paid the STRF assessment, and suffered an economic loss as a result of any of the following:

1. The school closed before the course of instruction was completed.

2. The school's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purpose, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the school.

3. The school's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the school prior to closure in excess of tuition and other costs.

4. There was a material failure to comply with the Act or this Division within 30 days before the school closed or, if the material failure began earlier than 30 days prior to closure, the period determined by the Bureau.

5. An inability after diligent efforts to prosecute, prove, and collect on a judgment against the institution for a violation of the Act."

However, no claim can be paid to any student without a social security number or a taxpayer identification number."

17. California Code of Regulations, title 5, section 71240 states:

"(a) The Form Application 94886 shall contain a statement that the institution has and can maintain the financial resources required pursuant to section 71745.

(b) The institution shall submit current, reviewed financial statements at the time it applies for approval to operate. Each set of financial statements shall comply with Section 74115 of this chapter."

18. California Code of Regulations, title 5, section 71700 states:

"The Bureau may request that an institution document compliance with the standards set forth in the Act and this Division to obtain and maintain an approval to operate."

19. California Code of Regulations, title 5, section 74115 states:

"(a) This section applies to every set of financial statements required to be prepared or filed by the Act or by this chapter.

(b) A set of financial statements shall contain, at a minimum, a balance sheet, an income statement, and a cash flow statement, and the preparation of financial statements, shall comply with all of the following:

(1) Audited and reviewed financial statements shall be conducted and prepared in accordance with the generally accepted accounting principles established by the American Institute of Certified Public Accountants by an independent certified public accountant who is not an employee, officer, or corporate director or member of the governing board of the institution.

(2) Financial statements prepared on an annual basis as required by section 74110(b) shall be prepared in accordance with the generally accepted accounting principles established by the American Institute of Certified Public Accountants. Nonprofit institutions shall provide annual financial statements as required under generally accepted accounting principles for nonprofit organizations.

(3) The financial statements shall establish that the institution meets the requirements for financial resources required by Section 71745.

(4) If an audit performed to determine compliance with any federal or state student financial aid program reveals any failure to comply with the requirements of the program and the noncompliance creates any liability or potential liability for the institution, the financial statements shall reflect the liability or potential liability.

(5) Any audits shall demonstrate that the accountant obtained an understanding of the institution's internal financial control structure, assessed any risks, and has reported any material deficiencies in the internal controls.

(c) Work papers for the financial statements shall be retained for five years from the date of the statements and shall be made available to the Bureau upon request.

(d) "Current" with respect to financial statements means completed no sooner than 120 days prior to the time it is submitted to the Bureau, and covering no less than the most recent complete fiscal year. If more than 8 months will have elapsed between the close of the most recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover no less than five months of that current fiscal year."

20. California Code of Regulations, title 5, section 71810 states:

"(a) Each institution shall provide a catalog pursuant to section 94909 of the Code, which shall be updated annually. Annual updates may be made by the use of supplements or inserts accompanying the catalog. If changes in educational programs, educational services, procedures, or policies required to be included in the catalog by statute or regulation are implemented before the issuance of the annually updated catalog, those changes shall be reflected at the time they are made in supplements or inserts accompanying the catalog.

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

(1) The specific beginning and ending dates defining the time period covered by the catalog;"

. . .

21. California Code of Regulations, title 5, section 71920 states:

"(a) The institution shall maintain a file for each student who enrolls in the institution whether or not the student completes the educational service.

(b) In addition to the requirements of section 94900, the file shall contain all of the following pertinent student records:

(1) Written records and transcripts of any formal education or training, testing, or experience that are relevant to the student's qualifications for admission to the institution or the institution's award of credit or acceptance of transfer credits including the following:

(A) Verification of high school completion or equivalency or other documentation establishing the student's ability to do college level work, such as successful completion of an ability-to-benefit test;

(B) Records documenting units of credit earned at other institutions that have been accepted and applied by the institution as transfer credits toward the student's completion of an educational program;

(C) Grades or findings from any examination of academic ability or educational achievement used for admission or college placement purposes;

(D) All of the documents evidencing a student's prior experiential learning upon which the institution and the faculty base the award of any credit;

(2) Personal information regarding a student's age, gender, and ethnicity if that information has been voluntarily supplied by the student;

(3) Copies of all documents signed by the student, including contracts, instruments of indebtedness, and documents relating to financial aid;

(4) Records of the dates of enrollment and, if applicable, withdrawal from the institution, leaves of absence, and graduation; and

(5) In addition to the requirements of section 94900(b) of the Code, a transcript showing all of the following:

(A) The courses or other educational programs that were completed, or were attempted but not completed, and the dates of completion or withdrawal;

(B) Credit awarded for prior experiential learning, including the course title for which credit was awarded and the amount of credit;

(C) Credit for courses earned at other institutions;

(D) Credit based on any examination of academic ability or educational achievement used for admission or college placement purposes;

(E) The name, address, website address, and telephone number of the institution.

(6) For independent study courses, course outlines or learning contracts signed by the faculty and administrators who approved the course;

(7) The dissertations, theses, and other student projects submitted by graduate students;

(8) A copy of documents relating to student financial aid that are required to be maintained by law or by a loan guarantee agency;

(9) A document showing the total amount of money received from or on behalf of the student and the date or dates on which the money was received;

(10) A document specifying the amount of a refund, including the amount refunded for tuition and the amount for other itemized charges, the method of calculating the refund, the date the refund was made, and the name and address of the person or entity to which the refund was sent;

(11) Copies of any official advisory notices or warnings regarding the student's progress; and

(12) Complaints received from the student."

22. California Code of Regulations, title 5, section 71930 states:

"(a) An institution shall maintain all records required by the Act and this chapter. The records shall be maintained in this state.

(b)(1) In addition to permanently retaining a transcript as required by section 94900(b) of the Code, the institution shall maintain for a period of 5 years the pertinent student records described in Section 71920 from the student's date of completion or withdrawal.

(2) Notwithstanding (b)(1), the institution shall maintain records relating to federal financial aid programs as provided by federal law."

. . .

CAUSES FOR DENIAL OF APPLICATION

(Failure To Properly Document Compliance With Standards)

23. Respondent's application is subject to denial under Education Code section 94887, and California Code of Regulations, title 5, section 71700, in that on or about December 23, 2013, Respondent submitted an incomplete application to the Bureau. Each violation is a sole and separate cause for denial. And therefore Respondent has failed to satisfy minimum operating standards as follows:

a. Application: Respondent failed to identify the Chief Operating Officer, (COO) and provide a description of their education, experience, and qualifications as required by California Code of Regulations, title 5, sections 71140(c), and 71730(a).

b. Exemplars of Student Agreements: Respondent failed to provide to each student an enrollment agreement that contains the following information:

(1) The enrollment agreement provided by the institution list the month and year covered by the enrollment agreement and does not contain the specific beginning and ending dates which consist of the (month, day, year) covered by the enrollment agreement as required by California Code of Regulations, title 5, section 71800(b).

(2) The enrollment agreement provided by the institution includes the old Student Tuition Recovery Fund (STRF) fee of $2.50 per thousand dollars of tuition paid instead of the current STRF fee of $0.00. The STRF fee is not listed as a non-refundable charge and the itemization of fees does not include charges paid to an entity other than an institution that is specifically required for participation in the education program, which is a violation of California Code of Regulations, title 5, section 71800(e)(11) and 76120(a).

(3) The enrollment agreement does not contain a schedule of total charges, which includes a list of non-refundable charges and the student's obligation to the Student Tuition Recovery Fund, clearly identified as a non-refundable charge as required by section 94911(b).

(4) The institution provided an enrollment agreement which specified the total charges due, however the wording is not underlined in capital letters and did not include the estimated total charges for the entire educational program, and the total charges the student is obligated to

pay upon enrollment in underlined capital letters on the same page as the student's signature as required by section 94911(c).

(5) The required statements specified in California Code of Regulations, title 5, section 76215(a)(b) are not verbatim in the enrollment agreement. The statements include additional wording, which is a violation of California Code of Regulations, title 5, sections 76215(a) and 76215(b).

(6) The refund policy in the enrollment agreement does not contain the required disclosure as specified, which is a violation of sections 94911(e)(1) and 94911(e)(2).

(7) The enrollment agreement does not contain the specific statements specified as required in sections 94911(g)(1) and 94911(g)(2).

(8) The enrollment agreement does not contain the transferability disclosure required to be in the school catalog, which is a violation of section 94911(h).

(9) The enrollment agreement does not contain the specific required statements and a line for the student to initial as required in sections 94911(i)(1) and 94911(i)(2).

(10) The enrollment agreement does not contain the specific statements as verbatim. The statements provided by the institution contain punctuation and grammatical errors in both statements, in violation of section 94911(k).

(11) The enrollment agreement does not contain the statement related to an institution extending credit or lending money to an individual for institutional and non-institutional charges for an educational program as required in section 94916.

c. Financial Resources and Statements: Respondent failed to submit current, reviewed financial statements at the time he applied for an approval to operate. The institution submitted a Microsoft Word document entitled Section 15, which includes a data table identifying the first three year projections, and identified the expenses, profits, and projected number of students. This document was submitted as the financial statement for Azteca Truck Training on January 27, 2014. However, this document did not meet the requirements of California Code of Regulations, title 5, section 71240(b). On January 5, 2015, the institution submitted financial statements that included a balance sheet, income tax basis of Azteca Truck Training, statements of revenues and

expenses, income tax basis, and statement cash flows for the year ending December 31, 2014, which were not audited or reviewed by a Certified Public Accountant and did not meet the requirements of California Code of Regulations, title 5, sections 71240(b) and 74115.

d. Catalog: Respondent failed to provide a catalog containing the following information:

(1) Respondent's catalog does not contain the specific beginning and ending dates which consist of the (month, day, year) covered by the catalog as required by California Code of Regulations, title 5, section 71810(b)(1).

(2) Page two of the amended catalog submitted by the institution on January 5, 2015, included an incorrect statement indicating a notice of temporary approval from the Bureau for Private Postsecondary and Vocational Education. This statement does not meet the requirements specified in Section 94909(a)(2) and 94897(l)(1)(2). In addition, the institution does not reference the Bureau's name properly as the Bureau for Private Postsecondary Education (BPPE) as required in sections 94909(a)(2), 94897(l)(1), and 94897(l)(2).

(3) Respondent's catalog does not contain the specific statements as required in section 94909(a)(12).

(4) Respondent's catalog does not contain the specific language as required in section 94909(a)(3)(B).

(5) Respondent's catalog does not contain the specific required language as required in Section 94909(a)(3)(A) as verbatim. The language has missing and misspelled words, added wording and does not include the toll-free telephone number.

(6) Respondent's catalog does not contain the specific required language as verbatim. The language has missing and misspelled words, and added wording included, which is a violation of section 94909(a)(3)(C).

(7) Respondent's catalog does not contain the specific required language that addresses transferability of credits and credentials as required in section 94909(a)(15).

(8) The specific required language regarding the Student Tuition Recovery Fund is not verbatim in the catalog. The language includes information about eligibility and qualifications;

however it does not contain the Student Tuition Recovery Fund disclosures as required in section 94909(a)(14) and California Code of Regulations, title 5, sections 76215(a) and (b).

(9) Respondent's catalog did not specify the required information regarding, if the student has received federal student financial aid funds, the student is entitled to a refund of the money's not paid from federal student financial aid program funds as required in section 94909(a)(11).

(10) Respondent's catalog does not contain information on how student transcripts will be maintained, stored and the retention period as required in section 94900 and California Code of Regulations, title 5, sections 71930(b)(1) and 71920.

PRAYER

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

1. Denying the application of Azteca Truck Training, Everardo H. Alvarado, Owner for an Approval to Operate an Institution Non-Accredited;

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

DATED: 12/16/15

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

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