

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

In the Matter of the Accusation Against:

ALLIANCE SCHOOL OF TRUCKING, INC.

9410 Jordan Avenue

Chatsworth, CA 91311

Case No. 1002741

OAH Case No.: 2020040466

Respondent.

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on March 10, 2021.

It is so ORDERED February 2, 2021.

"Original signature on file"

RYAN MARCROFT
DEPUTY DIRECTOR, LEGAL AFFAIRS DIVISION
DEPARTMENT OF CONSUMER AFFAIRS

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STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Alliance School of Trucking, Inc.,

Respondent.

Agency No. 1002741

OAH No. 2020040466

PROPOSED DECISION

Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on September 17, 2020, by video and teleconference.

Lisa Miller, Deputy Attorney General, appeared on behalf of Complainant Dr. Michael Marion, Jr., Chief, Bureau for Private Postsecondary Education (Bureau), Department of Consumer Affairs, State of California (Complainant).

Emmit Marshall (Marshall), Owner, President and Director, appeared on behalf of Alliance School of Trucking School of Trucking, Inc., a California Corporation (Respondent).

Oral and documentary evidence was received. At Respondent's request the record was held open until October 7, 2020 for Respondent's submission of a proof of mailing which was received, marked as Exhibit A and admitted without objection. The record was closed and the matter was submitted for decision on October 7, 2020.

FACTUAL FINDINGS

Jurisdiction

1. Complainant filed and served the Accusation in his official capacity as the Chief of the Bureau. Respondent timely filed a Notice of Defense and this hearing ensued.

2. On December 21, 2020, the Bureau issued Approval to Operate number 90919933 to Respondent. The Approval to Operate was in full force and effect at all relevant times and expired on August 16, 2020.

3. Marshall is the owner, president and director of Respondent.

The Conviction

4. On July 29, 2019, Marshall pled guilty to five counts of felony wire fraud in the United States District Court for the Central district of California in Case No. CR2017-00194-SVW. The facts and circumstances of the conviction are that between December 8, 2011 and April 22, 2015, Marshall defrauded the Department of Veterans Affairs (VA) of over \$4.3 million in tuition and other payments after falsely certifying that veterans had attended classes in Respondent's non-college degree programs. Respondent through its employees and Marshall, recruited eligible veterans to enroll in Respondent's full-time programs by telling the veterans they could collect housing

and other fees from the VA without attending the programs. Knowing that the majority of veterans enrolled in Respondent's programs did not intend to attend any portion of the programs, Marshall created and submitted fraudulent enrollment certifications to the VA. Marshall also created fraudulent documents in the student files.

The Citations

5. On December 4, 2018, the Bureau issued Citation No. 1819061 to Respondent. The basis for the citation was that Respondent failed to submit Student Tuition Recovery Fund (STRF) Reporting Forms to the Bureau for the third and fourth quarters of 2017 and the first, second and third quarters of 2019. Respondent was required to comply with the Order of Abatement by submitting all delinquent STRF Reporting Forms to the Bureau and paying a \$50 fine. Respondent did not comply with the Order of Abatement and did not pay the fine.

6. On June 6, 2019, Bureau issued Citation No. 1819209 to Respondent. The citation contained Orders of Abatement and a fine in the amount of \$11,000. Respondent has not complied with the Orders of Abatement and has not paid the fine. The citation was issued for the following violations:

A. Failure to submit Annual Reports for 2016 and 2017 to the Bureau along with School Performance Fact Sheets (SPFS), catalog, Enrollment Agreements and financial statements for 2016 and 2017;

B. Failure to pay the 2014 Annual Fee and the late penalty fee, the entirety of the 2018 Annual Fee and the late penalty fee.

C. Respondent's website did not include SPFS for each program offered, student brochures, and the most recent Annual Report;

D. Respondent failed to maintain a current cancellation and withdrawal log;

E. Respondent's student files did not contain copies of documentation proving high school completion or the equivalent and transcripts for Respondent's programs.

F. Respondent failed to make documentation available to Bureau during a compliance inspection including the Annual Report, financial records, student rosters, and STRF documentation.

7. Pursuant to Citation No. 1819209, the Bureau ordered Respondent to pay a fine of \$11,000 and comply with the Orders of Abatement for each violation.

Respondent has not paid the fine. The Orders of Abatement include the following:

A. Submit the 2016 Annual Report and SPFSs, Catalog, Enrollment Agreement, 2016 financial statements, 2017 Annual Report, and 2017 financial statements.

B. Submit the remaining \$1,742 balance for the 2018 Annual Fee, as well as late payment fees for 2014 and 2018.

C. Update Respondent's website and submit proof of compliance to the Bureau, including a SPFS for every program offered by Respondent, a school catalog, and the most recent Annual Report;

D. Submit documentation outlining the duties, responsibilities, and performance evaluation criteria for the Chief Academic Officer, Chief Operating Officer, and Chief Executive Officer;

E. Submit a copy of the monthly cancellation and withdrawal log template and a written declaration of compliance as to regulations pertaining to withdrawals and refunds;

F. Submit a policy and procedure of how Respondent will comply with regulations pertaining to student records; and

G. Submit a policy and procedure of how Respondent will ensure all records that Respondent is required to maintain will be made readily available to the Bureau upon request.

Respondent's Evidence

8. There was no evidence of rehabilitation or mitigation.

Costs

9. Complainant incurred \$10,788.44 in costs for investigation and prosecution. The costs consist of \$994.69 for Bureau investigative costs and \$9,793.75 for attorney fees and charges by the Attorney General's Office. The costs are deemed reasonable.

LEGAL CONCLUSIONS

1. On October 11, 2009, the Bureau for Private Postsecondary Education Act of 2009 (Act) was signed into law; the Act became operative on January 1, 2010,

establishing the Bureau for Private Postsecondary Education. The Bureau is responsible for regulating private postsecondary educational institutions. Protection of the public is its highest priority. (Ed. Code, § 94875.)

2. A "private postsecondary educational institution" is "a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge. (Ed. Code, § 94858.) "Postsecondary education" is "a formal institutional educational program whose curriculum is designed primarily for students who have completed or terminated their secondary education . . ., including programs whose purpose is academic, vocational, or continuing professional education." (Ed. Code, § 94857.) "To offer to the public" means "to advertise, publicize, solicit, or recruit." (Ed. Code, § 94868.) "To operate means "to establish, keep, or maintain any facility or location in this state where, or from which, or through which, postsecondary educational programs are provided." (Ed. Code, § 94869.)

3. The Bureau may issue a citation for violations of the Act. (Ed. Code, § 94936, subd. (a).) The citation may include an Order of Abatement, and an administrative fine not to exceed \$5,000 for each violation. The fine shall be based on the nature and seriousness of the violation, the persistence of the violation, the good faith of the institution, the history of previous violations, the potential harm to students, and the purposes of the Act. (Ed. Code, § 94936, subd. (b).)

4. The Bureau may place an institution on probation or may suspend or revoke an institution's approval to operate as a "consequence of an investigation, which may incorporate any materials obtained or produced in connection with a compliance inspection, and upon a finding that an institution has committed a violation." Cause for disciplinary action may arise from "a material violation or repeated violations of this chapter or regulations adopted pursuant to this chapter

that have resulted in harm to students. For purposes of this paragraph, 'material violation' includes, but is not limited to, misrepresentation, fraud in the inducement of a contract, and false or misleading claims or advertising, upon which a student reasonably relied in executing an Enrollment Agreement and that resulted in harm to the student." (Ed. Code, § 94937, subd. (a)(2).)

5. An institution shall not pay any consideration to a person to induce that person to sign an Enrollment Agreement for an educational program. (Ed. Code, § 94897, subd. (h).)

6. An institution shall not "[i]n any manner make an untrue or misleading change in, or untrue or misleading statement related to, a test score, grade or record of grades, attendance record, record indication student completion, placement, employment, salaries, or financial information." This includes "Any other record or document required by this chapter or by the bureau." (Ed. Code, § 94897, subd. (j)(3).)

7. An institution shall not "[w]illfully falsify, destroy, or conceal any document of record while that document of record is required to be maintained by this chapter." (Ed. Code, § 94897, subd. (k).)

8. California Code of Regulations, title 5, section 75050, subdivision (b), provides that "[f]ailure 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."

9. Education Code section 94937, subdivision (d), provides that the Bureau may seek reimbursement of its costs of investigation and enforcement pursuant to Business and Professions Code section 125.23.

10. Business and Professions Code section 125.3 provides that the Bureau may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

11. Respondent is subject to discipline pursuant to Education Code section 94847, subdivisions (h), (j)(3) and (k) based upon Respondent and Marshall's scheme to defraud the VA which involved the payment of consideration to veterans to induce them to sign Enrollment Agreements for Respondent's programs. Additionally, Respondent created and submitted fraudulent enrollment certifications and other documents to the VA for payment.

12. Respondent is subject to discipline pursuant to Code section 94937, subdivision (a)(2), in that Respondent's scheme to obtain money from the VA by means of materially false and fraudulent representations regarding student enrollment and attendance resulted in harm to students in that Respondent's students did not receive the training and education for which the VA paid in excess of 4.3 million dollars. Additionally, Respondent's fraud scheme compromised the system designed to help veterans after their service.

13. Respondent is subject to discipline pursuant to California Code of Regulations, title 5, section 75050, subdivision (b), in that Respondent failed to pay \$11,050 in fines assessed by the Bureau pursuant to citation numbers 1819061 and 1819202 and failed to comply with the Orders of Abatement contained in the citations.

14. Respondent is responsible for payment of the reasonable costs of investigation and prosecution costs in the amount of \$10,788.44 as provided by

Education Code section 94937, subdivision (d) and Business and Professions Code section 125.3. by reason of factual findings 1-9 and Legal Conclusions 1-13.

ORDER

1. Approval to Operate Number 90919933, issued to Respondent Alliance School of Trucking, Inc. is revoked.

2. Respondent Alliance School of Trucking is ordered to pay \$10,788.44 to the Bureau of Private Post-Secondary Education as costs of investigation and prosecution within 30 days of the effective date of this decision.

DATE: October 16, 2020

"Original signature on file"

GLYNDA B. GOMEZ

Administrative Law Judge

Office of Administrative Hearings