

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

In the Matter of the Citation Against:

**COMMERCIAL DRIVERS LEARNING CENTER**

1787 Tribute Road, Suite L

Sacramento, CA 95815

BPPE Case No.: BPPE21-5836

Citation No. 2122126

OAH Case No.: 2022120724

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 April 25, 2024.

It is so ORDERED March 24, 2024.

"Original Signature on File"

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

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

**In the Matter of the Citation Against:**

**COMMERCIAL DRIVERS LEARNING CENTER, Respondent.**

**Agency Case No. BPPE21-5836**

**OAH No. 2022120724**

**PROPOSED DECISION**

Timothy J. Aspinwall, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on December 7, 2023, from Sacramento, California.

Patricia Webber Heim, Deputy Attorney General, represented Christina Villanueva (complainant), Discipline Manager, Bureau for Private Postsecondary Education (Bureau), Department of Consumer Affairs, State of California.

Respondent Commercial Drivers Learning Center (respondent or CDLC) was represented by Robert Wilson (Mr. Wilson), it's owner.

Evidence was received, the record closed, and the matter submitted for decision on December 7, 2023.

## FACTUAL FINDINGS

1. On April 22, 2011, the Bureau issued Approval to Operate No. 64417859 (Approval to Operate) to respondent. On February 25, 2021, an interim chief of the Bureau signed and subsequently caused to be filed Accusation No. 1005006 against respondent, alleging cause for discipline based on respondent's failure to comply with prior citations issued by the Bureau. On June 30, 2021, the Bureau issued a Default Decision and Order, effective August 6, 2021, revoking the Approval to Operate on the basis that respondent failed to file a notice of defense to Accusation No. 1005006. The Approval to Operate remains revoked.

2. On February 10, 2022, complainant issued Citation No. 2122126 (Citation) to respondent. The Citation asserts that respondent continued to operate after its Approval to Operate was revoked. The Bureau assessed an administrative fine of \$100,000, and issued an order of abatement directing respondent to: (1) cease operating as a private postsecondary educational institution; (2) provide the Bureau with written notice of school closure; (3) complete a school closure plan; (4) discontinue recruiting or enrolling students; (5) cease all instructional services; (6) cease advertising in any form or type of media including websites; (7) disconnect all telephone service numbers associated with respondent; and (8) provide a roster of each student currently enrolled with respondent, including the students' names, contact information, the programs in which they are enrolled, and the amount they paid for the programs. Respondent timely filed a request for an informal conference and an administrative hearing.

3. On July 18, 2022, an informal conference was held telephonically. The informal conference was attended by Ebony Santee, Bureau Licensing Chief, Mr.

Wilson, and respondent's office manager. The Bureau affirmed the Citation including the \$100,000 administrative fine and order of abatement. This matter then proceeded to an administrative hearing at OAH.

4. At hearing, complainant called witnesses, including a former instructor at respondent CDLC, a former student at respondent CDLC, and a former Bureau special investigator. Their testimony is summarized below.

5. Todd Phillips is a former employee of respondent CDLC, where he worked as an instructor during January through October 2021. He did not know that respondent CDLC had lost its Approval to Operate while he was working there. He filed a complaint with the Bureau in November or December 2021 because he had concerns whether respondent CDLC retained its Approval to Operate.

6. Terry White met Mr. Wilson in March 2022, when he was looking for a refresher course to renew his commercial driver's license. Mr. White paid Mr. Wilson \$3,000 on March 29, 2022, for a three-day refresher course at respondent CDLC, which Mr. White took on March 28-30, 2022. Mr. White learned that respondent did not have Approval to Operate in April 2022. He then filed a complaint with the Bureau.

7. Susan Sadler is currently employed as a special investigator with the California Department of Public Health. She previously worked as a special investigator for the Bureau. As a special investigator for the Bureau, she investigated complaints regarding respondent. During her investigation, she spoke with Mr. Wilson on November 15, 2021. Mr. Wilson told her he knew that respondent's Approval to Operate had been revoked, but that he would continue to operate the school anyway. In May 2022, Ms. Sadler made an unannounced visit to respondent's facility. When she arrived, Mr. Wilson went into the office and locked the door. Ms. Sadler knocked on

the door. Mr. Wilson came out after some delay. Ms. Sadler attempted to engage Mr. Wilson in conversation, but he was rude and frequently interrupted her. Mr. Wilson told Ms. Sadler he did not know that respondent's Approval to Operate had been revoked, contrary to what he told her in their May 2022 telephone conversation.

8. Ms. Sadler also gathered written complaints from other individuals about respondent. These were admitted in evidence and considered only as administrative hearsay pursuant to Government Code section 11513, subdivision (d).

9. Complainant also presented a Certification of Enforcement Actions by the Bureau. Prior enforcement actions include a January 2019 citation that was issued and subsequently withdrawn; an April 2019 citation for which respondent paid the fine and complied with the citation order; and citations in August 2020 and January 2021, which were forwarded for the filing of Accusation No. 1005006 based on respondent's failure to comply with those citation orders. As stated above, respondent defaulted on Accusation No. 1005006, and the Bureau revoked respondent's Approval to Operate.

10. Respondent did not offer any evidence. Complainant called Mr. Wilson to testify as if on cross-examination pursuant to Government Code section 11513, subdivision (b). Mr. Wilson testified that he never saw anything indicating that respondent's Approval to Operate had been revoked, and he was not aware that respondent had been operating illegally.

11. Complainant's evidence does not include a proof of service showing the Default Decision and Order revoking respondent's Approval to Operate was served on respondent or Mr. Wilson. The only other evidence is conflicting. First, Mr. Wilson told Ms. Sadler in November 2021, that he knew of the revocation and that he would continue to operate CDLC. He then told Ms. Sadler in May 2022, that he was unaware

of the revocation. Ms. Sadler was credible in her recitation of conversations with Mr. Wilson. There is no plausible reason he would tell her he knew of the revocation if he did not. The most reasonable understanding of the evidence, and the finding here, is that Mr. Wilson knew of the revocation when he talked with Ms. Sadler in November 2021, and continued to operate CDLC just as he said he would.

## LEGAL CONCLUSIONS

### Burden and Standard of Proof

1. Complainant has the burden of proving each of the alleged violations in the Citation and must do so by a preponderance of the evidence. (*Owen v. Sands* (2009) 176 Cal.App.4th 985.

### Applicable Law

2. The Bureau regulates private postsecondary institutions under the California Private Postsecondary Education Act of 2009 (Act).<sup>1</sup> (§ 94800 et seq.) 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." (§ 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." (§ 94857.) "To offer to the public" means "to advertise, publicize, solicit, or recruit." (§ 94868.) "To

---

<sup>1</sup> All statutory references are to the Education Code unless otherwise specified.

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.” (§ 94869.) All private postsecondary educational institutions must obtain an approval to operate from the Bureau, unless exempted. (§ 94886.)

3. The Bureau has the authority to issue a citation to an institution for a violation of the Act or regulations adopted under the Act. The citation may include an order of abatement, an administrative fine, and/or an order to compensate students for harm. (§ 94936, subd. (b).)

### **Cause for Citation**

4. Based on the evidence as a whole, complainant established that respondent operated a private postsecondary educational institution while its Approval to Operate had been revoked. Therefore, cause for citation exists pursuant to section 94886.

### **Administrative Fine and Order of Abatement**

5. For most citations, the administrative fine may not exceed \$5,000, and the Bureau shall base its assessment on “(A) The nature and seriousness of the violation. [¶] (B) The persistence of the violation. [¶] (C) The good faith of the institution. [¶] (D) The history of previous violations. [¶] (E) The purposes of this chapter. [¶] (F) The potential harm to students.” (§ 94936, subd. (b)(2).)

6. For a citation involving operating without Bureau approval to operate, the upward range of the administrative fine is higher. “Notwithstanding any other provision of law, the bureau shall cite any person, and that person shall be subject to a fine not to exceed one hundred thousand dollars (\$100,000) for operating an

institution without proper approval to operate issued by the bureau pursuant to this chapter.” (§ 94944.) “In addition, the citation may contain an order of abatement pursuant to section 149 of the Business and Professions Code that requires the unapproved person to cease any unlawful advertising and to notify the telephone company furnishing services to the cited person: (1) to disconnect the telephone services furnished to any telephone number contained in the unlawful advertising, and (2) that subsequent calls to that number shall not be referred by the telephone company to any new number obtained by that person.” (Cal. Code Regs., tit. 5, § 75020, subd. (b).)

7. Complainant did not explain or present evidence regarding the calculation of the administrative fine. The statutory factors for consideration in section 94936 do not expressly apply to fines under section 94944. However, consideration of the factors in section 94936 is reasonable. Here, respondent committed a serious violation by continuing to operate while its Approval to Operate was revoked. Respondent knowingly persisted in the violation, which demonstrates a lack of good faith. Respondent has a history of previous violations, the most significant of which resulted in the accusation leading to the Bureau’s revocation order.

8. The paramount purpose of the Bureau is public protection (§ 94875), and respondent’s misconduct harmed tuition paying enrollees in its courses. The most significant factor in protecting the public safety is the abatement order. The fine is effective primarily for deterrence.

9. Considering these factors, the \$100,000 administrative fine should be substantially reduced to a level necessary to provide deterrence and incentivize compliance with the abatement order. Based on a consideration of the factors outlined

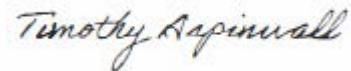


above, a \$10,000 administrative fine is appropriate and sufficient to protect the public when coupled with the abatement order included in the Citation.

## ORDER

Citation No. 2122126, issued to respondent Commercial Drivers Learning Center, is AFFIRMED; however, the administrative fine is REDUCED to \$10,000, to be paid in full within 12 months of the effective date of this decision, or pursuant to a payment plan approved by the Bureau.

DATE: January 8, 2024



TIMOTHY J. ASPINWALL

Administrative Law Judge

Office of Administrative Hearings