

1 XAVIER BECERRA  
Attorney General of California  
2 CHAR SACHSON  
Supervising Deputy Attorney General  
3 CARLA L. CHEUNG  
Deputy Attorney General  
4 State Bar No. 291562  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-4459  
6 Facsimile: (415) 703-5480  
E-mail: Carla.Cheung@doj.ca.gov  
7 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against: Case No. 1003489  
14 **JC TRUCK DRIVING SCHOOL, LLC. dba**  
15 **JC TRUCK DRIVING SCHOOL**  
16 **722 Julie Ann Way**  
17 **Oakland, CA 94621**  
18 **Approval to Operate an Institution Non-**  
19 **Accredited, Institution Code Number**  
**82335603**  
20  
21 **ACCUSATION**  
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Respondent.

21 **PARTIES**

22 I. Dr. Michael Marion, Jr. (Complainant) brings this Accusation solely in his official  
23 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of  
24 Consumer Affairs.

25 2. On or about February 22, 2016, the Bureau for Private Postsecondary Education  
26 issued Approval to Operate an Institution Non-Accredited, Institution Code Number 82335603 to  
27 of JC Truck Driving School, LLC. dba JC Truck Driving School (Respondent),

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1 **JURISDICTION**

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

6 4. **Business and Professions Code section 118(b)** states:

7 The suspension, expiration, or forfeiture by operation of law of a license issued  
8 by a board in the department, or its suspension, forfeiture, or cancellation by order of  
9 the board or by order of a court of law, or its surrender without the written consent of  
10 the board, shall not, during any period in which it may be renewed, restored, reissued,  
11 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.

12 5. **Section 94875 of the Code** states, in pertinent part:

13 The bureau shall regulate private postsecondary educational institutions through  
14 the powers granted, and duties imposed, by this chapter. In exercising its powers, and  
15 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.

16 6. **Section 94932 of the Code** states:

17 The bureau shall determine an institution's compliance with the requirements of  
18 this chapter. The bureau shall have the power to require reports that institutions shall  
19 file with the bureau in addition to the annual report, to send staff to an institution's  
20 sites, and to require documents and responses from an institution to monitor  
21 compliance. When the bureau has reason to believe that an institution may be out of  
compliance, it shall conduct an investigation of the institution. If the bureau  
determines, after completing a compliance inspection or investigation, that an  
institution has violated any applicable law or regulation, the bureau shall take  
appropriate action pursuant to this article.

22 **STATUTORY PROVISIONS**

23 7. **Section 94930.5 of the Code** states:

24  
25 (d)(1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to  
26 (c), inclusive, each institution that is approved to operate pursuant to this chapter shall  
remit both of the following:

27 (A) An annual fee for each campus designated by the institution as a main  
28 campus location in California, in an amount equal to 0.45 percent of the campus' total  
gross revenue derived from students in California, but not to be less than two

1 thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars  
2 (\$60,000).

3 8. **Section 94931 of the Code** states:

4 (a) A fee that is not paid on or before the 30th calendar day after the due date  
5 for the payment of the fee shall be subject to a 25 percent late payment penalty fee.

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

8 9. **Section 94934 of the Code** states:

9 (a) As part of the compliance program, an institution shall submit an annual  
10 report to the bureau, under penalty of perjury, signed by a responsible corporate  
11 officer, by July 1 of each year, or another date designated by the bureau, and it shall  
12 include the following information for educational programs offered in the reporting  
13 period:

14 (1) The total number of students enrolled by level of degree or for a diploma.

15 (2) The number of degrees, by level, and diplomas awarded.

16 (3) The degree levels and diplomas offered.

17 (4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

18 (5) The school catalog, as required pursuant to Section 94909.

19 (6) The total charges for each educational program by period of attendance.

20 (7) A statement indicating whether the institution is, or is not, current in  
21 remitting Student Tuition Recovery Fund assessments.

22 (8) A statement indicating whether an accrediting agency has taken any final  
23 disciplinary action against the institution.

24 (9) Additional information deemed by the bureau to be reasonably required to  
25 ascertain compliance with this chapter.

26 (b) The bureau, by January 1, 2011, shall prescribe the annual report's format  
27 and method of delivery.

### 28 **REGULATORY PROVISIONS**

10. **California Code of Regulations, title 5, section 74000**, states:

(e)(1) If an institution fails to pay any fee and any penalty fees timely, the  
Bureau may initiate proceedings to revoke the institution's approval to operate for  
failure to pay fees.

1 (2) Any proceeding to revoke an institution's approval to operate is subject to  
2 the provisions of Chapter 5 of the Administrative Procedures Act. If a hearing is  
3 requested, it shall be limited to the issues of whether any fee or penalty was owed  
4 and, if so, whether the fee or penalty were paid when originally due.

5 (3) The procedure specified in this subdivision is cumulative to any other right  
6 or remedy the Bureau may invoke against an institution which fails to pay its annual  
7 fee or a penalty fee when originally due. Nothing in this subdivision restricts the  
8 Bureau's authority to bring other administrative or judicial action against an  
9 institution that fails to pay its fees when due.

10 (4) An institution whose approval to operate was revoked because of  
11 nonpayment of an annual fee or penalty fee may seek to obtain approval to operate  
12 only by filing an application for a new approval to operate.

13 **11. California Code of Regulations, title 5, section 74006 states:**

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

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

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

21 **12. California Code of Regulations, title 5, section 74110 states:**

22 (a) The annual report required by Section 94934 of the Code shall include the  
23 information required by sections 94929.5 and 94934 for all educational programs  
24 offered in the prior calendar year, and all of the following for the prior calendar year:

25 (1) Information regarding institutional branch campuses, including addresses  
26 and programs offered at each campus, if applicable;

27 (2) Information regarding satellite locations, including addresses and with  
28 which campus(es) the satellite location is affiliated, if applicable;

(3) Name of institutional accreditors for each branch and satellite campus, and  
for each such campus at which any programs have programmatic accreditation, the  
names of the programmatic accreditor for each such program, and effective dates for  
each programmatic accreditation, if applicable;

(4) Information regarding participation in state and federal student loan and  
grant programs, including the total amount of funding received from each source for  
those students enrolled in an approved California school regardless of their state of  
residency;

(5) Information regarding participation in other public funding programs,  
including the amount of funding received from each public funding source; for  
purposes of this section, public funding is any financial aid paid on behalf of students  
or directly to an institution from any public source, such as the Workforce Investment  
Act, any veterans' financial aid programs pursuant to Section 21.4253 of Title 38 of  
the Code of Federal Regulations or any other financial aid program that is intended to  
help students pay education-related expenses, including tuition, fees, room and board,

and supplies for education; and

(6) The total percentage of institutional income that comes from any public funding sources.

(b) In addition to the information required by section 94934 and this section provided under penalty of perjury, the institution shall have annual financial statements prepared for the institution's prior fiscal year and signed under penalty of perjury, and shall submit a hard copy under separate cover of such statements in conjunction with its annual report. The form, content and mode of preparation of financial statements shall comply with Section 74115 of this Division. The Bureau may request that the institution immediately make available for inspection to a representative of the Bureau, these financial statements at the offices of the institution.

(c) An institution shall file its annual report by December 1st. The Bureau may extend the period for filing if the institution demonstrates evidence of substantial need but in no case longer than 60 days. The institution shall not change the date of its filing its annual report because of a change in the fiscal year without the Bureau's approval.

(d) The annual report shall be electronically filed by submitting the information required by section 94934 of the Code and this section via the online form provided on the Bureau's website, electronically attaching, as directed, the School Performance Fact Sheet, the emollment agreement, and the school catalog.

13. **California Code ofRegnlations, title 5, section 75050** states:

(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.

14. **C11ifornia Code of Regulations, title 5, section 76130** states:

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

(2) The assessment to be collected from a re-enrolling student shall be limited to any amount that is due after crediting any prior assessment amount paid by the student. The enrollment agreement shall clearly identify any prior [Student Tuition Recovery Fund] STRF assessment paid by the student.

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

(1) April 30 for the first quarter,

- 1 (2) July 31 for the second quarter,  
2 (3) October 31 for the third quarter, and  
3 (4) January 31 for the fourth quarter.

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

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

7 (1) Total number of students who signed enrollment agreements for educational  
8 programs during the reporting period; and

9 (2) Total number of students eligible for STRF who signed enrollment  
10 agreements for educational programs during the reporting period; and

11 (3) The total number of students who signed their enrollment agreement during  
12 the reporting period, were eligible for STRF, and who made their first payment  
13 during the reporting period; and

14 (4) The total number of students who signed their enrollment agreement in a  
15 previous reporting period, were eligible for STRF, and who made their first payment  
16 during the current reporting period; and

17 (5) Total amount of institutional charges after rounding each student's  
18 institutional charges to the nearest \$1,000, for all eligible STRF students whose STRF  
19 assessment was collected in the reporting period; and

20 (6) Current contact telephone number of the person preparing the form; and

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

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

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

27 15. **California Code of Regulations, title 5, section 76140** states:

28 (a) A qualifying institution shall collect and maintain records of student  
information to substantiate the data reported on the STRF Assessment Reporting  
Form and records of the students' eligibility under the Fund. Such records shall  
include the following for each student:

- (1) Student identification number,  
(2) First and last names,  
(3) Email address,  
(4) Local or mailing address,

- 1 (5) Address at the time of enrollment,
- 2 (6) Home address,
- 3 (7) Date enrollment agreement signed,
- 4 (8) Courses and course costs,
- 5 (9) Amount of STRF assessment collected,
- 6 (10) Quarter in which the STRF assessment was remitted to the Bureau,
- 7 (11) Third-party payer identifying information,
- 8 (12) Total institutional charges charged, and
- 9 (13) Total institutional charges paid.

10 (b) The qualifying institution shall maintain the data required under this section  
11 in an electronic format that is readily available and open to inspection by the Bureau  
12 upon request. The institution shall make the records immediately available to a  
13 Bureau representative conducting a site inspection or, upon written request, shall  
14 provide a copy within 14 calendar days of the request. All records shall be provided  
15 to the Bureau in an intelligible and orderly manner and in an electronic format.

#### 14 **COST RECOVERY**

15 16. Business and Professions Code section 125.3 and Section 94937, subdivision (c)  
16 provide, in part, that the Bureau may request the administrative law judge to direct a licentiate  
17 found to have committed a violation or violations of the licensing act to pay a sum not to exceed  
18 the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate  
19 to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of  
20 investigation and enforcement costs may be included in a stipulated settlement.

#### 21 **FIRST CAUSE FOR DISCIPLINE**

22 (Failure to Comply with Orders of Abatement and Payment of Fine)

23 17. Respondent subjected its approval to operate to disciplinary action pursuant to  
24 California Code of Regulations, title 5, section 75050 subdivision (b), for failing to comply with  
25 Citation No. 1718045, which the Bureau issued on June 6, 2018, and which became final on July  
26 6, 2018. In particular, Respondent failed to pay the fine assessed in conjunction with Citation No.  
27 1718045, and failed to comply with the following orders of abatement issued through the  
28 Citation:

2 a. Order 1: Within 30 days of issuance of the Citation, electronically submit  
3 annual reports for the years 2015 and 2016, pursuant to Section 94934(a) and California Code of  
4 Regulations, title 5, section 74110 (a)-(d).

5 b. Order 2: Within 30 days of issuance of the Citation, submit delinquent  
6 quarterly STRF Assessment Reporting Forms for the years 2016 and 2017 with substantiating  
7 student information, pursuant to California Code of Regulations, title 5, sections 76130 (a)<sub>0</sub>(e)  
8 and 76140.

9 c. Order 3: Within 30 days of issuance of the Citation, submit payment of  
10 delinquent annual fees for the years 2016, 2017, and 2018 pursuant to Sections 94930.5(d)(1)(A)  
11 and 94931 of the Code, and California Code of Regulations, title 5, section 74006 (a)-(b).

12 **SECOND CAUSE FOR DISCIPLINE**

(Failure to Pay Annual Fee)

13 18. Respondent subjected its approval to operate to disciplinary action pursuant to  
14 California Code of Regulations, title 5, section 74000(e), for failing to pay its annual fees for the  
15 years of 2016, 2017, and 2018.

16 **DISCIPLINE CONSIDERATIONS**

17 19. To determine the degree of discipline, if any, to be imposed on Respondent,  
18 Complainant alleges that on or about June 6, 2018, in a prior action, the Bureau issued Citation  
19 Number 1718045 and ordered Respondent to abate the violations listed therein, as set forth above  
20 in paragraph 17, and pay penalties imposed by citation. That Citation is now final. Respondent  
21 did not contest the citation, failed to comply with the orders of abatement, and has not paid any of  
22 the penalties imposed.

23 **PRAYER**

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

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1 I. Revoking or suspending Approval to Operate an Institution Non-Accredited,  
2 Institution Code Number 82335603 issued to of JC Truck Driving School, LLC. dba JC Truck  
3 Driving School.

4 2. Ordering to of JC Truck Driving School, LLC. dba JC Truck Driving School, to pay  
5 the Bureau for Private Postsecondary Education the reasonable costs of the investigation and  
6 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

7 3. Taking such other and further action as deemed necessary and proper.  
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10 DATED: "5/29/2020"  
11 /

"Original signature on file"

12 DR. MICHAEL MARION, JR  
13 Chief  
14 Bureau for Private Postsecondary  
15 Education  
16 Department of Consumer Affairs  
17 State of California  
18 *Complainant*

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