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

11
12 In the Matter of the Statement of Issues
Against:
13 **A-1 TRUCK DRIVING SCHOOL INC.**
14 **also known as A 1 Truck Driving School,**
Inc.
15 **Application for Renewal of Approval to**
16 **Operate and Offer Educational Programs**
17 **for Non-Accredited Institutions**
18 **Institution Code: 0106221**
Respondent.

Case No. 1002980

OAH No. 2018030600

**FIRST AMENDED STATEMENT OF
ISSUES**

19
20 Complainant alleges:

21 PARTIES

- 22 1. Dr. Michael Marion, Jr. ("Complainant") brings this First Amended Statement of
23 Issues solely in his official capacity as the Chief of the Bureau for Private Postsecondary
24 Education, Department of Consumer Affairs.
- 25 2. On or about December 13, 2013, the Bureau for Private Postsecondary Education
26 received an Application for Renewal of Approval to Operate and Offer Educational Programs for
27 Non-Accredited Institutions from Respondent A-1 Truck Driving School Inc., also known as A 1
28 Truck Driving School, Inc. ("Respondent"), a California corporation. Between January 2014 and

1 July 2017, the Bureau and Respondent conferred regarding Respondent's application, including
2 Respondent's transmittal of additional application materials. The Bureau denied the application
3 via a Notice of Denial of Application for Renewal of Approval to Operate on or about August 15,
4 2017. On or about September 28, 2017, Respondent submitted to the Bureau a request for
5 administrative hearing.

6 JURISDICTION

7 3. This First Amended Statement of Issues is brought before the Director of the
8 ~~Department of Consumer Affairs ("Director") for the Bureau, under the authority of the following~~
9 laws. All section references are to the Education Code unless otherwise indicated.

10 4. **Section 94885, subdivision (a)** provides, in part:

11 "(a) The bureau shall adopt by regulation minimum operating standards for an institution
12 that shall reasonably ensure that all of the following occur:

13 "(1) The content of each educational program can achieve its stated objective.

14 ...

15 "(3) The facilities, instructional equipment, and materials are sufficient to enable students to
16 achieve the educational program's goals.

17 ...

18 "(7) That, upon satisfactory completion of an educational program, the institution gives
19 students a document signifying the degree or diploma awarded.

20 ...

21 "(9) The institution is maintained and operated in compliance with this chapter and all other
22 applicable ordinances and laws."

23 5. **Section 94886** provides:

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

28 ////

1 later. The text shall also include a description of the procedures that a student is required to
2 follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund
3 consistent with the requirements of Article 13 (commencing with Section 94919).

4 ...

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

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

10 ...

11 “(15) The following statement:

12 “NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS
13 EARNED AT OUR INSTITUTION

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

23”

24 9. Section 94911 provides, in part:

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

26 ...

27 “(e)(1) A disclosure with a clear and conspicuous caption, ‘STUDENT’S RIGHT TO
28 CANCEL,’ under which it is explained that the student has the right to cancel the enrollment

1 agreement and obtain a refund of charges paid through attendance at the first class session, or the
2 seventh day after enrollment, whichever is later.

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

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

8
9 “(h) The transferability disclosure that is required to be included in the school catalog, as
10 specified in paragraph (15) of subdivision (a) of Section 94909.

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

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

24 “(j) The following statements:

25 “(1) ‘Any questions a student may have regarding this enrollment agreement that have not
26 been satisfactorily answered by the institution may be directed to the Bureau for Private
27 Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address),
28 (telephone and fax numbers).’

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

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

6 “‘I understand that this is a legally binding contract. My signature below certifies that I
7 have read, understood, and agreed to my rights and responsibilities, and that the institution's
8 ~~cancellation and refund policies have been clearly explained to me.~~’”

9 10. **Section 94913** provides:

10 “(a) An institution that maintains an Internet Web site shall provide on that Internet Web
11 site all of the following:

12 “(1) The school catalog.

13 “(2) A School Performance Fact Sheet for each educational program offered by the
14 institution.

15 ...

16 “(b) An institution shall include information concerning where students may access the
17 bureau's Internet Web site anywhere the institution identifies itself as being approved by the
18 bureau.”

19 11. **Section 94916** provides:

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

24 “‘NOTICE’

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

28 ////

1 12. California Code of Regulations, title 5, section 71475 provides, in part:

2 "...

3 "(e) The institution shall submit at the time it applies for renewal current financial
4 statements that meet the requirements of section 74115 as follows: (1) for an institution with
5 annual gross revenues of \$500,000 and over, statements shall be audited; (2) for an institution
6 with annual gross revenues less than \$500,000, statements shall be reviewed.

7 ...

8 ~~"(p) If an institution receives financial aid because its students qualify for it under any state~~
9 or federal financial aid program, the application shall include a statement of its policies, practices,
10 and disclosures regarding financial aid. If there have been no substantive changes since the last
11 submission, the institution may so state and is not required to submit documentation.

12 "(q) The institution shall include in its application copies of advertising and other
13 statements disseminated to the public in any manner by the institution or its representatives that
14 concern, describe, or represent each of the following:

15 "(1) The institution.

16 "(2) Each educational program offered by the institution.

17 "(3) If advertising is broadcast by television or radio, the application shall also include a
18 copy of the script.

19 "(r) The institution shall identify and describe, in the application, the educational program it
20 offers, or proposes to offer. If the educational program is a degree program, the institution shall
21 identify the full title which it will place on each degree awarded. If there have been no substantive
22 changes since the last submission, the institution may so state and is not required to submit
23 documentation.

24 ...

25 "(t) In addition, the institution shall list in the application, the following for each
26 educational program offered unless there have been no substantive changes since the last
27 submission. If there have been no substantive changes made the institution may so state and is not
28 required to provide documentation.

1 “(1) The admissions requirements, including minimum levels of prior education,
2 preparation, or training;

3 “(2) If applicable, information regarding the ability-to-benefit examination as required by
4 section 94904 of the Code.

5 “(3) The types and amount of general education required;

6 “(4) The title of the educational programs and other components of instruction offered,
7 including a description of the level of the courses (e.g., below college level, undergraduate level,
8 graduate level);

9 “(5) The mode of instruction;

10 “(6) The graduation requirements.

11 “(7) Whether the educational program is designed to fit or prepare students for employment
12 in any occupation. If so, the application shall identify each occupation and job title to which the
13 institution represents the educational program will lead.

14 ...

15 “(w)(2) The institution shall submit current, audited financial statements at the time it
16 applies for approval to operate. Each set of financial statements shall comply with Section 74115
17 of this chapter.

18”

19 13. **California Code of Regulations, title 5, section 71800, subdivision (f)** provides:

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

22 ...

23 “(f) Charges paid to an entity other than an institution that is specifically required for
24 participation in the educational program.”

25 ////

26 ////

27 ////

28 ////

1 14. **California Code of Regulations, title 5, section 71810, subdivisions (b)** provides,
2 in part:

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

5 ...

6 “(6) The institution's policies and practices regarding any form of financial aid, including
7 all consumer information which the institution is required to disclose to the student under any
8 ~~state or federal financial aid program;~~

9 ...

10 “(13) Housing information including all of the following:

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

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

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

17 ”

18 15. **California Code of Regulations, title 5, section 74115** provides, in part:

19 “...

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

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

27 “(2) Financial statements prepared on an annual basis as required by section 74110(b) shall
28 be prepared in accordance with the generally accepted accounting principles established by the

1 American Institute of Certified Public Accountants. Nonprofit institutions shall provide annual
2 financial statements as required under generally accepted accounting principles for nonprofit
3 organizations.

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

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

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

13 ...

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

19 16. **California Code of Regulations, title 5, section 76215** provides:

20 “(a) A qualifying institution shall include the following statement on both its enrollment
21 agreement and school catalog:

22 “The State of California established the Student Tuition Recovery Fund (STRF) to relieve
23 or mitigate economic loss suffered by a student in an educational program at a qualifying
24 institution, who is or was a California resident while enrolled, or was enrolled in a residency
25 program, if the student enrolled in the institution, prepaid tuition, and suffered an economic loss.
26 Unless relieved of the obligation to do so, you must pay the state-imposed assessment for the
27 STRF, or it must be paid on your behalf, if you are a student in an educational program, who is a
28 California resident, or are enrolled in a residency program, and prepay all or part of your tuition.

1 "You are not eligible for protection from the STRF and you are not required to pay the
2 STRF assessment, if you are not a California resident, or are not enrolled in a residency program.'

3 "(b) In addition to the statement required under subdivision (a) of this section, a qualifying
4 institution shall include the following statement in its school catalog:

5 "It is important that you keep copies of your enrollment agreement, financial aid
6 documents, receipts, or any other information that documents the amount paid to the school.
7 Questions regarding the STRF may be directed to the Bureau for Private Postsecondary
8 Education, 2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833, (916) 431-6959 or (888)
9 370-7589.

10 "To be eligible for STRF, you must be a California resident or enrolled in a residency
11 program, prepaid tuition, paid or deemed to have paid the STRF assessment, and suffered an
12 economic loss as a result of any of the following:

13 "1. The institution, a location of the institution, or an educational program offered by the
14 institution was closed or discontinued, and you did not choose to participate in a teach-out plan
15 approved by the Bureau or did not complete a chosen teach-out plan approved by the Bureau.

16 "2. You were enrolled at an institution or a location of the institution within the 120 day
17 period before the closure of the institution or location of the institution, or were enrolled in an
18 educational program within the 120 day period before the program was discontinued.

19 "3. You were enrolled at an institution or a location of the institution more than 120 days
20 before the closure of the institution or location of the institution, in an educational program
21 offered by the institution as to which the Bureau determined there was a significant decline in the
22 quality or value of the program more than 120 days before closure.

23 "4. The institution has been ordered to pay a refund by the Bureau but has failed to do so.

24 "5. The institution has failed to pay or reimburse loan proceeds under a federal student loan
25 program as required by law, or has failed to pay or reimburse proceeds received by the institution
26 in excess of tuition and other costs.

1 c. Respondent's proposed enrollment agreement fails to contain a legally-required
2 statement regarding the Student Tuition Recovery Fund ("STRF"). (Cal. Code Regs., title 5, §
3 76215, subds. (a) and (b)).

4 d. Respondent's proposed enrollment agreement fails to list the "STUDENT'S
5 RIGHT TO CANCEL" disclosure with the clear and conspicuous caption "STUDENT'S RIGHT
6 TO CANCEL." (Educ. Code § 94911, subd. (e)).

7 e. Respondent's proposed enrollment agreement fails to contain the complete
8 required statement regarding the "NOTICE CONCERNING TRANSFERABILITY OF
9 CREDITS AND CREDENTIALS EARNED AT OUR INSTITUTION." (Educ. Code §§ 94909,
10 subd. (a)(15) and 94911, subd. (h)).

11 f. Respondent's proposed enrollment agreement fails to contain the complete
12 statement regarding student questions or complaints required pursuant to Education Code section
13 94911, subdivision (j).

14 g. Respondent's proposed enrollment agreement fails to contain the completed
15 statement regarding School Performance Fact Sheets required pursuant to Education Code section
16 94911, subdivision (i).

17 h. Respondent's proposed enrollment agreement fails to contain the complete
18 signature-block statement required pursuant to Education Code section 94911, subdivision (k).

19 i. Respondent's proposed enrollment agreement fails to contain the complete
20 statement regarding financial aid required pursuant to Education Code section 94916.

21 SECOND CAUSE FOR DENIAL OF APPLICATION

(Federal Aid Policies and Disclosures)

22 (Educ. Code § 94887 and Cal. Code Regs., title 5, § 71475, subd. (p))

23 18. Respondent's application is subject to denial because Respondent's website refers to
24 state financial aid programs, but Respondent's proposed application fails to include a statement of
25 its policies, practices, and disclosures regarding financial aid. (Educ. Code § 94887 and Cal.
26 Code Regs., title 5, § 71475, subd. (p)).

27 ////

28 ////

1 f. Respondent's proposed catalog states that financial aid is not available, but
2 Respondent's website refers to available financial aid programs. These statements are
3 inconsistent and, as a result, Respondent's fails to clearly state whether it participates in federal
4 and state financial aid programs, and if so, all consumer information that is required to be
5 disclosed to the student pursuant to the applicable federal and state financial aid programs.
6 (Educ. Code § 94909, subd. (a)(10)).

7 g. Respondent's proposed catalog states that financial aid is not available, but
8 Respondent's website refers to available financial aid programs. These statements are
9 inconsistent and, as a result, Respondent's catalog fails to state its policies and practices regarding
10 any form of financial aid, including all consumer information which the institution is required to
11 disclose to the student under any state or federal financial aid program. (Cal. Code Regs., title 5,
12 § 71810, subd. (b)(6)).

13 h. Respondent's proposed catalog fails to contain the statement regarding housing
14 required by Code of Regulations, title 5, section 71810, subdivision (b)(13).

15 SEVENTH CAUSE FOR DENIAL OF APPLICATION

16 (Website)

17 (Educ. Code §§ 94887 and 94913, subs. (a)(1), (a)(2), and (b))

18 23. Respondent's application is subject to denial because Respondent's proposed Internet
19 website is not compliant. (Educ. Code §§ 94887 and 94913, subs. (a)(1), (a)(2), and (b)). In
20 particular:

21 a. Respondent's proposed website fails to provide the school catalog. (Educ.
22 Code § 94913, subd. (a)(1)).

23 b. Respondent's proposed website fails to provide a School Performance Fact
24 Sheet for each educational program offered by the institution. (Educ. Code § 94913, subd.
25 (a)(2)).

26 c. Respondent's proposed website fails to include information concerning where
27 students may access the Bureau's website where the institution identifies itself as being approved
28 by the Bureau. (Educ. Code § 94913, subd. (b)).

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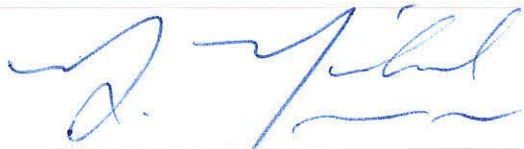
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this First Amended Statement of Issues and that, following the hearing, the Director of the Department of Consumer Affairs issue a decision:

1. Denying Respondent's Application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 7/18/18



DR. MICHAEL MARION, JR.
Bureau Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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